



**State Commission  
for Prevention of Corruption**

# **Institutional and Legal Measures for Prevention of Corruption and Conflict of Interests**

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# Prevention of Corruption

- **Prevention of corruption is a key issue towards promotion of good governance, integrity, accountability and democracy;**
- **Expresses willingness of the state institutions to enhance their capacity and performance to combat corruption;**

# International Conventions

- **Conventions related to corruption:**
  - **Criminal Law Convention on Corruption of CoE – ratified in 1999**
  - **Civil Law Convention on Corruption of CoE - ratified in 2000**
  - **United Nations Convention against Transnational Organized Crime - ratified in 2004**
  - **United Nations Convention against Corruption (UNCAC) – ratified in 2007**

# UN Convention against Corruption

- **Article 5 - *Preventive anti-corruption policies and practices***
  - **Each State Party shall develop and implement or maintain effective, coordinated anticorruption policies and shall endeavour to establish and promote effective practices aimed at the prevention of corruption.**
  - **Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.**
  - **States Parties shall collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.**

# UN Convention against Corruption

- **Article 6 - *Preventive anti-corruption body or bodies***
  - **Each State Party shall ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:**
    - (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;**
    - (b) Increasing and disseminating knowledge about the prevention of corruption.**
  - **Each State Party shall grant the body or bodies the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.**
  - **Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.**

# **State Commission for Prevention of Corruption Legislation**

- **The State Commission was established by the Parliament of Republic of Macedonia on November 12, 2002, according the Law on Prevention of Corruption (Official Gazette No. 28 adopted on April 26, 2002)  
*(Amendments to the Law of Prevention of Corruption – in 2004, 2006 and 2008)***
- **The State Commission is autonomous and independent in exercising its function, meaning that the Commission is detached from the Government, and other Constitutional powers**

# State Commission for Prevention of Corruption Legislation

## Law on Prevention of Corruption

### Article 1

- (1) The Law shall regulate measures and activities for prevention of corruption in exercising of power, public authorizations, official duty and policy, measures and activities for prevention of conflict of interests, measures and activities for prevention of corruption in performing matters of public interests by legal entities related to exercising public authorizations.
- (2) For implementation of the measures and activities referred to in paragraph (1) of this Article, **a State Commission for Prevention of Corruption shall be established.**

### **Definition of corruption**

In terms of this Law, corruption denotes using of function, public authorization, official duty and position for the purpose to gain any benefit for oneself or for other person.

# **State Commission for Prevention of Corruption Legislation**

- **The State Commission is also authorized to implement the Law on Prevention of Conflict of Interests, adopted in June 2007**
- **According the Law on Lobbying (adopted in 2008), the State Commission supervises the lobbying**



# **State Commission for Prevention of Corruption Status**

- **SCPC is composed of seven members appointed by the Parliament of the Republic of Macedonia for a term of five years, without right for re - appointment.**
- **The current composition of SCPC was appointed on January 29, 2007**
- **The professional and administrative matters of SCPC are carried out by the Secretariat**

# Repression or/and Prevention

- **The acceptance of repression as the only possible reaction to corruption results only in elimination of effects in individual cases, leaving unaddressed the reasons, motives and circumstances which lead to corruption.**
- **Repression remains as a corrective measure in individual cases because it reinforces the accountability among public functionaries and the citizens, as well as for regaining citizens' trust in the institutions**
- **The feedback of effective repression is prevention**

# Prevention and Repression

- **Reflecting global trends and with the objective of effective preventive action against corruption, the State Commission works on detection of the reasons and conditions which lead to corruption, as well as on their elimination**
- **The repressive role of SCPC is in detection of the individual cases of misuse of official duty and raising initiatives for criminal prosecution, dismissal, removal or implementation of other measures of accountability of elected or appointed functionaries, officials and responsible persons in public enterprise and other legal entities disposing with state capital**

# Officials

- **An official, as stipulated in the Law on Conflict of Interests, refers to:**
  - **The President of the Republic of Macedonia,**
  - **Ambassadors and other persons appointed by the President**
  - **Elected or appointed functionary in the:**
    - **Parliament of the Republic of Macedonia**
    - **Government of the Republic of Macedonia**
    - **Bodies of the state administration**
    - **Courts**
    - **Municipalities**
    - **as well as other persons with public authorizations.**
- **According the Law on Prevention of Corruption, in addition to the mentioned officials, the definition of article 122 of the Criminal Code is applied, which includes:**
  - **Civil Servants**
  - **Persons who perform official duties based on authorization given by law**
  - **Military persons**
  - **Representatives of foreign countries or international organizations in Macedonia**

# Competences of the State Commission

- **Law on Prevention of Corruption (article 49)**
  - adopts a State Programme for Prevention and Repression of Corruption,
  - adopts annual programs and work plans for implementation of the State Programme,
  - provides opinion on draft laws of importance for the prevention of corruption,
  - raises initiatives before competent bodies for conducting control over the material and financial operations of political parties, trade union, association of citizens and foundations,
  - raises initiatives for instituting and conducting procedures before competent bodies for dismissal, assignment, removal, criminal prosecution or implementation of other measures of accountability of elected or appointed functionaries, officials and responsible persons in public enterprise and other legal entities disposing with state capital,

# Competences of the State Commission

- **Law on Prevention of Corruption (article 49)**
  - considers conflict of interests cases determined by law,
  - maintains records and oversee the property situation and changes in property situation of elected or appointed functionaries, officials and responsible persons in public enterprises and other legal entities disposing with state capital in a manner defined by this Law,
  - submits an Annual Report concerning its work and measures and activities undertaken to the Parliament of the Republic of Macedonia, and forwards it to the President of the Republic, the Government of the Republic of Macedonia, and to the media,

# **Competences of the State Commission**

- **Law on Prevention of Corruption (article 49)**
  - cooperates with other state bodies in the prevention of corruption,
  - cooperates with corresponding national bodies of other states and with international organizations active in the field of prevention of corruption,
  - undertakes activities in the area of education of competent bodies to detect and prosecute corruption and other types of crime,
  - adopts Rules on Internal Organization and Systematization of Working Posts in the Secretariat,
  - performs other activities determined by this Law.

**The State Commission informs the public about the measures and activities undertaken and the results thereof.**

# **Law on Prevention of Conflict of Interests**

## **Definition of the conflict of interests**

**“Conflict of Interests” refers to when the private interest of the official is opposite to the public interest, or when the private interest affects or can affect his/her impartiality in the process of undertaking activities of public interest**



# Competences of the State Commission

- **Law on Prevention of Conflict of Interests (Article 21)**
  - **adopts the State Programme with Action Plan for prevention and reduction of the conflict of interests;**
  - **gives opinions for draft-laws important for the prevention of conflict of interests;**
  - **reviews cases of conflict of public and private interest, stipulated in this or in other law;**
  - **submits report on its functioning and on the undertaken measures and activities to the Assembly of the Republic of Macedonia, and forwards it to the Government of the Republic of Macedonia, and to the media as well;**

# Competences of the State Commission

- **Law on Prevention of Conflict of Interests (Article 21)**
  - **cooperates with other state bodies for prevention of the conflict of interests;**
  - **undertakes activities for education regarding early discovery of possible conflict of interests according to this or other law;**
  - **raises initiatives for the implementation of the measures for accountability of the official person in cases of conflict of interest, which measures are stipulated in this Law;**
  - **informs the public regarding the cases of conflict of interest;**

# **Competences of the State Commission**

- **Law on Prevention of Conflict of Interests**

**The State Commission shall instigate a procedure for determining the existence of a conflict of interest on the following basis:**

- **on its own findings;**
- **at the request of an Official Person;**
- **based on a report by another person;**
- **based on an anonymous report;**
- **as well as at the request of the authority in which an Official is employed.**

# Law on Prevention of Conflict of Interests

The Official shall be pronounced with one of the following measures:

- The measure **warning** shall be pronounced to the Official if violation of the provisions of the Law on Prevention of Conflict of Interests is determined, but such violation did not influence significantly the discharge of official duties by the Official
- The measure **public warning** shall be pronounced to the Official if it is determined that he/she had acted contrary to the provisions of the Law on Prevention of Conflict of Interests or other laws leading to significant disturbances in the discharge of official duties by the Official.
- The measure **recommendation for dismissal** shall be pronounced to the Official if one of the measures (1) and (2) had been previously pronounced.

# Law on Lobbying

## Definition of Lobbying

**“Lobbying” is an activity directed toward the legislative and executive branch of government on central level, as well as to the local government in order to realize certain interests in the process of passing laws and other regulations**

# Competences of the State Commission

- **Law on Lobbying (Articles 24, 25, 26)**
  - **The State Commission for Prevention of Corruption shall supervise the lobbying**
  - **The official is obligated to report to the State Commission for Prevention of Corruption if certain lobbyist acts contrary to this or other Law**
  - **State commission for prevention of corruption shall send the report to the lobbyist for reply on its quotations and to the legal entity with which the lobbyist is employed**
  - **The State Commission for Prevention of Corruption shall warn the lobbyist if he/she fails to act according to article 21 of this Law and shall submit an initiative to the Secretary General of the Assembly of the Republic of Macedonia to remove the lobbyist from the register if he/she has been warned twice**
  - **The State Commission for Prevention of Corruption shall warn the legal entity with which the lobbyist who has been imposed the measure stipulated in article 25 paragraph (1) of this Law is employed**

# State Program for Prevention and Repression of Corruption

- Adopted in May 2007
- Strategic document
- Participants:
  - more than 150 representatives from the institutions of the National Integrity System
- Action Plan with 140 activities and more than 250 indicators
- Action Plan for fighting corruption of the Government
- Annual Conference for the assessment of the implementation of the State Program (July 2008)

# **State Program for Prevention and Reduction of Conflict of Interests**

- Adopted in May 2008
- One of the priorities of Macedonia for the Partnership for accession in EU
- In compliance with OECD directions and principles
- 9 risk areas for conflict of interests identified and Action Plan for the implementation of the activities
- Guideline for managing conflict of interests
- Trainings



# Assets Declarations

- **Elected or appointed officials, submits Assets Declaration to the State Commission and the Public Revenue Office within 30 days of election/appointment, reporting on their property and change in their assets` status.**
- **Civil Servants employed in state institutions and local self-government units submits Assets Declarations to the organ they are employed**
- **In 2008 to the SCPC submitted were 317 new Assets declarations (in July 2008 total of 3580)**
- **Amendments to the Law in 2004, introduced obligation for submission of Assets declarations after termination of function**
- **With the amendments to the Law in 2006, data for the Assets status is published on the WEB page of SCPC (inclusive July 2008 published were 1480) - [www.dksk.org.mk](http://www.dksk.org.mk)**

# Assets declarations

- **Misdemeanor penalties:**
  - **For non-submission of the Assets declaration, SCPC instigates misdemeanor procedure for which the fine of 500-1000 euros is predicted**
  - **For incorrect or false data in the assets declaration, SCPC instigates procedure for examination of the property status. The procedure is conducted by PRO**

# Work on cases – complaints on corruption

- In 2007 SCPC received 1114 complaints
- Taken into work – 560 cases
- SCPC continued to work on 143 cases from the previous period



# Work on cases – complaints on corruption

- In 2008 received were **767 new petitions and complaints** from the citizens and legal entities, and SCPC **completed 567** (this number contains the number of all cases taken into work, including cases received in the previous year), **117 cases related to elections and 29 cases on conflict of interests. Total number of completed cases is 713.**
- In 2008 SCPC submitted **27 initiatives to the Public Prosecution Offices for criminal prosecution, 4 initiatives for responsibility, 33 requests for misdemeanor procedures, 19 requests for examination of the property status.**

# **Work on cases – complaints on conflict of interests**

- **In the period from the adoption of the Law on Prevention of Conflict of Interests (July 2007), until end of 2008, SCPC worked on 70 cases, of which 45 cases are completed and 25 are pending.**
- **November 2008 – trainings for 119 judges and public prosecutors**

# Cooperation

- **Inter institutional**
  - **Precondition for effective combating and prevention of corruption**
  - **Challenge: clear distinction of competences and responsibilities**
  - **Direction of the Government for the cooperation of the state organs, public enterprises, public funds and other legal entities disposing with state capital with SCPC, adopted in 2004**
  - **Protocol for cooperation – signed in 2007**

# Cooperation

- **The Protocol for cooperation was signed by 15 institutions: SCPC, Public Revenue Office, Public Prosecutors' Office, State Attorney Office, Court Council, State Audit Office, Ministry of Interior, Customs Administration, Finance Police, Money Laundering Prevention Directorate, Cadastre, Public Procurements Bureau, State Election Commission, Public Prosecutors Council, Broadcasting Council.**

# Cooperation

- **Cooperation with media and civil sector**
- **International cooperation**
  - **Conferences, study visits**
  - **Memorandums for cooperation**



# Cases

- **Instigated initiatives**
- **Conflict of Interests**
- **Examination of property status**



**State Commission  
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# **GUIDELINE for Managing Conflict of Interests**



# Conflict of interests

- “**Conflict of interest**” means a situation where the private interest of an official person is contrary to the public interest or when private interests influence or may influence his/her impartiality in conducting the duties of public interest” – **Law on Prevention of Conflict of Interests**
- Conflict of interest involves a conflict between the public duty and the private interest of a public official, in which a public official’s private capacity interest could improperly influence the performance of their official duties and responsibilities – **OECD directions for managing conflict of interests**

# **Corruption and Conflict of Interests**

- **Corruption – misuse of public function for personal benefit or benefit for other person**
- **Relation between corruption and conflict of interests**

# **State Program for Prevention and Reduction of Conflict of Interests**

- **Legal Competence of SCPC**
- **Adopted in May 2008**
- **The Process of adoption**
  - **Supported by USAID WL**
- **Target group and stakeholders**

# State Program for Prevention and Reduction of Conflict of Interests

- Significance – strategic document
- One of the priorities of Macedonia for the Partnership for accession in EU
- In compliance with directions and principles of OECD
  - The public interest must come first
  - Transparency of decision making is paramount
  - Lead by individual responsibility and personal example
  - Establishing an organizational culture that does not tolerate conflict of interests

## **State Program for Prevention and Reduction of Conflict of Interests**

- 9 risk areas for conflict of interests identified and Action Plan for the implementation of the activities and recommendations
- Activities stipulated in several risk areas:
  - Adoption of the Guideline for managing conflict of interests
  - Trainings
  - Amendments to the Law on Prevention of Conflict of interests



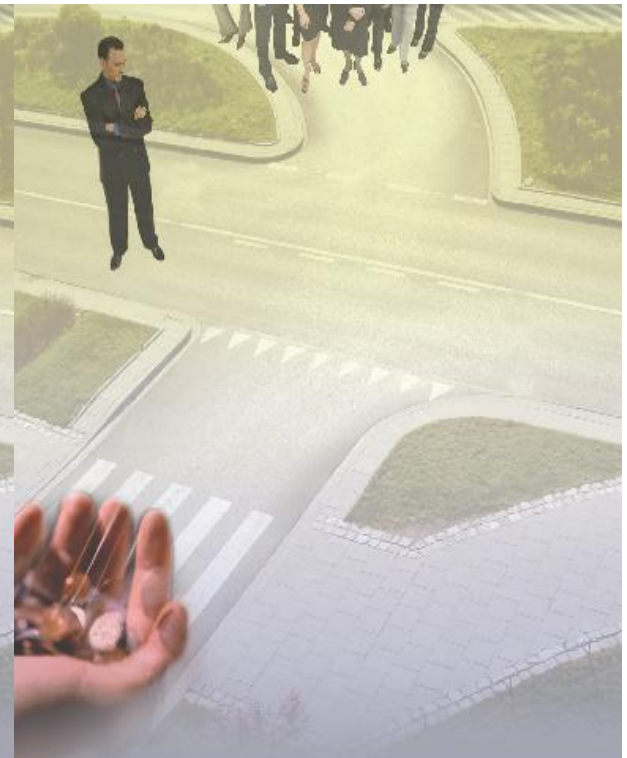
## **ВОДИЧ**

**за управување со судир на интереси**



## **UDHËZUES**

**për menaxhimin e konfliktit të interesave**



## **GUIDELINE**

**for managing conflict of interests**





# Guideline for managing conflict of interests

- Developed by SCPC, experts, supported by USAID WL
- Aim
  - Practical tool for officials and public at large for clarifying dilemmas whether particular activity is conflict between public duty and private interest
  - Guideline elaborates and explains the OECD principles for managing conflict of interests and identified 9 risk areas of conflict of interests

# Guideline for managing conflict of interests

- The Guideline – preventive tool
  - As other means for corruption prevention, the Guideline enables introducing the forms of conflict of interests and self-assessment, which is more efficient than later sanctioning

# Guideline for managing conflict of interests

- Methods for overcoming the conflict of interests
  - Identification of the risk areas
  - Procedures for ensuring transparency and overseeing
  - Questionnaire for public officials
  - Introducing procedures for advising and managing conflict of interests

# Trainings

- **Continuous activity of the State Commission for Prevention of Corruption**
- **Target groups:**
  - Judiciary
    - November 2008, April – June 2009
  - Local Self-Government
    - September/October 2009
  - Parliament 2009
  - State institutions 2009