

LAW ON CONFLICT OF INTEREST IN THE INSTITUTIONS OF BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA

PART I - GENERAL PROVISIONS

Article 1

(Subject Matter)

In order to prevent conflict of interest this Law shall govern special obligations of elected officials, executive office holders and advisors in the institutions of Brcko District of Bosnia and Herzegovina in exercising their public office (hereinafter: the District).

Article 2

(Definitions)

Terms used in this Law shall have the following meaning:

- a) **“District institutions”** include all institutions of the District established by the District Statute and laws and financed from the District budget;
- b) **“authorized person”** means a person who is authorized to represent the company by the Foundation Charter or the Statute of the company, entrepreneur or a natural person who independently operates on the market in order to make a profit;
- c) **“close relative”** means a person who is marital and extramarital partner, child, mother, father, adoptive parent and adopted child of an elected official, executive office holder and advisor;
- d) **“relative”** is a close relative, relative in a direct line, relative in an indirect line up to the third degree or in-laws up to the second degree and a martial’s partner child;
- e) **“interest-related person”** means a relative or a person who has personal, political, economical or other connection to the elected official, executive office holder and advisor who could influence objectivity in exercise of duty by elected official, executive office holder and advisor;
- f) **“elected officials”** means Councilors of the District Assembly;
- g) **“executive office holders”** include: members of the District Government, any other person appointed by the Mayor whose appointment is subject to the approval by the District Assembly and persons appointed by the District Assembly to whom the Law on Civil Service in Administrative Bodies of Brcko District of BiH (hereinafter: the Law on Civil Service) is not applied;
- h) **“advisors”** include advisers to elected officials and executive office holders as defined under the District regulations;
- i) **“investing of capital”** means investment of money, goods and rights into the ownership structure of the company;
- j) **“financial interest”** means:
 - 1) Any interest that entitles an elected official, executive office holder or advisor to receive money in the amount of more than one thousand BAM (1,000 KM) per year, and
 - 2) Any ownership interest held by an elected official, executive office holder or advisor , in a private or public company, which represents a value of at least ten thousand BAM (10,000 KM);

k) **“gift”** means any payment, entertainment, service, or item of value given directly

to the recipient without compensation or the expectation of compensation entailing in particular: money, goods, rights, securities, services without compensation, other given or promised gain, hospitality service, overnight service, pardon of debt or other liability, travel expenditure or similar service, entrance ticket, object of art, souvenir, insurance or a similar service, medical or a similar service which is not paid for in the market value;

l) **“private company”** means any company that is founded and registered in accordance with the law and which is not a public company;

m) **“public company”** means a company that is founded in accordance with the Law on Public Companies in Brcko District of Bosnia and Herzegovina;

o) **“public office”** means duties of an elected official, executive office holder and advisor stemming from the office they hold;

p) **“personal service”** means acting by way of which one side commits to do a job and other to pay a compensation for it which is not derived from labour relation;

PART II - CONFLICT OF INTEREST AND TRANSPARENCY

Article 3

(Conflict of Interest)

Conflict of interest exists in situations in which elected officials, executive office holders and advisors have private interest that affects or may affect legality, transparency, objectivity and impartiality to the exercise of public office;

Article 4

(Principles of Acting)

(1) Elected officials, executive office holders and advisors in exercise of public duty shall be obligated to:

a) act in a lawful manner, efficiently, impartially, honorably and abide by the principles of responsibility, integrity, due-diligence, transparency and credibility;

b) abide by the ethics of profession and office they hold;

c) act in the interests of citizens;

d) use property, instruments of labor and financial resources entrusted to them only for the intended purpose in an efficient manner;

(2) Elected officials, executive office holders and advisors shall be held personally responsible for their conduct in the exercise of their appointed or elected public office and they shall be politically accountable to the authority or citizens who have appointed or elected them.

(3) Elected officials, executive office holders and advisors holding public office shall act responsibly and with due-diligence without jeopardizing trust and confidence put by the citizens, abide by the law and other regulations governing rights, obligations and responsibility in the exercise of public offices.

(4) In exercise of public office elected officials, executive office holders and advisors must not:

a) put their private interest above the public interest;

- b) use public office for personal gain of a person connected to them;
 - c) be in any kind of subordinated relationship with persons who could affect their objectivity;
 - d) accept any kind of compensation unless otherwise explicitly governed by law.
- (5) Elected officials, executive office holders and advisors in the course of holding public office shall receive salary and compensation for the office they hold in accordance with legislation;

Article 5

(Incompatibilities Regarding Public Company or Another Institution of the District)

- (1) Public office of elected official, executive office holder and advisor shall be incompatible with duties referred to in Paragraph 2 of this Article in a public company or another institution of the District, unless otherwise regulated by a special law.
- (2) Elected officials, executive office holders and advisors in the course of holding public office and six months after they leave office cannot serve as:
- a) members of steering board, supervisory board, members of the Assembly, members of the administration or management, an authorised person in a public company; and
 - b) members of steering board, members of the supervising board and directors of the District institutions.
- (3) Elected officials, executive office holders and advisors shall resign from any incompatible office or duty within three days from assuming public office.

Article 6

(Incompatibility Regarding Private Companies)

- (1) Engagement in a private company under conditions in which conflict of interest is created shall be incompatible with public offices of elected officials, executive office holder or advisors.
- (2) Elected officials, executive office holders and advisors cannot serve as members of assembly, steering board, supervisory board, administration or management or act in the capacity of an authorised person for private company:
- a) into which the District invested capital in the period of four years prior to assuming office and in the course of holding office by an elected official, executive office holder or advisor;
 - b) concluding contracts or having business with the District in other way.
- (3) Restriction referred to in Paragraph 2 of this Article shall apply to private companies that have concluded contract or have business with the District when elected official, executive office holder and advisor held office provided that the value of the contract or business with the District exceeds BAM 5,000 per year.
- (4) Elected officials, executive office holders and advisors shall resign from any incompatible office or duty within three days from assuming public office.

Article 7

(Prohibition of Acting in Case of Conflict of Interest)

- (1) Elected officials and executive office holders cannot vote on any issue of direct concern to a private company for which that elected official, executive office holder or interest related persons have financial interest.
- (2) Elected officials and executive office holders in the situation referred to in Paragraph 1 of this Article shall refrain from voting and shall explain the reasons for their abstention in an open session.
- (3) Executive office holders shall not undertake any official actions that could directly affect the private company in which executive office holder or interest related persons have financial interest.
- (4) In the case referred to in Paragraph 3 of this Article, executive office holders shall refrain from taking decision.
- (5) In the case referred to in Paragraph 4 of this Article the decision shall be taken by the District Government, i.e. the District Assembly, at the proposal of the executive office holder which shall contain his/her reasons for being abstained from decision-taking.
- (6) In case that elected official, executive office holder fails to act in accordance with this Article, vote or decision by elected official or executive office holder shall be considered null and void.

Article 8

(Contracts on Personal Services)

- (1) Elected officials, executive office holders and advisors cannot enter into contracts on rendering personal services with any:
 - a) public company;
 - b) private company entering into contracts or having business with the District in other way.
- (2) Restriction referred to in Paragraph 1 Item b- shall only refer to private companies entering into contracts or having business with the District at the same time when elected official, executive office holder or advisor holds office and only when the value of the contract or business with the District exceeds BAM 5,000 per year.
- (3) In case that elected official, executive office holder or advisor fails to act in accordance with Paragraphs 1 and 2 of this Article the contract of an elected official, executive office holder or advisor shall be considered null and void.

Article 9

(Employing Close Relatives)

Under conditions stipulated in Articles 4, 5 and 7 of this Law employing close relatives of an elected official, executive office holder and advisor shall be considered conflict of interest for the elected official, executive office holder and advisor.

Article 10

(Prohibited Activities)

Unless otherwise explicitly governed by this Law, elected officials, executive office holders and advisors shall be prohibited from:

- a) receiving or soliciting gifts or other benefit or promising gifts or any other benefit for the purpose of performing public office;
- b) receiving additional compensation for the performance of public office in addition to the compensation set by legislation;
- c) soliciting, accepting or receiving gifts for the purpose of voting on any matter or influencing the decision of a body or person;
- d) promising employment or another right in exchange for a gift or promising gifts;
- e) privileging a person for the sake of political party or other affiliation or dissent, personal or family ties;
- f) declining an inspection of their financial operations;
- g) influencing the award of business or procurement for the needs of the District in order to obtain property or non-property benefit for him/herself or another person;
- h) using privileged information on the activities of the District institutions for personal gain or the gain of interest related persons and
- i) using their position, in any other manner, in order to influence legislative, executive or the court authority thereby-obtaining gain of interest related persons, a privilege or right, closing legal transactions or – otherwise favoring his/her personal interest or the interest of interest related persons.

Article 11

(Accepting Gifts)

- (1) Elected officials, executive office holders and advisors shall not accept gifts related to the performance of public office.
- (2) Elected officials, executive office holders and advisors may keep a gift in the amount not exceeding BAM 200 and they do not have to report it.
- (3) Elected officials, executive office holders and advisors may not accept money, checks or other securities regardless of the amount.
- (4) Gift in the amount from Paragraph 2 of this Article shall also refer to several gifts given by the same donor in the course of one calendar year.
- (5) Gifts accepted from a close relative, as well as gifts in the amount not exceeding BAM 200 shall not be covered by this Law.
- (6) Elected officials, executive office holders and advisors shall be bound to report and hand over gifts exceeding the value referred to in Paragraph 2 of this Article to the District institutions that elected or appointed them and on behalf of which they perform the entrusted public office.
- (7) Institutions of the District shall furnish the Central Election Commission of BiH with information on handed over gifts within 15 days from the day the information was prepared.
- (8) The Central Election Commission of BiH shall set up a central registry of gifts that elected officials, executive office holders or advisors accepted while performing a public office.
- (9) If there is doubt in respect to the value of the gift the elected official and executive office holder and advisor shall request the bill from the donor.
- (10) The value of the gift shall refer to its market value.

(11) Acceptance of gifts in terms of Paragraphs 1 through 5 of this Article shall also refer to persons who would accept a gift on behalf of elected official, executive office holder and advisor, provided that such person is aware of the acceptance of the gift.

(12) The District institutions shall regulate the procedure, inventorying, handover and safekeeping of accepted gifts with a bylaw within 30 days from the day this Law takes effect.

Article 12

(Exercising Other Duties)

(1) In the exercise of public office elected officials, executive office holders and advisors shall not discharge the duty of an authorized person in foundations and associations founded in accordance with the Law on Associations and Foundations of Brcko District of BiH, which are financed from the District budget in the amount exceeding BAM 10,000 per year, i.e. in the amount exceeding BAM 50,000 per year in cultural and sports foundations and associations.

(2) Notwithstanding Paragraph 1 of this Article, elected officials, executive office holders and advisors may perform an executive office in foundations and associations which are financed from the District budget founded in accordance with the Law on Associations and Foundations of Brcko District of BiH.

Article 13

(Personal Financial Disclosure)

Elected officials, executive office holders and advisors shall submit regular financial reports as required by law and regulations of the Central Election Commission of BiH.

PART THREE - IMPLEMENTATION AND PROCEDURE BEFORE THE CENTRAL ELECTION COMMISSION OF BiH

Article 14

(Implementation)

The Central Election Commission of BiH shall decide whether certain action or failure to act constitutes violation of provisions of this Law and shall decide on all other issues relating to implementation and application of this Law.

Article 15

(Procedure before the Central Election Commission of BiH)

Procedure before the Central Election Commission of BiH shall be initiated and conducted in accordance with provisions of the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina.

Article 16

(Appeals)

(1) Appeals against decisions of the Central Election Commission of BiH can be made to the Central Election Commission of BiH within 15 days from the day of receiving the decision.

(2) Appeals referred to in Paragraph 1 of this Article, in the field this Law applies to, shall be ruled upon by the Appellate Department of the Court of Bosnia and Herzegovina.

Article 17

(Sanctions)

(1) An elected official, executive office holder or advisor shall be fined in the amount ranging from BAM 1,000 to BAM 10,000 if found not to act in line with provisions:

a) of Articles 5, 6, 8 and 9 of this Law;

b) of Articles 7, 10 and 11 of this Law.

(2) In the case referred to in Paragraph 1, Item a) of this Article, an elected official, executive office holder or advisor shall be deemed ineligible to stand for any office of an elected official, executive office holder or advisor for a period of four years following committing of violation.

(3) In the case referred to in Paragraph 1, Item b) of this Article, an elected official, executive office holder or advisor shall return the gift or the equivalent monetary value of the gift.

(4) The fine referred to in Paragraph 1 of this Article shall be paid to the single account of the District Treasury.

Article 18

(Statute of Limitations)

Initiating the procedure for applying sanctions prescribed by this Law shall fall under the statute of limitations within four years of the alleged violation of this Law.

PART FOUR - FINAL PROVISIONS

Article 19

(Repealing)

After this Law takes effect, the Law on Conflict of Interest in Institutions of the Brcko District of Bosnia and Herzegovina (Official Gazette of Brcko District of BiH, No. 2/03 and 19/07) shall be repealed.