

# **LAW ON CONFLICT OF INTEREST IN GOVERNMENTAL INSTITUTIONS OF BOSNIA AND HERZEGOVINA**

## **(“Unofficial cleared version)<sup>1</sup>**

### **Chapter I – Conflict of interest**

#### **Article 1** **General provisions**

1. Aimed at prevention of conflict of interests this Law shall govern special obligations of the elected officials, executive officeholders and advisors in the institutions of the government of Bosnia and Herzegovina in exercising their duties.
2. The conflict of interest exists in the event when elected officials, executive officeholders and advisors have a private interest that influences or may influence legality, transparency, objectivity and impartiality as to the exercise of the public duty.

#### **Article 2** **Code of conduct**

1. In the exercise of public duties, elected officials, executive officeholders and advisors must act lawfully, efficiently, impartially, honorably, and shall adhere to the principles of responsibility, integrity, consciousness, transparency and credibility.
2. Elected officials, executive officeholders and advisors shall be held personally responsible for their conduct in exercising their appointed or elected public office, and shall be politically accountable to the authority or citizens who have appointed or elected them.
3. Elected officials, executive officeholders and advisors exercising public duties should behave conscientiously and responsibly, not jeopardizing trust and confidence of the citizens, and should respect both legal and other rules governing the rights, obligations and responsibilities in performing of the public functions.
4. In exercising a public duty, elected officials, executive officeholders and advisors must apply professionalism of the ethics and duties they are performing.
5. In exercising a public duty elected officials, executive officeholders and advisors shall not put their private interest above public interest.
6. Elected officials, executive officeholders and advisors must not use the public duty for personal gain of a person related to them. Elected officials, executive officeholders and advisors must not be in any dependent relation towards persons who might influence their objectivity.

---

<sup>1</sup> This unofficial cleared text contains text of the Law on Conflict of interests in BiH institutions (“BiH Official Gazette”, no. 16/02), Correction in translation of the text of the decision of the High Representative proclaiming the Law on conflict of interests in governmental institutions of BiH („Official Gazette BiH, no. 14/03), Law on changes and addenda to the Law on Conflict of interests in BiH institutions („Official Gazette BiH“, no. 12/04) and Law on changes and addenda to the Law on Conflict of interests in BiH institutions („Official Gazette BiH“, no. 63/08).

- Unofficial cleared text is for internal use only, and cannot be called upon in legal matters.

7. In their position as public persons, elected officials, executive officeholders and advisors shall act in the interest of the citizens.

8. In the exercise of public duties elected officials, executive officeholders and advisors shall be bound to use property, instruments of labor and financial means entrusted to them exclusively for the purpose for which they are intended and in an efficient manner.

9. In the exercise of public duty elected officials, executive officeholders and advisors shall receive salary and allowances for the duty they perform in accordance with legal provisions on wages and allowance of employees in institutions of Bosnia and Herzegovina and other by-laws.

### Article 3 Definitions

1. For the purpose of this Law on conflict of interest:

a) "**An authorized person**" means a person that is authorized to represent an enterprise by the Founding Charter or Statute of the enterprise. Authorized person shall also include an entrepreneur; namely a natural person independently performing activities for acquiring profit at the market;

b) "**relatives**" mean close relatives, relatives in first blood line, relatives in second blood line upto third degree, in-laws up to second degree and child of marital partner;

c) "**Close relative**" means a marital and extramarital partner, his/her child, mother, father, adoptive parent and adopted child of elected official, executive officeholder and advisor;

d) "**persons of interest**" mean a relative or a person who is in personal, political, economic or any other relation with elected official, executive officeholder and advisor that could influence their objectivity in work;

e) "Elected officials" include;

- Members of the Presidency of Bosnia and Herzegovina;

- Members of House of Representatives and delegates of House of People of the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter: BiH);

- officials elected and appointed by Presidency of Bosnia and Herzegovina (hereinafter: BiH Presidency), both Houses of BiH Parliamentary Assembly or BiH Parliamentary Assembly and BiH Council of Ministers, who are not included in the Law on Civil Service in governmental institutions of BiH, namely whose election or appointment was approved by BiH Presidency, both Houses of BiH Parliamentary Assembly or BiH Parliamentary Assembly and BiH Council of Ministers;

f) "**Executive officeholders**" include Ministers and Deputy Ministers in the Council of Ministers of BiH, Directors and Deputy Directors of the state administration authorities, agencies, directorates, institutes and other BiH institutions, elected and appointed by BiH Presidency, both Houses of BiH Parliamentary Assembly or BiH Parliamentary Assembly and BiH Council of Ministers by, who are not included in the Law on Civil Service in governmental institutions of BiH; namely whose election or appointment was approved by BiH Presidency, both Houses of BiH Parliamentary Assembly or BiH Parliamentary Assembly and BiH Council of Ministers;

- g) "**Advisors**" include advisors to the elected officials and to executive officeholders as defined by the Law on Civil service in Governmental institutions of BiH;
- h) "**Investment of capital**" is investment of money, goods or rights to ownership structure of an enterprise;
- i) "**Financial interest**" means:
1. Any interest that enables elected official, executive officeholder or advisor to receive money in amount of more than one thousand Convertible marks (1.000 KM) per year, and
  2. Any ownership interest held by an elected official, executive officeholder or advisor which represents a value of at least ten thousand Convertible marks (10.000 KM) of an enterprise, company with unlimited liability, partnership, Joint Stock company or company with limited liability.
- j) "**Gift**" means any payment, action, service or item of value given directly to the recipient without compensation or the expectation of compensation. Gifts accepted by close relative, as well as gifts valued at less than two hundred convertible marks (200 KM) shall not be covered by this Law.
- k) "**Private enterprise**" means any legal enterprise, which is not a public enterprise as defined below.
- l) "**Public enterprise**" means an enterprise as defined by laws on public enterprises;
- m) "**Public function**" means duties of elected official, executive officeholder and advisor projected from function he/she performs;
- n) "**Governments**" mean: BiH Council of Ministers, Goovernment of BiH Federation, Government of Republika Srpska, Government of District of Brčko BiH, governments of cantons, city mayors and municipal mayors, who are authorized to access funds, property and rights;
- o) "**Personal favor**" is every action obligating one side to perform a specific tasks, and other side to pay certain remuneration for that, and which is not projected from a working relation; and
- p) "**Institutions of Bosnia and Herzegovina**" means all BiH institutions established by the Constitutions and the Law of Bosnia and Herzegovina.

#### Article 4 **Incompatibilities**

1. Serving on the management board, steering board, assembly, board of directors or management executive board, or acting in the capacity of an authorized person in a public enterprise is incompatible with public duties of the elected official or executive officeholder.
2. Serving on the management board or steering board or holding an office as the Director of a Directorate or Privatization Agency is incompatible with the public duties of the elected official, executive officeholder or advisor.
3. Involvement in a private enterprise under circumstances that create a conflict of interest is incompatible with the public duties of the elected official, executive officeholder or advisor.

4. Elected officials, executive officeholders and advisors shall resign from every incompatible function and duties no later than three days after assuming the public function.

#### Article 5

##### **Public enterprises and Privatization agencies**

1. Elected officials, executive officeholders and advisors shall not be members of management board, steering board, assembly, board of directors or management, or act in the capacity of an authorized person in a public enterprise for the duration of their term and six months after they leave the office.

2. Elected officials, executive officeholders and advisors shall not serve on the directorate or management board, managing or steering board, or as director of privatization agency. This provision shall apply six months after the elected officials; executive officeholders and advisors leave the office.

3. Elected officials, executive officeholders and advisors must resign from any such incompatible position before assuming the duties of their office.

#### Article 6

##### **Government investments in private enterprises**

1. Elected officials, executive officeholders and advisors shall not be members of management board, managing board, steering board, executive board, or act in capacity of an authorized person of any private enterprise in which the governmental body where the official, executive officeholder and advisor serves has invested capital in four (4) years prior to the elected official, executive officeholder and advisor taking office.

2. Elected officials, executive officeholders and advisors shall not be members of management board, managing board, steering board, executive board, or act in capacity of an authorized person of any private enterprise that contracts, or otherwise does business, with government authorities at any level. This provision shall only apply to private enterprises that are under a contract or are doing business with government authorities while the elected official, executive officeholder or advisor holds office and only when the value of the contract or business with the government authorities exceeds five thousand Convertible marks (5.000 KM) per annum.

#### Article 7

##### **Prohibition on acting in conflict of interest**

1. Elected officials shall not vote on any subject that directly concerns private enterprise in which the official or his/her close relatives have a financial interest. Officials in such situations shall restrain from voting, and shall reason their abstention at an open session.

2. Executive officeholders and advisors shall not carry out any official action that would directly affect private enterprise in which the executive officeholder or advisor, or his/her close relative have a financial interest. In such cases, the executive officeholders and advisors shall refer the decision to another competent authority for action and shall state the reason of the referral in writing.

3. If an elected official, executive officeholder or advisor violates the provisions of this Article, the vote or decision of the official, executive officeholder or advisor shall be deemed null and void.

## Article 8

### **Personal service contracts**

1. Elected officials, executive officeholders and advisors shall not enter into a contract with any public enterprise to provide personal services.

2. Elected officials, executive officeholders and advisors shall not enter into a contract to provide personal services with any private enterprise which contracts, or in any other manner does business with governments at any level. This provision shall apply only to public enterprises that are under a contract or doing business with the Government while at the same time elected official, executive officeholder or advisor holds office and only when the value of the contract or business with the Government exceeds five thousand (5.000) Convertible marks per year.

3. If an elected official, executive officeholder or advisor violates the provisions of this Article, the vote or decision of the official, executive officeholder or advisor shall be deemed null and void.

## Article 9

### **Prohibition on acting**

1. Unless explicitly provided by the provisions of this Law, the officials shall be prohibited from:

a) Accepting or demanding gift or any other benefits or promise of gift or of any other benefits for the purpose of the exercise of public duties;

b) Receiving an additional remuneration for the tasks performed for the exercise of public duties;

c) Demanding, accepting or receiving a value or service in order to vote on any matter or to influence a decision of a body or a person;

d) Promising an employment or any other right in exchange for a gift or a promise of a gift;

e) Preferring persons on the ground of party and any other affiliation or origin, personal or family relations;

f) Refusing an inspection of their financial operations;

g) Influencing the award of business or procurements by the State in order to obtain property and non-property related benefit for himself/herself or any other persons;

h) Using privileged information about activities of governmental bodies for personal gain or the gain of close relative;

i) Using in any manner their office in order to influence a decision of legislative, executive or judicial power thereby acquiring personal gain or the gain of a close relative, any privileges or

rights, and closing legal transaction or otherwise favoring his/her personal interests or interests of a close relative.

## Article 10

### **Accepting gifts**

1. A gift, in terms of this Law, shall be considered to be a gift related to the performance of a duty including: money, items, rights, services without remuneration, and any other benefit given or promised to the official, for example: catering services, accommodation services, release of debt or obligation, travel expense or similar service, ticket, piece of art, souvenir, insurance or similar service, medical and similar service for which the official personally did not pay a market price.
2. Elected officials, executive officeholders and advisors may keep a gift valued at less than 100 KM and they do not have to report it
3. Paragraph 2 of this Article shall also apply to several gifts given by the same person in the course of one year.
4. Elected officials, executive officeholders and advisors shall not be allowed to keep gift exceeding the value set in Paragraph 2, they shall be obliged to report it to the Election commission and it shall become property of BiH.
5. Elected official, executive officeholder and advisor shall not be allowed to accept money, check or any other securities regardless of the amount, and if they get the above mentioned they shall be obliged to report them and they shall become the property of BiH.
6. If it there is any doubt in respect to the value of a gift, executive officeholder and advisor shall be obliged to request an invoice from the donor.
7. The value of a gift shall be its market value.
8. Accepting gifts according to Paragraphs 1 to 7 of this Article shall also refer to persons, who would accept the gift on behalf of the official, provided that such person is aware of the acceptance of the gift.

## Article 11

### **Officials exercising other tasks**

1. In the exercise of a public duty, except in a political party, elected officials, executive officeholders and advisors shall not perform any other executive duty. By way of derogation from previous provisions, elected officials, executive officeholders and advisors may perform executive duties in foundations and associations that are not financed from the budget of any level of government and that are founded pursuant to the Law on associations and foundations.
2. Elected officials, executive officeholders and advisors may perform tasks in educational, health or scientific, cultural and sport institutions, nongovernmental nonprofit organizations, foundations and associations that are not financed from the budget of any level of government, under conditions defined by entities' Law on labor and other provisions.

3. Elected officials and executive officeholders shall not be allowed to perform tasks of advisor or to be in a contractual relation based on work with public enterprises or physical persons who do business with bodies of authority at any level.

## **Chapter II- Disclosure**

### Article 12

#### **Personal financial disclosure**

1. Elected officials, executive officeholders and advisors shall submit regular financial statements, as provided by the law and by the Rules and Regulations of the Election Commission.

### Article 13

#### **Disclosure in contracting**

1. A bid on procurement of goods and services made to the Government by a public or private enterprise shall be accompanied by a written statement together with a list of any contributions made by the enterprise to political parties within the preceding two years. The statement shall also list all elected officials, executive officeholders and advisors who worked or were members of a management board, managing board, steering board, executive board, or who acted in capacity of an authorized person of the enterprise within the preceding two years.

2. This Article shall only apply to public and private enterprises when the value of the contract or business for the Government exceeds five thousand (5.000) Convertible marks per year.

3. All statements referred to in this Article shall be public documents available to the public and the media by both the enterprise and authority receiving the bid.

### Article 14

#### **Disclosure of Enterprise Information**

1. Any enterprise that receives one or more investments by government authority totaling more than five thousand (5.000) Convertible marks per year, shall submit a report listing full names, addresses, contact telephone numbers of the members of management board or managing board, and of all authorized persons in the enterprise.

2. Such reports shall be submitted to ministry or agency competent for financial matters within the body of authority that made the investment, the court where the enterprise is registered, and Election commission within 10 days following the vote on official decision of the enterprise to make investment.

3. Updated reports shall be submitted within fourteen (14) days following any change in the membership of management board, managing board, steering board, executive board, or authorized persons in the period of two years following the last investment by the government authority.

4. All reports referred to in this Article shall be public documents and shall be available for inspection and copying by the ministry or agency responsible for financial matters, court and Election commission during normal working hours.

#### Article 15

### **Disclosure of Government Investments**

1. Any enterprise that receives one or more investments by a body of authority totaling more than five thousand (5.000) Convertible marks per year, shall submit a report on that investment to the Election Commission.

2. The government authority shall also publish a copy of the statement of investment in a newspaper distributed on the territory under the jurisdiction of the government authority. The copy shall be published within fourteen (14) days of the investment.

3. All reports referred to in this Article shall be public documents and shall be available for inspection and copying by the government authority and Election commission during normal working hours.

#### Article 16

### **Disclosure of annual enterprise reports**

1. Annual financial statements of the enterprise that are submitted to the competent Tax Administration shall also be submitted to the agency or ministry responsible for financial matters within the government authority that made an investment in the enterprise within the preceding twelve (12) months.

2. All reports referred to in this Article shall be public documents and shall be available for inspection and copying by the ministry or agency responsible for financial matters during normal working hours.

## **Chapter III- Implementation**

#### Article 17

### **Implementation**

1. Election Commission shall carry out following duties under this law:

a) Act on the basis of this Law in order to ensure political responsibility and credibility of the elected officials, executive officeholders and advisors, taking into account the need to protect the integrity of the office held rather than the person holding such office.

b) Issue instructions; prescribe forms and organization of the Register for the purpose of applying provisions of this Law;



- c) Adopt Rules of procedure regulating Register, forms, and rules on handling the procedure and furnishing the decisions, as well as rules on drafting of the reports;
  - d) Adopt decisions on whether a certain action or an omission constitutes violation of the provisions of this Law;
  - e) Submit a report on its work to the Presidency to Bosnia and Herzegovina every six months, whereas at least annually to the public.
  - f) Submit a report to competent prosecutor's office on any violation of this Law which can also constitute violation of the criminal law.
2. Additional funds spent by the Election commission in implementation of this Law will be provided from the state budget.

## Article 18

### **Procedure before the Election Commission**

1. A procedure before the Election commission shall be initiated at the request of the Election commission or at the request of the person concerned.
2. The Election Commission may initiate a procedure on grounds of reporting made by another person.
3. The Election commission shall have the right to establish the facts by its own investigation or to obtain facts and evidence through action of other executive bodies. All authorities, institutions and courts of Bosnia and Herzegovina on all levels shall be obligated to provide the Election commission with all necessary legal and other official assistance as requested.
4. Should there be any doubt concerning the existence of the violation of obligations under this Law, the Election commission shall notify the concerned person with regard to whom there are reasonable doubts that he may committed violation of this Law, requesting a statement on the allegations contained in the report.
5. Should there be any doubt as to the possible existence of the violation of this Law the Election commission shall provide its opinion at request of any person requiring such opinion.
6. Prior to pronouncing the sanction, the Election commission shall obtain a statement from the person affected by the sanction.

## Article 19

### **Appeals**

1. Appeals against decision of the Election commission may be made to the Administrative Division of the Court of Bosnia and Herzegovina.

## Article 20

### **Sanctions**

1. If an elected official, executive officeholder or advisor is found to be violating provisions of Articles 5, 6, 8 or 11 of this Law, he or she shall be ineligible to stand for any directly or indirectly elected office in the period of four (4) years following the committed violation. In addition, the official, executive officeholder or advisor may be fined in an amount no less than one thousand (1.000) Convertible Marks and not more than ten thousand (10.000) Convertible Marks.

2. If an elected official, executive officeholder or advisor is found to be violating provisions of Articles 7, 9 and 10, the official or executive officeholder shall be fined in an amount no less than one thousand (1.000) Convertible Marks and not more than ten thousand (10.000) Convertible Marks. The official, executive officeholder or advisor shall be obliged to return the gift or equivalent monetary value of the gift.

3. If an elected official, executive officeholder or advisor is found to be violating provisions of the Articles 5, 6, 8, 9, 10 and 11 of this Law, he or she may be found ineligible for a position in the public administration or for a position of an advisor for a maximum period of four (4) years following the violation. This provision shall also apply to an elected official, executive officeholder or advisor on leave from a position in the public administration. In such case, he or she shall be obliged to repeat the procedure of public competition in order to re-enter the public administration at the end of the period of ineligibility.

4. If a close relative of the elected official, executive officeholder or advisor is found to be violating provision of the Article 10, the family member shall be fined in an amount no less than thousand (1.000) Convertible Marks and not exceeding ten thousand (10.000) Convertible Marks. The official, elected officeholder or advisor may also be fined in an equal amount; if it is determined that he or she had prior knowledge of the existence of the conflict of interest or gift.

5. Any enterprise found to be violating Articles 13, 14 or 16 shall be fined in an amount no less than one thousand (1.000) Convertible Marks and not exceeding twenty thousand (20.000) Convertible Marks and shall have no right to close a contract with any government authority or agency for a period of four (4) years following the violation.

6. Fines imposed pursuant to this Chapter shall be paid to the Election commission.

## Article 21

### **Statute of limitation**

1. The procedure for applying the sanction regarding the violation of this Law must be initiated within four (4) years after the alleged violation of the Law.

## **Chapter IV – Scope of the Law**

## Article 22

### **Application of the Law to entities and Brčko District**

1. Entities and Brčko District shall enact its own laws within sixty (60) days following the entry into force of this Law.
2. Provisions of this Law shall apply until the laws in the area of conflict of interest are enacted at the level of the Entities and Brčko District.
3. Provisions of the law referred to in the paragraph 1 of this Article shall not be contrary to this Law.

### **Chapter V- Transitional and final provisions**

#### **Article 23**

#### **Entry into force**

1. This Law shall enter into force on the day following announcement of the election results in respect of October 2002 elections.
2. The Law shall be published in the “Official Gazette of Bosnia and Herzegovina” and in the official gazettes of the Entities and Brčko District.