



ILDKP

INSPEKTORATI I LARTË I DEKLARIMIT
DHE KONTROLLIT TË PASURIVE

International Workshop

“Conflict of Interest Prevention, Tools and Measures”

20–21 January 2011, Tirana

Law no.9367 dated 07.04.2005 “On the Prevention of Conflicts of Interest in the Exercise of Public Functions”

❖ The object of this law is to guarantee an impartial and transparent decision-making in the best possible interest of the public and of its trust in public institution through preventing conflicts of interest and private ones of an official in the exercise of his functions.

Obligation of public officials

❖ Every appointed or elected public official has the duty to prevent and to resolve himself, as soon as possible and in the most beneficial manner possible, every situation of conflict of interest. In case he is not convinced of the existence of a conflict of interest, related to him, he should consult with his superior as soon as possible, or with the specialised structures at the High Inspectorate.

Definition of Incompatibilities

❖ When a public official who has the legal obligation to declare his/her the assets and private interests as defined by law on assets declaration, dated in 2003, exercises, in the same time another duty/work or function which may bring about or seems to bring about conflict of interest, is known as incompatibility.

Functional Incompatibilities

- ❖ The following types of Continuing Conflict of Interest are included to be as part of Functional Incompatibilities:
 - ❖ Private interest
 - ❖ Exercise of private activity
 - ❖ Prohibition to be a manager or member of the management organs of profit-making and not-for-profit organization
 - ❖ Second duty or work/job, the public official may not be employed full time in another duty

Case Study

An appointed official holding the position of a General Director of the Ministry X, exercises a private activity that creates revenues in the form of a natural commercial person based on the law on *“Registration of private activity”*. The public official exercises the activity of free professions, concretely of public notary, but not in his jurisdiction or territory where he exercises his public function

Actions taken by HIDAA

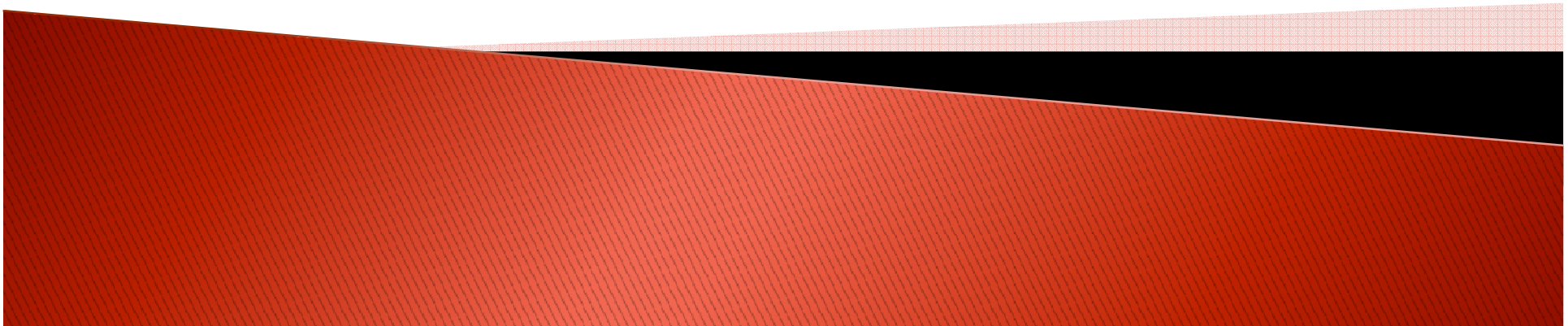
- ❖ Collection of facts and evidences;
- ❖ Correspondance with relavant institutions, for instance National Registration Office, Tax Office, etc
- ❖ Analyses of the collected data
- ❖ Taking the relavant decision

HIDAA legal analyses

The General director is a public official of high management level. As such, this position undergoes certain restrictions and prohibitions stipulated in the law on conflicts of interest and relevant to high and medium management level of officials.

According to the law, this position, General Director, may not exercise private activity that creates revenues in the form of a natural commercial person, partnership of natural commercial of any form, the free professions of advocacy, the notaries profession, licensed expert or consultant, agent or representative of the organizations and may not be employed full time in another duty.

The existance of a conflict of interest situation related to Functional Incompatibilities



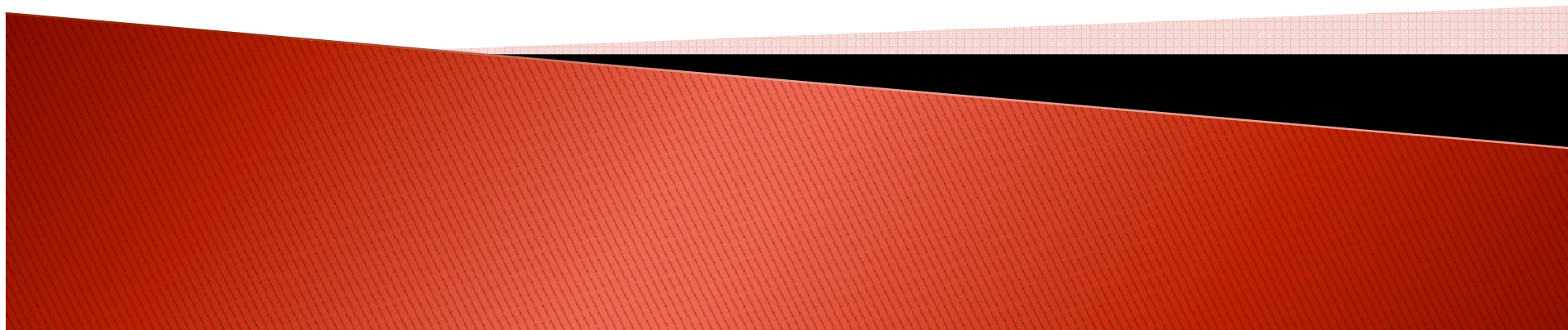
Steps taken to solve conflict of interest

This official is obligated by law to interrupt the exercise of private activity, the notary profession, within 30 days. During this period of time, he has to deregister/cancell this activity in pursuance to the law. The official has to provide justifying documents upon his actions to HIDAA, no later than 10 days.

Documentation of the cancelling act performed by the competent organs, shall be made known, immediately or at any time they are performed

Administrative Sanctions

Apart the abovementioned manner of solving the conflict of interest situation, the High Inspectorate applies sanctions as well. For this case, the official is punished by a fine of approximately 2000 Euro.





ILDKP

INSPEKTORATI I LARTË I DEKLARIMIT
DHE KONTROLLIT TË PASURIVE

Thank You for Your Attention!

Prepared by: Luiseda Zhapa,
Specialist of Law Office, HIDAA

