



REPUBLIC OF CROATIA

CONFLICT OF INTEREST COMMISSION

Conflict of interest prevention – the role and importance of the
asset declaration system in combating corruption

INTRODUCTION

- ◎ In the Republic of Croatia, conflict of interest issues are regulated by the Public Official Conflict of Interest Prevention Act, passed by the Croatian Parliament in 2003.
- ◎ The aforementioned Act was amended in 2004, 2005, 2006, 2008, 2009 and 2010, with a new Conflict of Interest Prevention Act being adopted in February 2011 (OJ 26/11).
- ◎ The Act regulates the prevention of any conflict between private and public interest, defines persons required to comply with its provisions, sets forth the obligation to submit asset declarations, provides for the procedures to verify the declared data, determines the duration of any such obligation, and establishes the composition and jurisdiction of the Commission.
- ◎ The purpose of the Act is to strengthen integrity, objectivity, impartiality and transparency in the exercise of public office, as well as citizens' trust in public authorities.

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- In exercising their public duties, officials must not place their private concerns above the public interest.
 - A conflict of interest arises when the private interest of an official contravenes his/her public interest, in particular:
 - when any such private interest affects the official's impartiality in the exercise of his/her public duties (actual conflict of interest)
 - when there are reasonable grounds to believe that any such private interest affects the official's impartiality (potential conflict of interest)
 - when any such private interest may affect the official's impartiality in the exercise of his/her public duties (foreseeable conflict of interest)

DEFINITION OF OFFICIALS

- For the purposes of the Act, officials include:
 - > central governmental officials;
 - > chief justice and justices of the Constitutional Court of the Republic of Croatia;
 - > regional governmental officials;
 - > local governmental officials;
 - > top commanders of the Armed Forces of the Republic of Croatia;
 - >
 - > CEOs and board members of majority state-owned companies;
 - > director and deputy directors of the State Asset Management Agency;
 - > members of the Conflict of Interest Commission;
 - > central governmental executives appointed by the RoC Government on the basis of prior vacancy announcements

PRINCIPLES OF CONDUCT

- In the exercise of their public duties, officials must act honourably, conscientiously, responsibly and impartially, preserving their own credibility, the dignity of the office entrusted thereto and public trust.
- They must never use their public office for personal gain or the gain of any person related thereto.
- For their conduct in the public office to which they have been appointed or elected, officials are personally responsible to the bodies or citizens that have appointed or elected them.
- Citizens are entitled to be informed of any conduct on the part of officials as public persons that may be associated with the exercise of their duties.

PROHIBITED PRACTICES BY OFFICIALS

⦿ Officials must not:

- > accept or seek any benefit or promise for the exercise of their office;
- > achieve or acquire any right whereby the principle of equality before the law is violated;
- > receive any additional remuneration for work done in the exercise of their public duties, seek or accept anything of value or any favour in exchange for voting on any matter, or exert influence on decision-making by any body with a view to their personal gain or the gain of any person related thereto;
- > abuse any of their special privileges.

PROHIBITED PRACTICES BY OFFICIALS

◎ Officials must not:

- > promise employment or any such other entitlement in exchange for any gift or any promise of a gift;
- > exert any influence on contract award or public procurement procedures;
- > use any privileged information about the activities of any public authority with a view to their own personal gain or the gain of any person related thereto;
- > use their official status in any such other way in order to exert influence on any decision by the legislature, executive or judiciary with a view to achieving any personal gain, privilege or right, or favouring, in any other way, their own interests or the interests of any person related thereto.

OBLIGATIONS OF OFFICIALS

- Following their election or appointment, officials must arrange their private affairs so as to prevent any foreseeable/potential conflicts of interest.
- In case of any doubt as to whether or not specific conduct is in line with the principles of public office, officials must seek an opinion from the Conflict of Interest Commission.
- Within 30 days after assuming office and 30 days after office, each official is required to provide the Commission with his/her asset declaration containing the details of his/her own assets and the assets of his/her spouse and minor child(ren).
- Re-elected officials are also required to submit their asset declarations.
- Executive officers are required to submit their asset declarations within 30 days after their appointment and every 4 years.

OBLIGATIONS OF OFFICIALS

- If, during the exercise of their public duties, any significant change has occurred in their assets, officials are required to report it to the Commission upon the end of the year in which such change actually occurred.
- Each asset declaration must also contain the official's statement whereby he/she grants the Commission access to data on all accounts opened with domestic and foreign banks and financial institutions, which are otherwise protected by banking secrecy.
- In addition to declaring their assets, officials are required to use their asset declaration forms to provide the details on the manner in which they acquired such assets and the sources of funds used for purchasing any movable or real property reported in their declarations.

OBLIGATIONS OF OFFICIALS – receiving gifts

- Officials may only keep gifts of a symbolic value, i.e. a value not exceeding HRK 500. They must never accept any cash, regardless of its amount, other securities, or precious metals.
- Customary presents exchanged among family members, relatives and friends, as well as national and international recognitions, medals and awards are not deemed gifts.
- Gifts that are not retained by officials although they are entitled to do so, such as those exceeding HRK 500.00 but received as a part of protocol, are deemed property of the RoC.

Remuneration of officials - performance of other activities by officials

- Officials receiving a salary for the office they discharge must not receive any other salary or remuneration for the performance of other public duties, unless otherwise specified by law.
- Officials who professionally perform their public duties may not perform any other activities for remuneration or in order to earn income, be it by way of regular or permanent employment, unless the Commission, acting at their request, establishes that such activities do not affect the lawful exercise of their public duties.
- No prior approval from the Commission is required for the performance of any scientific, research, educational, sporting, cultural, artistic or independent farming activities, for earning any income under copyrights, patents and similar intellectual or industrial property rights, and for receiving any income or remuneration by way of participation in international projects funded by the EU or any foreign country or international organization or association.

MEMBERSHIP IN MANAGING BODIES AND SUPERVISORY BOARDS

- Officials may not be members of the managing bodies and supervisory boards of companies, the governing councils of institutions, or the supervisory boards of extrabudgetary funds, nor may they perform any managerial tasks for business entities.
- By way of exception, officials may be members of not more than two governing councils of institutions or supervisory boards of extrabudgetary funds, provided that such institutions or funds are of particular national interest or of particular interest to any local or regional government. However, they are not entitled to receive any remuneration for such membership, except the reimbursement of their travel costs and such other reasonable expenses.
- The lists of legal entities of particular interest are established by the Croatian Parliament and the representative bodies of local and regional governmental units.
- Officials may be members of the managing and supervisory bodies of no more than two non-profit organizations or foundations, but are not entitled to receive any remuneration or gifts for acting in that capacity, except the reimbursement of their travel costs, etc.

SHARES IN COMPANIES AND RESTRICTIONS ON BUSINESS OPERATIONS

- If the shares or interests held by any official in a company account for 0.5 % or more of its capital, such official is, during the exercise of his/her public office, required to transfer his/her managerial rights stemming therefrom to a trustee.
- If any company where such managerial rights have been transferred to a trustee is to enter into a business transaction with any central government authority, local or regional government unit, or company in which the RoC or any local/regional government unit holds any shares, it is obliged to notify the Commission thereof.
- A business entity in which an official holds a share accounting for 0.5% or more of its capital may not enter into any business transaction with the public authority where such official discharges his/her office, nor may it act as a member of any tendering consortium or a sub-contractor in such business transaction.
- The same also applies to any family member of an official if he/she acquired any share from such official during a period of 2 years prior to his/her election/appointment.

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- The above provisions do not apply to activities ensuing from business transactions concluded before the official assumed his/her office. Once he/she assumes her/his office, each official is required to arrange his/her activities under previously concluded business transactions in order to eliminate any potential, or to prevent any foreseeable, conflict of interest.
 - If the body in which an official discharges his/her public office is to enter into any business transaction with the business entity in which his/her family member holds a share accounting for 0.5 % or more of its capital, such official is obliged to notify the Commission thereof in due time.
 - Legal transactions/documents concluded or adopted contrary to the foregoing provisions are deemed null and void.

PERSISTENCE OF OBLIGATIONS AND RESTRICTIONS AFTER END OF TERM

- Within a period of one year after they leave office, officials are not allowed to accept any appointment or election by, nor may they enter into any employment contract with a legal entity which were, during their term of office, involved in any business transaction with the body in which such officials discharged their office, or in which - at the time of such appointment, election or employment - all circumstances of the case in question suggest that it intends to enter into a business transaction with that body.
- The obligations inuring to officials under the provisions of the Act (Art. 7-9, 14 and 17) become effective as of the date on which they assume office and remain in force over a period of 12 months following the date they leave office.



**DECLARATION OF INCOME AND ASSETS AND OF
SOURCES AND MODE OF ACQUISITION OF
ASSETS**

OFFICIALS' ASSETS

- ◎ Declaration of officials' assets includes data on:
 - inherited assets, and
 - acquired assets:
 - > information on all real estate acquired in transactions, pursuant to judicial decisions and other real estate acquired from other persons,
 - > information on valuable movable property such as vehicles, vessels, works of art, jewellery.... with individual worth in excess of HRK 30,000 save for household objects and clothing

OFFICIALS' ASSETS

- > interests and shares in companies,
- > savings deposits in Croatian kuna and foreign currencies,
- > debts, sureties given and other liabilities,
- > salary, self-employment income, income from assets and property rights, insurance and capital income, as well as other types of income and receipts subject to personal income tax.

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- All information on assets of officials (inherited and acquired), and of their spouses and children under the age of 18 are public and are posted by the Commission on its webpage.
 - However, the personal data of officials, spouses and children are not published.
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VERIFICATION OF INFORMATION FROM OFFICIALS' DECLARATION OF INCOME AND ASSETS

1. Preliminary (administrative) verification

- Check whether an official has submitted declaration of income and assets and information on sources and mode of acquisition of assets

- Check whether the declaration has been submitted within statutory deadline

- Check whether the declaration is signed

- Check whether the declaration is fully and properly completed

DONE ON RECEIPT OF DECLARATION AT START/END OF TERM OF OFFICE AND AFTER EACH CHANGE, BUT BEFORE INPUT INTO THE REGISTER AND PUBLICATION ON THE COMMISSION'S WEBPAGE

2. Regular verification

- **Verification of information from the declaration and information on sources and mode of acquisition of assets:**
* by collection of information

* by exchange of information

* by comparison of declared information

- with the information obtained from the Tax Administration and other Croatian authorities or from international associations and foreign organisations.

DONE WITH RESPECT TO EACH DECLARATION AT START AND END OF TERM OF OFFICE
-In case of discrepancies/deviation between declared assets and information obtained from other sources, the official in question is requested to provide an explanation in writing.

- If said official fails to provide such written explanation within 15 days, or to justify the discrepancy/deviation or to provide appropriate evidence, proceedings are initiated against said official and the appropriate authorities are notified of same.



IZVJEŠĆE O IMOVINSKOM STANJU DUŽNOSNIKA
IMOVINSKA KARTICA

- POČETAK MANDATA
 BITNA PROMJENA NA IMOVINI
 DRUGE PROMJENE (iz točaka I., II. i III. obrasca)
 KRAJ MANDATA

Datum ispunjavanja

OIB

MBG

I. PODATCI O DUŽNOSNIKU

Ime		Prezime		
Stručna sprema	Zvanje	Stranačka pripadnost		
Dužnost				
Institucija		Početak mandata		
Sjedište ureda	Ulica	kbr.	Telefon	
Broj službenog mobitela	E-mail		Fax	
Bračni status	Ime (zvan) bračnog druga	OIB	Broj djece	
Imena djeteta - djece i OIB				
Prebivalište	Ulica	kbr.	Telefon	
Broj privatnog mobitela	E-mail		Fax	
Boravište	Ulica	kbr.	Telefon	
Službeni stan	Privatno	E-mail	Fax	
NAČIN OBNAŠANJA DUŽNOSTI	PROFESIONALNO		VOLONTERSKI	
	IZNOS PLAĆE mj.	Bruto	Neto	NAKNADA neto mj.

II. DRUGA DUŽNOST

- a) TJELA DRŽAVNE UPRAVE b) DRUGA DRŽAVNA TJELA c) TJELA JEDINICA LOKALNE I PODRUČNE (REGIONALNE) SAMOUPRAVE
d) TJELA S JAVNIM OVLAŠTIMA

Dužnost	Početak mandata	Telefon		
Institucija	Broj službenog mobitela	Fax		
Sjedište ureda	Ulica	kbr.	Službeni e-mail	
NAČIN OBNAŠANJA DUŽNOSTI	PROFESIONALNO		VOLONTERSKI	
	IZNOS PLAĆE mj.	Bruto	Neto	NAKNADA neto mj.

NAPOMENA:

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Mjesto i datum

Potpis dužnosnika

V. IZJAVA

Ja, _____
ime i prezime

na dužnosti _____
dužnost

u _____
institucija sukladno članku 8. stavak 14.
Zakona o sprječavanju sukoba interesa ("Narodne novine", broj 26/11, u daljnjem tekstu: Zakon)
dajem izjavu kojom dopuštam Povjerenstvu za odlučivanje o sukobu interesa pristup podacima o svim
mojim računima kod domaćih i stranih bankarskih i drugih institucija koji su zaštićeni bankarskom
tajnom.

Izjavu dajem isključivo za potrebe provjere podataka iz mojih podnesenih izvješća o imovinskom
stanju na razdoblje dok traju moje obveze kao dužnosnika sukladno članku 20. stavak 3. Zakona.

mjesto i datum

Davatelj/ica izjave:

vlastoručni potpis dužnosnika

OIB

MBG

1. Ova izjava čini sastavni dio izvješća o imovinskom stanju dužnosnika
2. Izjava se isključivo daje prilikom podnošenja izvješća o imovinskom stanju dužnosnika Povjerenstvu na početku mandata, nakon stupanja na dužnost odnosno nakon izbora ili imenovanja u Zakonom predviđenom roku.

CONFLICT OF INTEREST COMMISSION

- *The Commission is a standing, independent and autonomous state body which performs the duties falling within its remit as laid down by this Act.
- *It consists of chairperson and 4 members elected for a term of 5 years by the Croatian Parliament from a list of candidates compiled by the Elections, Appointments and Administrative Affairs Committee of the Croatian Parliament, pursuant to an earlier public invitation to apply published in the Croatia's official journal, on the Parliament's webpage and in daily newspapers setting out detailed requirements.
- *The Commission's chairperson and members may not be members of any political party for a minimum of 5 years prior to application.
- *The chairperson and members must also submit declarations of income and assets.

CONFLICT OF INTEREST COMMISSION

- The Commission has its own Office which performs expert, administrative and technical tasks, enabling the Commission's regular and unimpeded work.
- The Office is managed by its chief of staff.

PROCEEDINGS BEFORE THE COMMISSION

- The Commission may initiate proceedings falling within its remit at its own initiative, pursuant to a credible, well-founded and non-anonymous report or whenever the Commission learns of possible conflicts of interest concerning an official;
- The Commission may initiate proceedings pursuant to a personal request of an official;
- Once it has initiated proceedings, the Commission shall notify the official concerned of same and seek a response on allegations contained in the report, protecting, at that instance, the anonymity of the person reporting such conflict of interest.
- Within 15 days after receipt of written request, the official concerned must deliver to the Commission the requested response.
- The Commission establishes the facts of the case by its own actions or obtains facts and evidence through the actions of other public authorities.
- Such other public authorities must furnish facts and evidence on the Commission's request without delay.

PROCEEDINGS BEFORE THE COMMISSION

- Proceedings before the Commission are open to the public, except for voting.
- After the proceedings, the Commission publishes its findings on its webpage (all decisions and all opinions).
- The process of verification of data contained in an official's declaration of income and assets is not open to the public.
- Having verified income and assets data, the Commission must publish its findings.

SANCTIONS AND MEASURES RESULTING FROM VIOLATIONS OF THIS ACT

- reprimand,
 - withholding of part of net salary from HRK 2,000 to 40,000,
 - publication of the Commission's decision,
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- proposal to dismiss an appointed official from public office,
 - call on an elected official to resign from public office.

PROPOSAL TO DISMISS AN APPOINTED OFFICIAL FROM PUBLIC OFFICE

- Declared against an appointed official who, after receiving the Commission's sanction, fails to submit a declaration of income and assets or who declares false or incomplete information on assets with intent to conceal.
- The Commission delivers its reasoned proposal to dismiss to the public authority who appointed the official concerned without delay.
- If it rejects the Commission's proposal, the public authority who appointed the official must cite the reasons for doing so. If it concurs and dismisses the official, such public authority must also notify the Commission thereof.
- Before electing or appointing officials, the bodies in charge of election or appointment must check with the Commission whether candidates for election or appointment to public office were dismissed for violations of this Act over the preceding five years.
- Any public authority dismissing an official from public office may not reappoint such official to public office within 2 to 5 years from the date of dismissal.

CALL ON AN ELECTED OFFICIAL TO RESIGN FROM PUBLIC OFFICE

- Declared against an elected official who, after receiving the Commission's sanction, fails to submit a declaration of income and assets or who declares false or incomplete information on assets with intent to conceal.
- A call on an elected official to resign from public office is published in the Croatia's official journal, in daily newspapers sold throughout the Republic of Croatia and on the Commission's webpage.

REMEDY AGAINST COMMISSION SANCTIONS

- Administrative lawsuit
- The court must rule on such administrative lawsuit within 60 days after it is filed.

PENALTIES

- A fine of HRK 5,000 to 50,000 shall be payable by any official who, within one year of ceasing to hold public office accepts appointment or election or concludes an employment contract with a legal person which maintained business relations with such official while in office, or where at the moment of appointment, election or conclusion of contract it is clear from the circumstances surrounding that particular case that such official intends to enter into a business relationship with the body where he or she used to hold public office - Art. 20 of the Act,
- In addition to the fine charged for the above offence, gains acquired through such offence shall be confiscated and/or an injunction shall be obtained barring such natural person from engaging in a profession, certain activities, jobs or duties for one year.

PENALTIES

- ⦿ A fine of HRK 50,000 to 1,000,000 shall be payable by any legal person which, in violation of the provisions of Article 20 of this Act, appoints or elects, or concludes an employment contract with, an official within one year of end of public office.
- ⦿ A fine of HRK 50,000 to 500,000 shall be payable by any legal person which fails to notify the Commission about entering into a business relationship via a public contest or otherwise with state authorities or units of local or regional self-government or with companies where the Republic of Croatia or a local or regional governmental unit hold a controlling interest (Article 16, (1) and (3)).
- ⦿ A fine of HRK 5,000 to 50,000 shall be payable by any responsible person of the legal person concerned in connection with the above violation.



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QUESTIONS?