

LAW

ON PREVENTION OF CONFLICT OF INTEREST IN

DISCHARGE OF PUBLIC OFFICE

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I. GENERAL PROVISIONS

Concept of conflict of interest

Article 1

An official shall discharge the functions of his/her office without subordinating public interest to private interest, nor shall he/she cause conflict between the two.

A conflict of public and private interest exists when an official has a private interest that affects or could affect discharge of his/her public office.

Public functions and officials under this Law

Article 2

A public function in terms of this Law shall be a function discharged by a person – public official pursuant to election, appointment and nomination to organs of the Republic of Serbia, autonomous province, municipality, town and the City of Belgrade, and organs of public enterprises founded by the Republic of Serbia, autonomous province, municipality, town and the City of Belgrade.

Conflict of interest in discharge of office of Supreme Court judges, judges, magistrates and public prosecutors and deputy public prosecutors shall be governed by separate law.

Separate laws shall regulate conflict of interest of officials appointed to organs of institutions and other organisations whose founder is the Republic of Serbia, autonomous province, municipality, town and the City of Belgrade.

Conflict of interest resolution board

Article 3

A Republic Board for resolving conflict of interest (hereinafter “the Republic Board”) is hereby established to implement this Law.

The Republic Board is an autonomous and independent body and funds for its work shall be provided in the Republic of Serbia budget.

II. STATUS OF OFFICIAL

Basic rules for discharge of public office

Article 4

An official is obliged to observe regulations governing his/her rights and duties and to promote and maintain confidence of citizens in conscientious and responsible discharge of public office.

He/she may not be in any relationship of dependence with persons that could affect his/her impartiality, nor may he/she use public office to acquire any benefit or privileges for himself or related person.

A related person in terms of this Law is a lawful or common-law spouse of a public official, his/her lineal blood relative, lateral relative by sanguinity up to second degree, adoptive parent or adoptee, in-law conclusive with first degree of relation, and any other legal entity or natural person who on other grounds and circumstances may be justifiably considered related by interest to the official.

Holding other public office and other engagements

Article 5

An official may accept other public office only with approval of the organ appointing or nominating him/her to public office, if not in contravention of bans specified in this or other law.

An official may not hold advisory engagement with legal entities or natural persons. An exception are Members of Parliament, Deputies and Councillors.

An official may engage in scientific, educational and cultural ACTIVITIES and acquire income from copyright, patent and similar intellectual property rights.

ACTIVITIES prohibited to an official

Article 6

An official may not use public office to acquire personal benefit or benefit for a related person, to acquire a right or privilege, conclude a legal transaction or otherwise benefit himself or related person by way of influencing decisions of the legislative, executive or judicial branch.

An official is also prohibited to:

1. acquire a new or realise an existing right for himself or related person if by doing so he/she violates the principle of equality of citizens before law,
2. abuse special powers granted to him/her by virtue of the functions of his/her public office,
3. receive, solicit or accept any value or service to vote on any item or to influence the decision of an organ, body or individual,
4. promise employment or other right in exchange for a gift, promise of a gift or other benefit or privilege,
5. influence assignment of tenders or public procurement,
6. accept compensation from a foreign state or international organisation, except travel costs and other costs relating to participation in international conferences in accordance with the decision of competent bodies,
7. use knowledge and information on the work or government bodies that is not publicly available for personal benefit or the benefit of related persons.

Notification of conflict of interest

Article 7

If an organ or body is debating and taking decision on an issue where a public official or related person holds a personal interest, he/she is obliged to declare the existence of conflict of interest prior to taking part in the debate, and at latest before taking of decision.

The organ or body at whose session the notification of conflict of interest was made is obliged to enter such notification in the minutes.

This shall not prejudice the rules on disqualification of the official set out in the law governing general administrative procedure.

Managing rights in commercial entities

Article 8

An official is obliged to, within thirty days of election, appointment or nomination, transfer managing rights in a commercial entity to a legal entity or natural person, who shall not be a related person, to operate in their own name and on behalf of the official until the end of the term in office.

An official is obliged to within five days of the transfer of managing rights deliver to the relevant Board the data of the legal entity or natural person to whom the rights have been transferred with proof of the transfer. The legal entity or natural person to whom the official has transferred managing rights shall become a related person.

An official shall not issue any information, directive or order to the natural person or legal entity to whom managing rights in the commercial entity have been transferred, nor in any way influence through such entity exercising of his/her rights and duties in the business entity, whereby the former shall not prejudice the right of the official to receive information on the state of the commercial entity.

Functions in commercial entities, public enterprises and public institutions

Article 9

An official may not be director, deputy or assistant director, member of the management or supervisory board of a public enterprise, institution or company or any other legal entity with state capital share, unless so provided by law or other separate act.

In all other business entities an official may not be a member of the management or supervisory board or a director, deputy or assistant director.

An official may be a member of a management or supervisory board of scientific, humanitarian, cultural or similar association, but shall not be entitled to compensation or gifts except compensation of travel and other expenses.

Special provisions on Members of Parliament, Deputies and Councillors

Article 10

A Member of Parliament, Deputy and Councillor may be a director or deputy and assistant director or member of the management or supervisory board of at most one public enterprise, institution and company or other legal entity with majority state capital share.

In all other business entities a Member of Parliament, Deputy and Councillor may continue to exercise his/her management rights or remain as member of the management or supervisory board, director, deputy and assistant director, if this does not interfere with his/her discharge of public office and the

nature of the activity of the business entity does not influence impartial and independent discharge of public duty.

Notification of attempts to influence the impartiality

Article 11

An official is required to notify without delay the appointing or nominating organ and the Republic Board of any pressure or improper influence he/she is subjected to in discharge of public office. If the official is elected to public office he/sheshall accordingly inform only the Republic Board.

If in doubt that any action or failure to act may lead to conflict of interest, the official is obliged to request the opinion of the Republic Board, but doing so shall not preclude the possibility to institute proceedings for determining whether violation of this Law exists.

III. PROPERTY DISCLOSURE

Filing of disclosure report

Article 12

An official is obliged to submit to the Republic Board, within fifteen days of the day of election, appointment or nomination to public office, a report on his/her income and property and property of spouse and lineal relatives by consanguinity (hereinafter "disclosure report"), according to status as of the day of election, appointment or nomination.

Throughout the term in office the official is obliged to submit a disclosure report to the Republic Board annually, by 31 January of the current year for the previous year, and within 15 days following the end of the term in office, according to the status as of the day of submitting the disclosure report.

The disclosure report shall be submitted over the following two years, on the day of expiry of one year after submitting of the previous report, according to state on the day of submittance of the disclosure report.

An official shall report the property of related persons in accordance with information and knowledge in his/her possession, and the Republic Board may request from a related person to directly submit information on his/her property, within the deadlines set out for the public official.

Content of the Disclosure Report

Article 13

The disclosure report shall contain information on:

1. ownership rights on real property and lease rights on real property exceeding one year, at home and abroad,
2. movables under mandatory registration with government authorities (motor vehicles, vessels, aircraft, weapons et al),
3. deposits in banks and other financial organisations, at home and abroad,
4. stocks and shares in legal entities,
5. cash and securities,
6. rights deriving from copyright, patent and similar intellectual property rights,
7. debts (principle, interest and repayment period) and claims,
8. source and amount of income from discharge of public office and engagements in scientific, educational and cultural institutions,
9. public official's membership in management and supervisory boards in public enterprises, institutions and companies or other legal entities with state capital share, and scientific and humanitarian associations,
10. all other information deemed relevant by the public official for application of this Law.

The disclosure report submitted by Members of Parliament, Deputies and Councillors shall also contain information on business entities where they have retained managing rights or where they are directors, deputy or assistant directors and members of management or supervisory boards.

The Republic Board shall set out the specific content of the disclosure report and the relevant form.

Register of Property

Article 14

All data from the disclosure report is recorded in the Property Register maintained by the Republic Board.

Information on property registered by a public official may be used only in proceedings for determination of whether a violation of this Law exists.

Information on the salary and other income received by a public official from the budget is public.

An official is required to inform the Republic Board on any change in respect of the information recorded in the Property Register, resulting in increase of property exceeding 20 average salaries in the Republic of Serbia in the month when the change has occurred pursuant to latest published data of the Office of Statistics, within 15 days of occurring of such change.

The manner of keeping of the Property Register shall be established by the Republic Board.

IV. GIFTS RELATED TO DISCHARGE OF PUBLIC OFFICE

Definition of Gift

Article 15

For the purpose of this Law any money, things, rights, services without charge and any other benefit given or promised to an official or related person, either personally or through another, shall be considered a gift.

The value of a gift shall be computed pursuant to its market value as of the day of receiving or promise thereof. If several gifts are given during one year by the same giver the aggregate of all gifts shall be taken as value of gift.

If in doubt regarding the value of a gift, the official shall request a bill from the giver or decline the gift.

Accepting gifts

Article 16

An official may not accept gifts related to discharge of his/her public office, except protocolary or appropriate gift whose value does not exceed the average monthly salary in the Republic of Serbia, and not even then if the gift is in money or securities. A related person may not accept a gift relating to discharge of public office by an official with whom it has a related person status.

An official shall may prove that he/she could not influence the actions of a related person accepting the gift, or that the gift was not related to his/her discharge of public office.

The criterion for determination of what gifts are considered protocolary or appropriate shall be set by the Republic Board.

The procedure with gifts received by a public official from foreign states, their bodies or organisations, international organisations and foreign natural persons or legal entities shall be governed by separate law.

Actions of an official on offer or promise of gift that cannot be accepted

Article 17

An official who is offered or promised a gift that he/she is not allowed to accept is obliged to refuse the offer or promise of the gift, inform the giver that the gift, if he/she accepts the gift, shall become the property of the Republic of Serbia and without delay report the event in writing to the appointing or nominating body. An elected public official shall report to the Republic Board.

If the official was unable to decline or return the gift to giver, he/she is obliged to hand over the gift to the appointing or nominating body, and if elected to public office – to the Republic Board. Gifts handed over shall become the property of the Republic of Serbia as of the moment of handing over.

V. THE REPUBLIC BOARD

Competencies of the Republic Board

Article 18

The Republic Board shall issue instructions, forms and shall render opinions necessary for implementing this Law, maintain the Register of Property of the officials, decide whether and action or failure to act by an official constitutes a violation of this Law and, if so, shall pronounce measures and perform other tasks set out by law.

All competent bodies are required to immediately deliver to the Republic Board, at its request, required facts and evidence.

Composition of the Republic Board

Article 19

The Republic Board shall have nine members. Three are chosen by judges of the Supreme Court of Serbia from the ranks of persons with law degree with notable expertise in criminal, civil, commercial and administrative law, and one member shall be chosen by the Bar Association of Serbia from among its members. Presidents of courts, judges, public prosecutors and deputy public prosecutors may not be members of the Republic Board.

The remaining five members are chosen by the National Assembly at the recommendation of the Serbian Academy of Science and Arts, from a list containing ten candidates.

The members of the Republic Board shall elect a chairman from their own ranks, for a period of one year.

Status of a member of the Republic Board

Article 20

A member of the Republic Board is elected for a term of five years and may not be re-elected.

A member of the Republic Board may not hold membership in a political party and shall be subject to all bans and obligations set out by this Law for public officials.

A member of the Republic Board is entitled to monthly compensation amounting to monthly remuneration of a Member of Parliament permanently engaged in the National Assembly of the Republic of Serbia.

End of term of office in the Republic Board

Article 21

A member's term of office in the Republic Board shall end by expiry of the period of time for which he/she was elected, by resignation and by dismissal from the Republic Board.

A member of the Republic Board shall be dismissed if discharging the duties of a member of the Republic Board with negligence or bias, if joining a political party or is sentenced to a prison term or for a punishable offence making him/her unworthy of duty in the Republic Board or if the Republic Board determines that he/she has violated this Law.

The proceedings to determine whether grounds exist for dismissal of a member of the Republic Board are initiated by the Republic Board or body electing him/her to the Republic Board. The Republic Board conducts proceedings and takes the decision.

The Republic Board may suspend its member against whom proceedings to determine grounds for dismissal have been instituted.

The Republic Board Secretariat

Article 22

The Republic Board shall have a Secretariat for professional, administrative and technical services necessary for work of the Republic Board. The Secretariat shall be managed by a Secretary appointed and dismissed by the Republic Board.

Regulations governing employment in government bodies shall accordingly apply to the Secretary and members of the Secretariat. The Secretary and members of the Secretariat shall be subject to same bans and duties as public officials under this law.

The salary of the Secretary and staff in the Secretariat shall be set by the relevant committee of the National Assembly, at the recommendation of the Republic Board.

The organisation of the Secretariat shall be specified by Rules issued by the Republic Board, at the proposal of the Secretary of the Secretariat.

Taking of decisions by the Republic Board

Article 23

The Republic Board shall take decisions in session by majority vote of all members.

In proceedings whether a member of the Republic Board has violated this Law, such member and another member chosen by lot by the other members shall be exempted from the proceedings, deciding and voting and the decision shall be taken by majority vote of the members with voting right.

It shall be regarded that initiating proceedings for determination of violation of this law by a member of the Republic Board concurrently initiates proceedings for his/her dismissal.

Procedure to determine violation of this Law

Article 24

The procedure to determine possible violation of this Law is initiated by the Republic Board *ex officio* or at the request of the official or his/her direct superior. The Republic Board may also initiate proceedings on charges made by a legal entity or natural person.

The Republic Board notifies the official of commencing proceedings and is obliged to enable the official to give a statement regarding allegations against him/her.

The Republic Board independently determines facts and takes a decision, in proceedings where statutory provisions governing general administrative procedure are accordingly applied.

The decision of the Republic Board shall be explained and delivered to the official and the body appointing or nominating the official to public office.

Types of Measures

Article 25

A confidential caution not disclosed to the public or a measure of public announcement of recommendation for dismissal may be pronounced to an official appointed or nominated to public office.

A confidential caution not disclosed to the public or a measure of public announcement of the decision that this Law has been violated may be pronounced to an official elected to public office directly by public ballot, and to an official appointed to public office by an organ directly elected by citizen, instead of public announcement of decision that this Law has been violated, a measure of public announcement of recommendation to resign may be pronounced.

The decision pronouncing the measure of public announcement of the decision is effected by publishing the decision and a summary of the explanation in the "Official Gazette of the Republic of Serbia" and other public MEDIA.

Only the measure of public announcement of the decision that this Law has been violated may be pronounced to a public official who violates this Law after the end of the term in office may.

The measure of confidential caution not disclosed to the public

Article 26

The measure of confidential caution not disclosed to the public is pronounced to an official for violation of this Law that did not affect his/her discharge of public office.

The measure of confidential caution not disclosed to the public is pronounced also if an official fails to meet the requirements provided in this Law within set deadlines, and the decision shall set the manner and deadline for complying with this Law.

The measure of public announcement of recommendation for

dismissal

Article 27

If the official to whom a measure of confidential caution not disclosed to public is pronounced fails to comply with this Law within the time limit set in the decision, the measure of public announcement of recommendation for dismissal shall be pronounced to him/her.

The measure of public announcement of recommendation for dismissal is also pronounced if the official contrary to this Law exercises, legally or in practice, managing rights in commercial entities or discharges functions in public enterprises, institutions or companies or other legal entities with state capital share

or other business entities in manner not provided under this Law, if again violates this law after pronouncing of a confidential measure not disclosed to the public or by other violations of this Law influences the discharge of public office.

Measures pronounced only to officials elected to public office

Article 28

When grounds exist for pronouncing of measure of public announcement of recommendation for dismissal, the measure of public announcement of recommendation to resign shall be pronounced to an official appointed to public office by an organ directly elected by citizens, and to an official directly elected to office by citizens – the measure of public announcement of the decision that there has been a violation of this Law.

Measures pronounced to member of the Republic Board, Secretary and staff of the

Secretariat

Article 29

Only the measure dismissal from office may be pronounced to a member of the Republic Board and Secretary of the Secretariat. Dismissal of the Secretary entails termination of employment in the Secretariat.

Only the disciplinary measure of termination of employment may be pronounced to a staff member of the Secretariat.

The Republic Board is obliged to publish every decision, even those stating that there has been no infringement of this Law, relating to a member of the Republic Board, Secretary or staff member of the Secretariat, in its entirety in the “Official Gazette of the Republic of Serbia” and other public MEDIA.

Mandatory Public Announcement

Article 30

The Republic Board is obliged to enable public inspection of information and DOCUMENTS on any pressure or improper influence an official is subjected to in discharge of public office and on his/her functions in public enterprises, institutions, companies and other legal entities with state capital share and other business entities.

The Republic Board shall monthly inform the public of irregularities it determines in the course of its work.

Report to the National Assembly

Article 31

The Republic Board shall submit an annual report of its work to the National Assembly by March 1 of the current year for the preceding year.

Ensuring data protection

Article 32

When informing the public the Republic Board is obliged to ensure protection of data regarding the person from potential abuse, and particularly information on the public official and his/her related persons in situations and conditions that do not represent a conflict of interest in terms of this Law, or when the decision of the Republic Board determines that these do not represent a violation of this Law.

Information not representing a violation of this Law may not be published in public MEDIA without consent of the relevant public official.

Use of data recorded in the Register

Article 33

The decisions of the Republic Board may not prejudice criminal and material liability of a public official.

Records on a public official maintained in accordance with this Law may be placed at the disposal and submitted to courts and other inspection authorities, with the proviso prohibiting use thereof for harassment of the public official or for publication as if the information has been determined by the court or an inspection authority.

VI. TRANSITIONAL AND FINAL PROVISIONS

1. Transitional Provisions

Election of the Republic Boards

Article 34

Nominations for members of the Republic Board shall be determined within 30 days of coming into force of this Law, and their election shall be conducted within the following 30 days, and the Republic Board chairperson shall be elected within 15 days of election of the members.

The Republic Board is obliged to, within 60 days following election of its chairperson, pass Rules on internal organisation of the Secretariat and other regulations provided under this Law.

Duties of Officials and the Government

Article 35

Public officials shall, within 30 days of passing of implementing legislation for this Law, file with the Republic Board a first disclosure report, and/or within 90 days of coming into force of this Law harmonise advisory engagements with legal entities and natural persons with this Law and harmonise exercising of managing rights in business entities and discharge of functions in public enterprises, institutions and companies or other legal entities with state capital share, as well as other business entities with this Law.

The Government is obliged to provide premises, technical and other material resources for commencement of the work of the Republic Board within 30 days of coming into force of this Law.

2. Final Provision

Article 36

This Law shall come into force on the eighth day of publishing in the "Official Gazette of the Republic of Serbia".