

UNITED NATIONS
United Nations Interim
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Intérimaire des Nations Unies
au Kosovo

PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law no. 02/L-133

**ON PREVENTING CONFLICT OF INTEREST IN EXERCISING PUBLIC
FUNCTION**

The Kosovo Assembly,

Pursuant to Chapter 9.1.26 item (a) of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation no. 2001/9 dated 15 May 2001), and with the aim of regulating the conflict of public and private interest of the ones exercising public functions,

Approves:

**LAW ON PREVENTING CONFLICT OF INTEREST IN EXERCISING PUBLIC
FUNCTION**

Article 1
Aim

The aim of the present law is to prevent the conflict between the public and private interest of an official in exercising public function.

Article 2
Object

The object of the present law is the determination of rules, subjects, responsibilities and competencies for identifying, treating, and solving the cases of public and private interest of the official while exercising public function.

Article 3

Scope of work

The provisions of the present law determine mandatory rules to be implemented by each official, when he/she directly or indirectly participates, in a decision making while exercising public function.

Article 4

Definitions

For requirements and purpose of the present law, the following terms shall have the following meaning:

“Public Interest” – the confidence and expectancy of the public with regard to the impartial and fair decision making of the officials in exercising their public function.

“Private Interest” – the economic or non-economic private interest of the official influencing his/her will in the decision making in exercising his/her public function.

“Conflict of Interest” – the conflict of public interest and private interest of the official as explained in Article 7 of the present Law;

“Person related” – any physical or legal person who has had or has interest, wealth, or non-wealth personal relation to the official according to article 6 of the present Law.

“Official” – for the needs of this Law are implied persons according to article 5 of the present Law;

“Agency” means Anticorruption Agency of Kosovo, established by the law no.2004/34 against corruption (promulgated by the UNMIK Regulation No.2005/26, date 12.05.2005).

Article 5

The Official

The following exercisers of public functions are termed under the term “Official” used in the present law:

- i. The president, and the members of the Kosovo Assembly;
- ii. All exercisers of public functions appointed by the Kosovo Assembly that are not textually mentioned in Article 5 of this Law;
- iii. The president of Kosovo;
- iv. All exercisers of public functions appointed by the President of Kosovo that are not textually mentioned in Article 5 of this Law;

- v. The Prime Minister, deputy Prime-minister, Ministers and deputy ministers of Kosovo Government;
- vi. All exercisers of public functions nominated by the government, Prime-minister and Ministers of Kosovo government, that are not textually mentioned in Article 5 of this Law;
- vii. The presidents and judges of all level courts;
- viii. Public prosecutors and deputy prosecutors of all levels;
- ix. Persons performing public functions in the structures of order and security;
- x. Persons accredited abroad as Kosovo representatives;
- xi. Heads of secretariats and other offices of the President of Kosovo, Kosovo Assembly, Kosovo Government;
- xii. Permanent secretaries of the prime ministry and of ministries, and the heads of the agencies;
- xiii. The heads departments, directorates, or other institutions of central level established by law or any other act, and their direct dependants in the hierarchy of the institution, that report their work to the Kosovo Assembly, Kosovo Government or ministries-ministers;
- xiv. The president, members of municipal assemblies and members of commissions and other bodies of municipal assemblies;
- xv. The executive chief, heads of directorates, inspectorates, and other municipal institutions;
- xvi. Auditors, and inspectors of central and local level;
- xvii. The heads of banks and financial institutions with public capital;
- xviii. The heads of public enterprises;
- xix. Chancellor, pro-chancellor, members of managerial council and deans of the public university; and
- xx. The foreign persons exercising a public function in Kosovo, according to the requirements and for Kosovo interest.

Article 6

The person related to the official

Under this law, the person related to the official is the spouse, or the person cohabiting with the official, blood relatives in direct line, adopter, the adoptee, relatives in collateral line up to the fourth degree, persons in affinity up to second degree and other persons who for other basis and circumstances are considered to be related through interest to the official.

Article 7
Conflict of Interest

The conflict of interest is the situation of non-compliance between the official duty and the private interest of an official, where while exercising its function the official or related person has private wealth interest or personal non-wealth interest, direct or indirect interests, that influences or may influence in correctly accomplishing the public function, when in situations of possible violations of principles, limitations, or obligations under the provisions of the present Law.

Article 8
Behavior of the official

- 8.1 The official should accomplish his/her duty with honor, consciousness and in compliance with the constitutional provisions, the Law and other provisions determining his/her position and justify the confidence given by the citizens for electing or the institution that appointed him/her.
- 8.2 While exercising his/her authorizations and duties, the official should act protecting the public interest and has no right to put his/her private interest ahead of the public interest, elected or appointed for protecting it.

Article 9
The action principles of the official

- 9.1 The official should perform his work with integrity, consciousness, impartiality in order to protect the authority of an official and the body, at the same time with his work increase the trust of the citizen in the institutions;
- 9.2 The official exercises his function in compliance to the Law and the Code of Conduct;
- 9.3 The official shall be personally responsible for his actions while exercising the function in which he has been appointed or selected by the institution or the citizens;
- 9.4 The official has no right to use the official function for personal profit;
- 9.5 While exercising the public function, the official has no right to create dependence relations from other persons who could influence in the impartiality and free will expression in the decision making;
- 9.6 For the work performed in exercising his/her function, the official has no right to accept or ask for any other reward apart from the compensation or the salary from the institution;

9.7 The official should not allow for his private interests to fall into conflict with his/her function. He/she should avoid conflict of interest regardless of whether it is real, or possible.

9.8 While exercising the function, the official should act with transparency respecting the right of the representing bodies and the citizens' right to be informed on the behavior of the official as a public personality.

Article 10

Limitations in exercising other activities, in addition to exercising of the function

While exercising his/her public function, the official has no right to exercise other function exceptionally with the consent of the institution which has elected or nominated him/her, and if the other function is not in the contradiction to the provisions of this Law or any other Law;

Article 11

Actions forbidden to the official

While exercising his/her function, the official is forbidden the following:

- i. to require or accept any reward or promise for a reward for exercising his/her function;
- ii. to gain any right, or accept a promise to gain any right, in cases when the equality principle under the law is violated;
- iii. misuse the authorizations resulting from exercising the public function;
- iv. to require, adopt or accept any valuable thing or rewards compensating his/her vote in decision making;
- v. to impact in the decision of any official or body for reasons of personal material profit or of a related person;
- vi. to promise employment or any other right in the exchange of a gift or promised gift;
- vii. to impact on contracting - awarding public work or public supply for personal profits;
- viii. to use for personal profits or profit of close persons, confidential information at disposal or confidentially obtained for exercising the function;
- ix. in any other method impact on the decision making of legislative, judicial or executive bodies using the official position with purpose of gaining personal profit or for persons related;
- x. undertake action which in any method would suit the personal interest or the interest of persons related;
- xi. to undertake action which in any method would suit or favor the private interest of any other person while damaging the public interest.

Article 12

Limitations for the official upon termination of exercising the public function

12.1 Upon termination of exercising of the public function, the same person does not have the right to be employed or to be nominated for leading positions or in auditing of the public and private enterprises within the period of one year, provided that, during the two year period immediately before the end of exercising of public function, his/her duties were directly related to monitoring or auditing of the businesses of abovementioned enterprises.

12.2 Exception from limitation according to paragraph 1 of this Article shall be determined by the Agency by sub-legal act.

Article 13

Exercising other activities by the official

13.1 The official selected as a representative of political party keeps the right of exercising the function in political party if by special law is not foreseen differently

13.2 During exercising the public function, the official may perform duty from science, sport, education, cultural and humanitarian activities.

13.3 During exercising the public function, the official may profit based on author's rights, patents and other similar rights.

Article 14

Membership of the official in nongovernmental organizations

14.1 The official may be a member of steering body of nongovernmental organization in the field of humanitarian, culture, sport and similar activities, without the right to payment, except compensations for travel expenditures and similar.

14.2 Nongovernmental organizations with members of the steering body under paragraph 1 of the present article shall not profit means from Kosovo budget, if the member of the steering body of the nongovernmental organization, being an official, has a direct or indirect impact in the decision making, in case of decision making for nongovernmental organizations profiting from the Kosovo budget.

Article 15

Obligation of the official on preventing the conflict of interest

- 15.1 Upon his selection or appointment, the official is obligated to prevent and solve efficiently as soon as possible any situation of conflict of interest.
- 15.2 If the official suspects the existence of a conflict of interests related to him, he should consult as soon as possible his manger or managing body.
- 15.3 Each manager and managing institution shall undertake all necessary measures in order to prevent and solve cases of conflict of interest.
- 15.4 If the manager or managing institution is not convinced for existence of conflict of interest or doubts that he/she has or may have conflict of interests, then he/she shall address to the Agency in order to take the decision for the case.
- 15.5 Managing officials of the institution, which do not have direct manager regarding the situation under paragraph 2 of the present article shall be addressed to the Agency.

Article 16

Influence in official's volition

- 16.1 If during the public function, a direct or indirect influence is exercised against the official, openly or anonymous influence for voting or undertaking certain decisions, he/she shall inform in writing the manager or managing body, in order to avoid the influence over his/her volition.
- 16.2 Attempt to influence in official's volition under paragraph 1 of the present article, shall be reported to the institution that selected or appointed him/her and to the Agency, which after reviewing shall decide if there is a need to report the case to the investigation body.
- 16.3 Attempting to influence in official's volition, according to paragraph 1 of the present article, the official should act according to the law, by undertaking the following steps:
 - i. refuse such an offer,
 - ii. try to identify the person who made such an offer, if the offer is anonymous;
 - iii. if the word is about a gift, which according to the circumstances can not be returned, the official should immediately inform in writing as soon as possible to the manager, within 5 days; and
 - iv. to indicate the occurrence witnesses, if possible.
- 16.4 Voting and the decision taken under the influence on official's volition is not valid.

Article 17
Transfer of rights in administering the enterprise

- 17.1 The official owner of shares, respectively a part of capital, in amount over 20% of the capital of enterprise during exercising the function shall transfer the rights of administering the enterprise to any other person (hereinafter: trusted person), but not to persons under Article 6 of the present Law.
- 17.2 Trusted person under paragraph 1 of the present Article shall act toward implementation of rights of the member and rights from the capital on his behalf but in the official's account.
- 17.3 The trusted person, under paragraph 1 of the present Article shall be considered a related person according to Article 6 of the present Law.
- 17.4 If a trusted person creates business relations with central and local government institutions, public enterprises or enterprises where the capital of public property is over 25% of capital or shares, the official is obliged to inform the official of such business relations.
- 17.5 During the time while the rights for administration of the enterprise are transferred to another person, the official does not have the right to give information, instructions, directions or in another manner to stay in contact with the trusted person in order to have influence in accomplishing the rights and implementing the duties that come out from the rights of such enterprise members.
- 17.6 The official is entitled the right to be informed once a year on the flow and situation of enterprise where he/she has shares, except if additional information for specific cases is allowed by the Agency upon the requirement of the official.
- 17.7 The official can not be a member of steering bodies of enterprises.
- 17.8 Exceptionally, the official may be a member of steering body of the enterprise public property or stakeholder association with public property, of a special importance for public interest, however with no right on compensation or gift acceptance, except the right on compensation of travel and other necessary expenditures.
- 17.9 The official has the right to be a member of steering and supervisory bodies, other non-beneficiary legal persons and other legal persons who perform scientific, humanitarian, cultural, sport and similar activities, but without the right on compensation and gifts, except the right on compensation of travel expenditures and other required expenditures.
- 17.10 The official, who exercises independent activity, within another business enterprise or family economy activity, respectively any other similar activity is obligated to inform the institution where he/she is exercising the public function within 30 days from the day of receiving the function.

Article 18

Responsibility for Implementation of this Law

The Central competent authority responsible for implementation of this Law is Anticorruption Agency of Kosovo.

Article 19

Action basis of the Agency

The Agency shall act according to the present Law and other Laws in force related to this issue.

Article 20

Initiation of procedures from the Agency

- 20.1 The procedure from the Agency begins officially by the Agency itself, with the initiative of supervisory leader, supervisory body of the official, or with the request of the official himself.
- 20.2 The Agency may initiate the procedure based on anonymous information or by information of another person.
- 20.3 The Agency for initiating the procedure shall inform the official and shall request the confrontation with the denouncement.
- 20.4 The procedure from the Agency is closed for the public. The Agency shall give information only about final results of the procedure.
- 20.5 The Agency, in case of doubting on existence of the violation shall inform the official for whom there is a doubt that he/she has violated rules of conduct determined by the present law.
- 20.6 The Agency independently shall verify the facts, whereas other institutions in scope of their competencies are obliged without delays, according to the Agency's request to present the requested facts and arguments.
- 20.7 After the development of foreseen procedures, the Agency brings a decision in written form, if certain actions and mistakes of the official violate the present law.
- 20.8 The decision according to paragraph 7 of this Article shall be sent to the institution for the execution where the respective official is working, taking into account the Anti-Corruption Law.
- 20.9 For reviewing the complaints against decision from paragraph 7 of this Article, the Agency shall establish the Commission for Reviewing the Complaints. Organizing and functioning of the Commission for Reviewing the Complaints shall be adjusted with sub-legal act.

Article 21

Sanctions on violation of provisions of the present law

The official, by accepting the public function according to Article 5 of the present Law shall give written declaration, which also contains the consent for procedure development before the Agency. According to the requests of the present Law the officials shall give declarations that according to the proposal and request of Agency they shall offer resignation to the body that appointed him/her, for the most serious violation of the present Law.

Article 22

Non-exclusion of other legal responsibilities

Provisions of the present Law shall not exclude disciplinary, material and penal responsibility of the official according to respective laws for the cases that are treated by the Agency according to the present Law.

Article 23

Implementation of the Law

In order to implement this Law, the Agency shall issue respective sub-legal acts.

Article 24

Entering into force

The present Law shall enter into force after its adoption by the Assembly of Kosovo and within 30 days after its promulgation by the Special Representative of the Secretary General.

Law no. 02/L-133
02 November 2007

President of the Assembly of Kosovo

Kolë Berisha