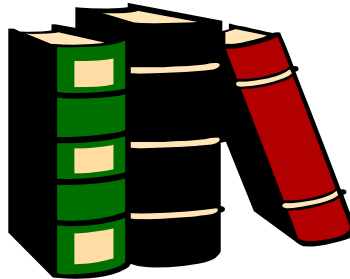




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## **Department for Legal Affairs**



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

**“Official Gazette of Bosnia and Herzegovina”, 63/08**

**[NOTE: The Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina was published in the “Official Gazette of Bosnia and Herzegovina”, 13/02.](#)**

Pursuant to Article IV 4 .a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 31<sup>st</sup> session of the House of Representatives, held on 18 June 2008, and at the 19<sup>th</sup> session of the House of Peoples, held on 23 July 2008, adopted the following

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

**Article 1**

In the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, Nos. 16/02, 14/03 and 12/04), in Article 1, paragraph (1), the words: “This Law”, shall be replaced with the words: “For the purpose of preventing the conflict of interest, this Law”, and the word: “duties”, shall be replaced with the words: “public offices”.

In the same Article, paragraphs (2), (3) and (4) shall be deleted.

The current paragraph (5) shall become paragraph (2) in which the words: “public duties” shall be replaced with the words: “public offices”.

**Article 2**

In Article 2, after paragraph (2), new paragraphs (3), (4) and (5) shall be added to read:

“(3) Elected officials, executive officeholders and advisors exercising public offices must conduct in a responsible and conscientious manner, they must not compromise the confidence and trust by citizens, and must respect legal and other rules governing the rights, duties and responsibilities in the exercise of public offices.

(4) In exercising public offices, elected officials, executive officeholders and advisors must adhere to the ethics of the profession and duties they are performing.

(5) In the exercising public offices, elected officials, executive officeholders and advisors must not prefer their private interest at the expense of the public interest.”

The current paragraphs (3), (4), (5) and (6) shall become paragraphs (6), (7), (8) and (9).

In paragraph (3), which as a result of these amendments has now become paragraph (6), in the second sentence, the word “They” shall be replaced with the word “Elected officials, executive officeholders and advisors.”

In paragraph (6), which as a result of these amendments has now become paragraph (9), in the first sentence, the word, after the word: “exercise”, the words: “in accordance with the legal regulations on salaries and allowances of the employees of the institutions of Bosnia and Herzegovina and other regulations”, whilst the second sentence: “Unless explicitly provided in this Law, elected officials, executive officeholders and advisors shall be prohibited to receive any other remuneration” shall be deleted.

### Article 3

In Article 3, item a), after the words: “to represent”, the words “and act as an agent of” shall be added, whereas after the words “an entrepreneur” the words “, i.e. natural person who is operating in the market independently for the purpose of acquiring profit” shall be added.

After item a), a new item b) shall be added to read as follows:

b) “*Relatives*” shall mean close relatives, relatives in direct line, relatives in indirect line including those in the third degree of kinship, in-law relatives including those in the second degree of kinship and a child of the spouse;

The former item b), which under these amendments has now become item c), the words “of the officials concerned” shall be deleted, whereas the words “his/her brother, sister as well as parents and child of a marital partner (step-son/step-daughter)” shall be replaced with the words “of an elected official, executive officeholder and advisor”;

After the former item b), which under these amendments has now become item c), a new item d) shall be added to read as follows:

“d) “Affiliated person” shall mean a relative or a person who has personal, political, economic or other connections with an elected official, executive officeholder and advisor, which connections could affect the elected official, executive officeholder and advisor’s objectivity in work;”

The former items c), d), e), f), g), h), i) and j) shall now become items f), g), h), i), j), k) and l).

In item c), which under these amendments has now become item e), in indent 2), the words: “and Members” shall be replaced with the words: “of the House of Representatives and the delegates in the House of Peoples”.

Indent 3) shall be replaced to read as follows:

3) Officials elected and appointed by the Presidency of Bosnia and Herzegovina (hereinafter: the Presidency of Bosnia and Herzegovina), the houses of the Parliamentary Assembly of Bosnia and Herzegovina or the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter: Parliamentary Assembly of Bosnia and

Herzegovina) and the Council of Ministers of Bosnia and Herzegovina, which are not covered by the Law on Civil Service in the Institutions of Bosnia and Herzegovina, i.e. for whose election or appointment a consent has been given by the Presidency of Bosnia and Herzegovina, the houses of the Parliamentary Assembly of Bosnia and Herzegovina or the Parliamentary Assembly of Bosnia and Herzegovina and the Council of Ministers of Bosnia and Herzegovina;

In item d), which under these amendments has now become item f), the words: “Directors, Deputy Directors and Assistant Directors of State Administration authorities, agencies and directorates, institutes, appointed by the Council of Ministers of Bosnia and Herzegovina or the Parliamentary Assembly of Bosnia and Herzegovina or the Presidency of Bosnia and Herzegovina, who are not covered by the Law on Civil Service in the Institutions of Bosnia and Herzegovina” shall be replaced with the words: ”Directors and Deputy Directors of the State Administration authorities, agencies, directorates, institutes, establishments and other institutions of Bosnia and Herzegovina elected or appointed by the Presidency of Bosnia and Herzegovina, the houses of the Parliamentary Assembly of Bosnia and Herzegovina or the Parliamentary Assembly of Bosnia and Herzegovina and the Council of Ministers of Bosnia and Herzegovina, which are not covered by the Law on the Civil Service in the Institutions of Bosnia and Herzegovina, i.e. for whose election or appointment a consent has been given by the Presidency of Bosnia and Herzegovina, the houses of the Parliamentary Assembly of Bosnia and Herzegovina or the Parliamentary Assembly of Bosnia and Herzegovina and the Council of Ministers of Bosnia and Herzegovina.”

Item f), which under these amendments has now become item h), shall be amended to read as follows:

“h) “Investment of capital” shall mean the investment of money, assets and rights into the ownership structure of an enterprise;”

In item h), which under these amendments has now become item j), the words: “family members” shall be replaced with the words “a close relative”, whereas the amount “a hundred Convertible Marks (100 KM)” shall be replaced with the amount “two hundred Convertible Marks (200 KM)”.

Item j), which under these amendments has now become item l), shall be amended to read as follows:

“l) “Public enterprise” shall mean the enterprise as it is defined in the laws on public enterprises;

After item l), the new items m), n) ,o) and p) shall be added to read as follows:

“m) “Public office” shall mean the tasks of the elected officials, executive officeholders or advisors arising from the office they exercise;

n) “Governments” shall mean the Council of Ministers of Bosnia and Herzegovina, the Government of the Federation of Bosnia and Herzegovina, the Government of the Republika Srpska, Government of Brčko District, cantonal governments, city mayors and municipal mayors authorized to manage assets, property and rights;

o) “Personal services” shall mean any activity by which one party undertakes to carry out a specific assignment, whereas another party undertakes to pay the first party a certain reimbursement in return for it; however, such an activity does not arise from an employment relation; and

p) “Institutions of Bosnia and Herzegovina” shall mean all institutions of Bosnia and Herzegovina established pursuant to the Constitution and law of Bosnia and Herzegovina.”

#### **Article 4**

In Article (4), paragraph 1, the words: “management board” shall be deleted, whereas the words: “executive board” shall be replaced with the words: “assembly, administration or management”.

In paragraph (2), the word “management” shall be deleted, whereas the word “directorate” shall be replaced with the words: “performing duties as director of a directorate”, whereas the words “duty of a director” shall be deleted.

Paragraph (4) shall be amended to read as follows:

(4) Elected officials, executive officeholders and advisors must resign from any incompatible offices and duties no later than within three (3) days after they have assumed their public office.

The current paragraph (5) shall be deleted.

#### **Article 5**

In Article (5), paragraph 1, after the words “advisors”, the following words shall be added: “during the terms of offices and six months after they leave such office,”, the words: “management board” shall be deleted, whereas the words: “executive board” shall be replaced with the words: “assembly, administration management”, whereas the second sentence: “This provision shall apply six months after the elected officials, the executive officeholders and advisors leave office.” shall be deleted.

In paragraph (2), after the words: “advisors”, the following words shall be added: “during the terms of offices and six months after they leave the offices” the word “management” shall be deleted, whereas the word “nor” shall be replaced with the words: “nor as directors of a directorate or”, whereas the words: “nor directors” and the second sentence: “This provision shall apply six months after the elected officials, the executive officeholders and advisors leave office.” shall be deleted.

Paragraph (3) shall be deleted.

#### **Article 6**

In Article 6, in paragraph (1), the words: “management board, steering board” shall be replaced with the word: “assembly”, the words: “executive board” shall be replaced

with words: “administration or management”, and after the words: “the governmental body where the” the word: “elected”, whereas after the words: “taking office”, the words: “and during the term of office of the elected,” shall be added.

In paragraph (2), in the first sentence, the words: “management board, steering board” shall be replaced with the word: “assembly”, the words: “executive board” shall be replaced with words: “administration or management”, the word “government authorities” shall be replaced with the words: “institutions financed from the budget” and in the second sentence, the word: “government” shall be replaced with the words: “institutions financed from the budget”.

### **Article 7**

In Article 7, in paragraph (1), in the first sentence, after the words: “Elected officials”, the words: “and executive officeholders” shall be added, words: “the official, or his or her close relatives,” shall be replaced with the words: “the elected official, executive office holder or affiliated persons”, and in the second sentence, the word: “Officials” shall be replaced with the words: “Elected officials and executive officeholders”.

In paragraph (2), the words: “his or her close family member” shall be replaced with the words: “affiliated persons”.

### **Article 8**

After Article 8, a new Article 8a) shall be added to read as follows:

#### **“Article 8a Involvement of close relatives**

Under terms specified in articles 4, 5, 6 and 8 of this Law, the involvement of the close relatives of an elected official, executive officeholder and advisor shall also lead to a situation in which a conflict of interest is created for this elected official, executive officeholder and advisor.”

### **Article 9**

In Article 9, in paragraph (1), the word: “officials” shall be replaced with the words: “elected official, executive office holder and advisor.”

In item b), after the word: “duties”, the words: “against the legal regulations on salaries and allowances of the employees in the institutions of Bosnia and Herzegovina and other regulations:” shall be added.

In item f), the words: “an inspection” shall be replaced with the words “an inspection” **(TRANSLATOR’S REMARK – NO CHANGE REFLECTED IN ENGLISH VERSION).**

In item h), the words: “closely related person” shall be replaced with the words: “affiliated persons and”.

In item i), the words: “a decision of” shall be deleted, the words: “closely related person” shall be replaced with the words: “affiliated persons”, and the words: “another closely related person”, shall be replaced with the words: “another affiliated person”.

## **Article 10**

In Article 10, in paragraph (1), the word: “duty” shall be replaced with the words: “public offices”, and the word: “money” shall be deleted, whereas the word: “official” shall be replaced with the words: “elected official, executive office holder and advisor”, in the appropriate grammatical case.

In paragraph 2, the amount of “KM 100” shall be replaced with the amount “KM 200.”

In the same Article, in paragraph (4), the words: “to the Election Commission and it shall become the property of Bosnia and Herzegovina” shall be replaced with the words: “and turn the gift over to the authority institution that elected them, appointed them or on whose behalf they exercise the entrusted public office.”, whereas the second, third and fourth sentences shall be added to read: *“The institutions shall be bound to prescribe, within 30 days from day this Law enters into force, the procedure, the recording method, the turnover and storing of the accepted gifts by a separate act. The institutions shall be bound to forward to the Central Election Commission of Bosnia and Herzegovina (hereinafter: Central Election Commission of Bosnia and Herzegovina) the information concerning the gifts that are turned over, and shall do so within 15 days from the day when such information is compiled. The Central Election Commission of Bosnia and Herzegovina shall be bound to establish the central registry of gifts that the elected officials, executive office holders and advisors accept in the exercise of public offices.”*

In paragraph (5), the words: “and if they get the above mentioned they shall be bound to report them and they shall become the property of Bosnia and Herzegovina” shall be deleted.

In paragraph 8, the word “official” shall be replaced with the words: “elected official, executive office holder and advisor.”

## **Article 11**

In Article 11, in paragraph (1), the words: “except for a duty in the political party” shall be deleted, whereas the words: “perform other executive” shall be replaced with the word: “carry out”. After the word: “duty” the following words shall be added: “of authorized officials in foundations and associations, established in accordance with the laws governing the matters of foundations and associations that are financed from the budget at any level of government in the amount exceeding KM 10,000 per year

or in the amount exceeding KM 50,000 per year in the foundations and associations in the domain of culture and sports.”

The current paragraphs 2 and 3 shall be deleted.

## **Chapter 2 - Disclosure**

### **Article 12**

In Article 12, the words: “Rules and” shall be deleted.

### **Article 13**

Articles 13, 14, 15 and 16 shall be deleted.

### **Article 14**

The title of Chapter 3 – *Enforcement* shall be altered to read as follows:  
“Chapter 3 - Enforcement and procedure before the Central Election Commission”

In article 17, in paragraph (1), in item a), the word: “political” shall be replaced with the word: “political” **(TRANSLATOR’S REMARK – NO CHANGE REFLECTED IN ENGLISH VERSION)**, after the word: “integrity”, the word: “public” shall be added, and the words: “rather than the person holding such office”, shall be deleted.

In item c), the word “the rules on forms” shall be replaced with the words “adopts the forms.”

In item d), the word: “constitutes” shall be replaced with the word: “constitutes” **(TRANSLATOR’S REMARK – NO CHANGE REFLECTED IN ENGLISH VERSION)**.

In the same Article and paragraph, the item e) shall be amended to read:

“e) Submit annual reports on its work to the Parliamentary Assembly of Bosnia and Herzegovina, the Bosnia and Herzegovina Presidency and to the public and”.

In item f), the word: “any” shall be replaced with the word: “in any”.

In paragraph (2), the words: “state budget” shall be replaced with the words: “Budget of the Institutions of Bosnia and Herzegovina and the International Obligations of Bosnia and Herzegovina”.

### **Article 15**



In Article 18, paragraph 1, the word: “shall be initiated at the request of the Election Commission or at the request of the person concerned” shall be replaced with the words: “*shall be initiated ex officio.*”

In paragraph 3, the words: “executive” shall be deleted.

In paragraph 6, the words: “must obtain the statement from the person affected by the sanction.”, shall be replaced with the words: “shall have the obligation to enable the person against whom the procedure is conducted to give his or her statement.”

## **Article 16**

Article 19 “Appeals” shall be amended to read:

### **“Article 19 (Appeal procedure)**

(1) The Appellate Division of the Court of Bosnia and Herzegovina shall decide the appeals against decisions of the Central Election Commission of Bosnia and Herzegovina in the area of implementation of this Law.

(2) The appeal shall be filed within 15 days from the day of receipt of the decision, through the Central Election Commission of Bosnia and Herzegovina.”

## **Article 17**

In Article 20, in paragraph (1), in the first sentence after the numeral “8”, the numeral “8a” shall be added, whereas the word “or” shall be replaced with the conjunction “and”. The words “directly or indirectly elected office” shall be replaced with the words “office of the an elected official, executive office holder or advisor”, and in the second sentence the word “official” shall be replaced with the word “elected official.”

In paragraph 2, the words: “the official or officeholder” shall be replaced with the words: “the elected official, executive office holder or advisor.”, whereas after the amount: “(KM 10,000).” the word “The official” shall be replaced with the words: “The elected official.”

Paragraphs 3, 4 and 5 shall be deleted.

In the current paragraph 6, which shall become paragraph 3, the words: “pursuant to this chapter shall be paid to the Election Commission”, shall be replaced with the words: “shall be paid to the Budget of the Institutions of Bosnia and Herzegovina and the International Obligations of Bosnia and Herzegovina.”

## **Article 18**

This Law shall enter into force eight days after its publication in the Official Gazette of Bosnia and Herzegovina and shall also be published in the Official Gazette of the Federation of Bosnia and Herzegovina, the Official Gazette of the Republika Srpska, and the Official Gazette of Brcko District.

Bosnia and Herzegovina Parliamentary Assembly, no. 233/08  
23 July 2008  
Sarajevo

Chair of  
the House of Representatives  
of the Bosnia and Herzegovina  
Parliamentary Assembly  
Niko Lozancic

Chair of  
the House of Peoples  
of the Bosnia and Herzegovina  
Parliamentary Assembly  
Mladen Ivanic