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LAW ON AMENDMENTS TO THE LAW ON CONFLICT OF INTEREST IN GOVERNMENTAL INSTITUTIONS OF BOSNIA AND HERZEGOVINA

“Official Gazette of Bosnia and Herzegovina”, 87/13

[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) and e) of the Constitution of Bosnia and Herzegovina the Parliamentary Assembly of Bosnia and Herzegovina, at the 48th session of the House of Representatives held on May 23, 2013 and 33rd session of the House of Peoples held on November 5, 2013 adopted the following:

LAW ON AMENDMENTS TO 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, No. 16/02, 14/03, 12/04, 63/08 and 18/12), in Article 10, paragraph 4 and in Article 12, the words: “Central Election Commission of Bosnia and Herzegovina” shall be replaced with words: “Commission for Deciding on Conflict of Interest” in corresponding grammatical case.

Article 2

After the Article 16, the title of the Chapter 3 shall be amended to read: Chapter 3 – “Commission for Deciding on Conflict of Interest”.

Article 3

Article 17 shall be amended to read:

“Article 17 Implementation

1. For the purpose of implementation of this Law, the Commission for Deciding on Conflict of Interest (hereinafter: the Commission) shall be established.
2. The Commission shall be comprised of nine members, of which three shall be from the House of Representatives, three from the House of Peoples, and director and two deputy directors of the Agency for Prevention of Corruption and Coordination of Combat Against the Corruption of BiH (hereinafter: the Agency), who shall be members of the Commission by virtue of their positions.
3. Members of the Commission shall be appointed by both Houses of the Parliamentary Assembly of BiH at the proposal of Joint Collegiums of both Houses of the Parliamentary Assembly of BiH.
4. At least one third of members of the Commission shall be comprised of representatives and delegates from opposition parties, of which at least one member is a delegate of the House of Peoples and one member is a representative of the House of Representatives.
5. The director and two deputy directors shall be members of the Commission by virtue of their positions, and the term of office of the members of the Commission, representatives and delegates, shall last as long as the term of the convocation of the

Parliamentary Assembly of BiH that appoints them and shall be carried out according to the rules applicable to election of the members of joint commissions of the Parliamentary Assembly of BiH. Member of the Commission who is a representative/delegate may be reappointed only once.

6. The members of the Commission shall elect the president and deputy president. The president of the Commission must be the representative/delegate from an opposition party.

7. The Office of the Commission for Deciding on Conflict of Interest (hereinafter: the Office) shall be established within the Agency for carrying out the expert, administrative and technical tasks.

8. The Rulebook on Internal Organization of the Agency (hereinafter: the Rulebook) shall regulate the internal organization and method of operation of the Office of the Commission, specify the work posts and job descriptions, number of civil servants and employees, professional and other requirements required for assignment to work posts. Regulations applicable to civil servants and employees shall apply to the employees of the Office of the Commission.

9. If the Commission discusses and decides on the conflict of interest of a Commission member, that member shall not have the right to take part in the discussion and in decision making in the case.

10. The Commission shall regulate the procedure and method of deciding in case referred to in paragraph 9 of this Article by the Rules of Procedure.”

Article 4

After the Article 17, new Article 17a shall be added to read:

“Article 17a Competence of the Commission

1. The Commission shall act on the basis of this Law, best practices, political accountability and credibility of elected officials, executive officeholders and advisors.

2. The Commission shall make its decisions by majority vote of all members, which implies the votes of at least two members from each constituent people.

3. The Commission shall enact the Rules of Procedure.

4. For the purpose of applying the provisions of this Law, the Commission shall provide opinions, issue instructions, prescribe forms and manner of keeping the Register. The Commission shall enact the Rules of Procedure regulating keeping of the Register, which shall specify the rules on keeping of the Register and on forms, as well as other issues necessary for functioning of the Register, shall enact the rulebook on procedure prescribing the implementation rules of handling the procedure and furnishing of decisions and compiling of reports.

5. The Commission shall make a decision on whether some action or failure to act constitutes a violation of this Law. Commission’s decision must be reasoned.

6. The Commission shall submit annual reports on its work to the Parliamentary Assembly of Bosnia and Herzegovina.”

Article 5

Article 18 shall be amended to read:

**“Article 18
Procedure before the Commission**

1. The Commission may institute the procedure falling within its competence on the basis of its decision regarding a credible, reasonable and non-anonymous report or report submitted ex officio in cases where it has knowledge on possible conflict of interest of an elected official, executive officeholder or advisor. The Commission shall make the decision in written on instituting or not instituting the procedure. The Commission shall be obliged to notify the submitter of the report on its decision.
2. The Commission shall obligatorily institute the procedure falling within its competence at personal request of an elected official, executive officeholder or advisor.
3. The Commission shall notify the elected official, executive officeholder or advisor on the institution of the procedure referred to in paragraph 1 of this Article, and it shall obligatorily request their declaration on the allegations contained in the report which the elected official, executive officeholder or advisor shall be obliged to submit to the Commission within 15 days from the day of reception of the written request.
4. Protection of anonymity shall be guaranteed to the submitter of the report referred to in paragraph 1 of this Article.
5. The 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 authorities. All authorities, institutions and courts of Bosnia and Herzegovina on all levels shall be obliged to provide the Commission with legal and other official assistance as requested.
6. Should there be any doubt concerning the existence of violation of provisions of this Law, the Commission shall notify the concerned person with regard to whom there are reasonable grounds to suspect that he may have committed a violation of this Law, requesting a statement regarding the allegations contained in the report.
7. The protection of personal integrity shall be ensured to the elected official, executive officeholder or advisor and other participants in the procedure of establishing facts and proofs, which the Commission shall ensure.
8. If there is a doubt regarding the possible violation of this Law, the Commission shall provide its opinion at the request of any person or institution which requests that from them.
9. Except when otherwise prescribed by law, the procedure before the Commission, except for the voting procedure, shall be open for public. The Commission shall be obliged to make the final decision within maximum of 15 days from the day of completion of the procedure of obtaining facts and presentation of evidence and to announce it publicly.
10. Decisions of the Commission must be reasoned and they shall be published on the Commission’s web-page.”

Article 6

Article 19 shall be amended to read:

**“Article 19
Administrative Dispute**

An appeal against the decision pronouncing the sanction referred to in Article 20, paragraph 1 hereof against the elected official, executive officeholder or advisor shall not be allowed; however, they can institute an administrative dispute before the Court of Bosnia and Herzegovina.”

Article 7

Article 20 shall be amended to read:

“Article 20 Sanctions

1. Sanctions that the Commission can pronounce against the elected official, executive officeholder or advisor shall be: suspension of payment of portion of the net monthly salary, proposal for dismissal from duty and call for resignation.
2. If it is established that the elected official, executive officeholder or advisor violated the provisions of articles 4, 7, 8, 9, 10 and 11 hereof, the Commission shall pronounce the sanction of suspension of payment up to 50% of the net monthly salary, taking into account the seriousness and consequences of the violation of the Law.
3. If it is established that the elected official, executive officeholder or advisor violated the provisions of articles 5, 6 and 8a hereof, the Commission shall pronounce the sanction of suspension of payment up to 30% of the net monthly salary, taking into account the seriousness and consequences of the violation of the Law.
4. The sanction of suspension of payment of the portion of the net monthly salary of the elected official, executive officeholder or advisor shall not last longer than twelve months, and amount covered by the suspension must not exceed one half of the net monthly salary of the elected official, executive officeholder or advisor.
5. Notwithstanding the provisions of the paragraph 4 of this Article, the suspension of payment of the portion of the net monthly salary of the elected official, executive officeholder or advisor may last longer than twelve months up until dismissal from duty or resignation or removal of reasons that led them to conflict of interest in accordance with Article 20a, paragraph 4 hereof.
6. The decision on sanction shall be personally served on the elected official, executive officeholder or advisor. The Commission shall forward the decision for the purpose of execution to the service carrying out the calculation of salary for the elected official, executive officeholder or advisor.
7. The elected official, executive officeholder or advisor shall be obliged to restore the gift or money equivalent to the value of gift and gain obtained from allowances for discharge of public office because of which they were in the conflict of interest, on which the Commission shall make a conclusion.
8. If it corresponds to the nature of the violation, the Commission may order during the procedure to the elected official, executive officeholder or advisor to remove the causes of existence of the conflict of interest within a specified time limit and, if the elected official, executive officeholder or advisor does that, it may terminate the procedure or complete it and take into account compliance with the order in pronouncement of sanction.

9. After it pronounces the sanction, the Commission shall leave the time limit of 30 days to the elected official, executive officeholder or advisor to remove the reasons that led them to the conflict of interest.”

Article 8

After the Article 20, new Article 20a shall be added to read:

“Article 20a

Proposal for Dismissal and Call to the Elected Official, Executive Officeholder or Advisor for Resignation

1. In case that even after the expiry of the time limit referred to in Article 20, paragraph 9 hereof the elected official, executive officeholder or advisor fails to remove the reasons that led them to the conflict of interest, the Commission shall without delay submit the reasoned proposal for dismissal of the elected official, executive officeholder or advisor to the competent authority body that carried out the appointment, or shall call the elected official, executive officeholder or advisor to resign.
2. If the elected official, executive officeholder or advisor is dismissed from public office in accordance with paragraph 1 of this Article, the authority body competent for appointment shall notify the Commission about that.
3. In case of non-acceptance of the Commission’s proposal for dismissal of the elected official, executive officeholder or advisor, the authority body competent for appointment shall be obliged to present the reasons of refusal of the proposal.
4. If the elected official, executive officeholder or advisor is not dismissed from duty, i.e. fails to resign contrary to the provisions of articles 20 and 20a hereof, or does not remove the reasons that led them to the conflict of interest, the Commission shall be pronouncing new sanctions of suspension of payment of portions of net monthly salaries in accordance with this Law until the removal of reasons i.e. leaving the office.
5. In case when the Commission calls the elected official, executive officeholder or advisor to resign the public office, this call shall be published in the “Official Gazette of BiH”, dailies distributed throughout Bosnia and Herzegovina and Commission’s web-page.
6. Fines referred to in articles 20 and 20a hereof shall be paid in the Budget of the Institutions of Bosnia and Herzegovina and the International Obligations of Bosnia and Herzegovina.”

Article 9

Transitional Provisions

All procedures instituted until the day this Law enters into force shall be completed pursuant to the provisions in effect until the day this Law enters into force, if that is more favourable for the party to the procedure.

1. Within 30 days from the day this Law enters into force, the Parliamentary Assembly of BiH shall initiate the procedure of appointment of the Commission members.
2. Within 15 days from the day of appointment of the Commission members, the Commission shall adopt the Rules of Procedure.

3. Within 30 days from the day of appointment of the Commission members, the Commission shall adopt the acts referred to in Article 17a, paragraph 4 hereof.
4. Within 60 days from the day this Law enters into force, the Agency shall amend the Rulebook.
5. Within 15 days from the day of appointment of the Commission, the Central Election Commission of Bosnia and Herzegovina shall hand over all files from the area of conflict of interest, as well as all necessary records etc. that is needed for the work of the Commission.
6. The Agency shall take the employees from the Central Election Commission of Bosnia and Herzegovina who, until this Law entered into force, have performed duties that have been transferred by amendments to the competence of the Commission and deploy them in accordance with the Rulebook.
7. Within 60 days from the day this Law entered into force, the Central Election Commission of Bosnia and Herzegovina and Agency shall make the agreement on taking of the employees, in which they shall specify in further detail all aspects of taking of the employees.

Article 10 **Termination of Validity**

On day this Law enters into force, the Rules on Conducting the Procedure from the Area of Conflict of Interest (“Official Gazette of BiH”, No. 65/09) and Rules on Keeping the Register – Consolidated Text (“Official Gazette of BiH”, No. 70/11) shall be repealed.

Article 11 **Entry into Force**

This Law shall enter into force on the eighth day after it is published in the “Official Gazette of BiH”.