

**LAW ON CONFLICT OF INTEREST IN GOVERNMENTAL
INSTITUTIONS OF BOSNIA AND HERZEGOVINA**
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Chapter I – Conflict of Interest

Article 1

General Provisions

1. This Law shall govern special obligations of elected officials, executive officeholders and advisors in the institutions of government of Bosnia and Herzegovina in exercising their duties.
2. Elected officials, executive officeholders and advisors exercising public duties shall conduct in a conscientious and responsible manner, they shall not compromise the trust and confidence by citizens, and shall respect legal and other rules governing the rights, duties and responsibilities in the exercise of public duties.
3. In exercising a public duty, elected officials, executive officeholders and advisors must apply the ethics of the profession and duties they are performing.
4. In exercising a public duty elected officials, executive officeholders and advisors must not put their private interest beyond the public interest.
5. A conflict of interest exists in the event that elected officials, executive officeholders and advisors have a private interest that affects or may affect the 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 legally, effectively, impartially, honorably, and shall adhere to the principles of responsibility, integrity, conscientiousness, transparency and credibility.
2. Elected officials, executive officeholders and advisors shall be held personally responsible for their conduct in the exercise of 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 must not use the public duty for a personal gain of a person related to them. They must not be in any relationship of dependence in respect of persons who might influence their objectivity.
4. In their position as public persons, elected officials, executive officeholders and advisors must act in the interest of citizens.

5. In the exercise of their duty elected officials, executive officeholders and advisors shall be bound to use the property, instruments of labor and financial resources entrusted to them for specified purposes only for the intended purpose and in an efficient manner.

6. In the exercise of public duty elected officials, executive officeholders and advisors shall receive salary and allowances for the duty they exercise. Unless explicitly provided in this Law, elected officials, executive officeholders and advisors must not receive any other remuneration.

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. An authorized person shall also include an entrepreneur;

b) "*Close relative*" means a marital and extramarital partner of the official concerned, child, mother, father, adoptive parent, adopted child, his/her brother, sister, as well as parents and child of the marital partner (step-son /step-daughter).

c) "*Elected officials*" include;

- Members of the Presidency of Bosnia and Herzegovina;

- Delegates and Members of the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter: BiH);

- Secretaries of both Houses of the Parliamentary Assembly of BiH and Secretary of the Common Service of the Parliamentary Assembly of BiH;

d) "*Executive officeholders*" include Ministers and Deputy Ministers in the Council of Ministers of BiH, Directors, Deputy Directors and Assistant Directors of State Administration authorities, agencies and directorates, institutes, appointed by the Council of Ministers of BiH or the Parliamentary Assembly of BiH and/or the Presidency of BiH, who are not covered by the Law on Civil Service in Governmental Institutions of BiH;

e) "*Advisors*" include the advisors to the elected officials and to executive officeholders as defined under the Law on Civil Service in Governmental Institutions of BiH;

f) "*The Election Commission*" means the Election Commission of Bosnia and Herzegovina.

g) "*Financial Interest*" means:

1. Any interest that enables an 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.

h) "*Gift*" means any payment, action, service or item of value given directly to the recipient without compensation or the expectation of compensation. Gifts received from family members, as well as gifts valued at less than a hundred Convertible Marks (100 KM) shall not be covered by this Law.

i) "*Private enterprise*" means any legal enterprise that is not a public enterprise as defined below.

j) "*Public enterprise*" means an enterprise which has more than 25% of its capital owned by government authorities and/or has more than 25% of its annual business activities financed from the budgets of the governments of Bosnia and Herzegovina, the Federation of BiH, the Republika Srpska, the Brčko District of BiH, any canton, municipality or city.

Article 4

Incompatibilities

1. Serving on the management board, steering board, supervisory board, executive board, or acting in the capacity of an authorized person of a public enterprise is incompatible with the public duties of an elected official, executive officeholder or advisor.

2. Serving on the management board, managing or steering board, or directorate, or holding the office of the Director of the Privatization Agency is incompatible with the public duties of an 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 an elected official, executive officeholder or advisor.

4. The involvement of close relatives of elected officials, executive officeholders and advisors under circumstances set out in paragraphs 1, 2 and 3 of this Article also creates situations of conflict of interest for the official, executive officeholder and advisor.

5. In case of public enterprises at cantonal and municipal level, provisions of item 4 with reference to item 1 of this Article shall not refer to brother and sister from the category of close relatives.

Article 5

Public Enterprises and Privatisation Agencies

1. Elected officials, executive officeholders and advisors shall not serve on the management board, steering board, supervisory board, executive board, or act in the capacity of an authorized person for a public enterprise. This provision shall apply six months after the elected officials, executive officeholders and advisors leave office.

2. Elected officials, executive officeholders and advisors shall not serve on the management board, steering or supervisory board, or the directorate or as the Director of the Privatisation Agency. This provision shall apply six months after the elected officials, executive officeholders and advisors leave 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 Investment in Private Enterprise

1. Elected officials, executive officeholders and advisors shall not serve on the management board, steering board, supervisory board, executive board, or act in capacity of an authorized person for any private enterprise in which the governmental body where the official, executive officeholder and advisor serves has invested capital in the four (4) years prior to the elected official, executive officeholder and advisor taking office.
2. Elected officials, executive officeholders and advisors shall not serve on the management board, steering board, supervisory board, executive board, or act in the 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 contract or doing business with government authorities while the elected official, executive officeholder or advisor holds office and only when the value of the contract or the business with the government authorities exceeds five thousand Convertible Marks (5.000 KM) per year.

Article 7

Prohibition on Acting in Conflict of Interest

1. Elected officials shall not vote on any matter that directly affects a private enterprise in which the official, or his/her close relatives, has a financial interest. Officials in such situations shall abstain from voting, and shall announce the reason for their abstention in an open session.
2. Executive officeholders and advisors shall not take any official action that would directly affect a private enterprise in which the executive officeholder or advisor, or his/her close relative, has 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 or executive officeholder 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 otherwise does business, with government at any level. This provision shall apply only to public enterprises that are under a contract or 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 government exceeds five thousand Convertible Marks (5.000 KM) per year.
3. If an elected official, executive officeholder or advisor violates the provisions of this Article, the contract of the official or officeholder 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) receiving or demanding gifts or any other gain or promise of a gift or of any other benefits for the purpose of the exercise of public duties;
 - b) receiving an additional remuneration for the tasks performed in 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 another right in exchange for a gift or a promise of a gift;
 - e) preferring persons on the ground of party and another affiliation or origin, personal or family relations;
 - f) declining an inspection of their financial operations;
 - g) influencing the award of business or procurements by the State, in order to obtain a property or non-property related benefit for himself/herself or another persons;
 - h) using privileged information on the activities of governmental bodies for personal gain or the gain of close relative;
 - i) using in any manner their position in order to influence a decision of the legislative, executive or judicial power thereby obtaining a personal gain or a gain of a close relative, a privilege or a right, and closing a 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 which includes: money, objects, rights, services without remuneration, and any other benefit given or promised to the official, for example: catering services, overnight stay, 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 in the amount not exceeding KM 100 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 a gift exceeding the value set in Paragraph 2 of this Article, 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 there is a doubt in respect to the value of a gift, the elected official, executive officeholder and advisor shall be obliged to request a bill from the donor.
7. The value of a gift shall be its market value.
8. Acceptance of gifts in terms of paragraphs 1 through 7 of this Article shall also refer to persons who would accept the gift on behalf of the official, provided that such a person is aware of the acceptance of the gift.

Article 11

Officials Exercising Other Tasks

1. In the exercise of public duty, except for a duty in a political party, elected officials, executive officeholders and advisors shall not perform another 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 companies 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 file regular financial statements as provided by 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 to political parties that the enterprise has made within the preceding two years. The statement shall also list all elected officials, executive officeholders and advisors who have been employed by, or served on the management board, steering board, supervisory board, executive board, or acted in the 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 with the government exceeds five thousand Convertible Marks (5.000 KM) per year.
3. All statements referred to in this Article shall be public documents that are made readily available to the public and the media by both the enterprise and the government authority receiving the bid.

Article 14

Disclosure of Enterprise Information

1. Any enterprise that receives one or more investments from a government authority totaling more than five thousand Convertible Marks (5.000 KM) per year shall submit a report listing the full names, addresses, contact telephone numbers of the members of management board or steering board and of all authorized persons in the enterprise.
2. Such reports shall be submitted to the ministry or agency responsible for financial matters within the government authority that made the investment, the court where the enterprise is registered, and to the Election Commission within 10 days following the vote of the 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 the management board, steering board, supervisory board, executive board, or authorized persons for two years following the last investment made by the government authority.
4. All reports referred to in this Article shall be public documents and shall be made readily available for inspection and copying by the appropriate ministry or agency responsible for financial matters, the court and by the Election Commission during normal business hours.

Article 15

Disclosure of Government Authorities Investment

1. A government authority that makes one or more investments in an enterprise totalling more than five thousand Convertible Marks (5.000 KM) per year shall file a statement of such investment with the Election Commission.
2. The government authority shall also publish a copy of the statement of investment in a newspaper distributed within the territory falling under the jurisdiction of the government authority. Such publication shall be made within fourteen (14) days of the investment.

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

Article 16

Disclosure of Annual Enterprise Reports

1. Annual Financial Reports of enterprises filed with the competent tax administration shall also be filed with 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 made readily available for inspection and copying by the appropriate ministry or agency responsible for financial matters during normal business hours.

Chapter III- Enforcement

Article 17

Implementation

1. The Election Commission shall carry out the following functions under this Law:

a) act on the basis of this Law in order to ensure political accountability and credibility of 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 structure of the Register for the purpose of applying provisions of this Law;

c) adopt Rules of Procedure regulating the Register, the rules on forms, the implementation rules on handling the procedure and furnishing of decisions and compiling of reports;

d) adopt decisions as to whether a certain action or an omission constitutes a violation of the provisions of this Law;

e) submit a report on its work to the Presidency of Bosnia and Herzegovina every six months, whereas at least annually to the public;

f) submit a report to the relevant prosecutor's office on any violation of this Law which might also constitute a violation of criminal law.

2. The extra costs incurred by the Election Commission in the 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 the procedure on grounds of reporting made by another person.
3. The Election Commission shall have the right to establish the facts by way of conducting its own investigation or to obtain facts and evidence through an action of other executive authorities. 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 violation of obligation under this Law, the Election Commission shall notify the concerned person with regard to whom there are reasonable doubts that he may have committed a 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 a violation of this Law, the Election Commission shall provide its opinion at the request of any person requiring such an opinion.
6. Prior to pronouncing the sanction, the Election Commission must obtain a statement from the person affected by the sanction.

Article 19

Appeals

1. Appeals against decisions 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 have acted in violation of the 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 for a period of four (4) years following the committed violation. In addition, the official, executive officeholder or advisor may be fined in an amount of no less than one thousand Convertible Marks (1.000 KM) and not more than ten thousand Convertible Marks (10.000 KM).
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 of no less than one thousand Convertible Marks (1.000 KM) and not more than ten thousand Convertible Marks (10.000 KM). The official, executive officeholder or advisor shall also be obliged to return the gift or the equivalent monetary value of the gift.

3. If an elected official, executive officeholder or advisor is found to have been in violation of provisions of 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 an elected official, executive officeholder or advisor is found to have been in violation of Article 10, the family member shall be fined in the amount of no less than one thousand Convertible Marks (1.000 KM) and not exceeding ten thousand Convertible Marks (10.000 KM). The official, elected officeholder or advisor may also be fined in the equal amount if it is determined that he or she had prior knowledge of the existence of conflict of interest or gift.

5. Any enterprise found in violation of Articles 13, 14 or 16 shall be fined in the amount of no less than one thousand Convertible Marks (1.000 KM) and not exceeding twenty thousand Convertible Marks (20.000 KM) and shall be ineligible 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 sanctions consequent on violations 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. The Entities and Brčko District shall enact their own laws within sixty (60) days following the entry into force of this Law.

2. Until such time as the laws are enacted in the area of conflict of interest at the level of the Entities and Brčko District, the Entities and Brčko District shall apply the provisions of this Law.

3. Provisions of the law referred to in the paragraph 1 of this Article shall not be in contravention with this Law.

Chapter V- Transitional and Final Provisions

Article 23

Entry into force

1. This Law shall enter into force on the day following the announcement of the election results in respect of the 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.