

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY LITHUANIA

ARTICLE 7, PARAGRAPH 4 UNCAC

CONFLICT OF INTEREST

LITHUANIA (NINTH MEETING)

¹Article 7, paragraph 5

Lithuania has assumed significant anti-corruption commitments at the international level, thus it has paid especial attention to make progress in prevention and fighting corruption in last few decades.

Lithuania has ratified relevant international conventions (including UN Convention Against Corruption) and has created comprehensive domestic legal and institutional anti-corruption framework (besides the Special Investigations Service (SIS), the Seimas Ombudsman's office, Parliamentary Ethics and Procedure Commission and Parliamentary Anti-Corruption Commission. One of specific actors in that sphere is the Chief Official Ethics Commission, hereinafter – the COEC).²

COEC is a collegial authority which is set up by the Seimas of the Republic of Lithuania and is accountable to it, and which, within the competence assigned to it exercises supervision of persons employed in the civil service and persons carrying out lobbying activities as well as the respective prevention of corruption.

*The competence and rights of the COEC, guaranties of its independence are prescribed in the Law on the Chief Official Ethics Commission (hereinafter - **the Law on the COEC**).³*

This Law provides that while performing its duties and taking decisions the COEC is independent. None of state politicians, state officials, political parties, associations, other legal or natural persons may exert influence regarding the decision-taking procedure and content (Article 9, paragraph 1).

The independence of the COEC is ensured by the principles of its formation, requirements for its members and restrictions of their outside activities, term of their duties, legal basis and principles of activities of the COEC, etc.

There are five members of the COEC and each of them is proposed to the Seimas by different authority. In accordance with the last amendment (May 25, 2017) of Article 6, the Law on the COEC, the process of its formation is as follows: one of the candidates is proposed by the President of the Republic, one - by the Speaker of the Seimas, one - by the Prime Minister and two candidates – by the Lithuanian Lawyers' Association (before the amendments only one candidate was proposed by this Association, and one – by the President of the Association of Local Authorities). On the advice of the Speaker, the Seimas shall appoint Chairperson of the COEC from the nominated members of this Commission.

Each member has to be of impeccable reputation and has received higher university education (at least a master's degree) or has university education which corresponds to it and the minimum five-year

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² The COEC is the central institution supervising the implementation of the Law on the Adjustment of Interests in the public service and the only body which controls the implementation of the Law on lobbying.

³ <http://www.vtek.lt/index.php/en>

length of practical experience. The member of the COEC shall be a state official and the term of his/her office in the COEC is five years. The same person may be a member of the COEC not more than two terms in succession.

When performing his/her official duties, a member of the COEC shall be independent, may not be bound by any interest and must comply with the Constitution of the Republic of Lithuania, international agreements, laws and other domestic legal acts as well as ethical rules (Article 9, paragraph 2). Before starting his/her office the Oath to the State has to be given.

The Chairperson of the COEC may not be employed in businesses, commercial or other establishments, enterprises or organisations, may not receive any other remuneration, except the salary fixed in accordance with the position held and the remuneration for scientific and pedagogical work in higher education establishments or establishments of qualifications improvement of civil servants, remuneration for non-formal adult education and payment for creative activities (Article 11, paragraph 1).

Having received the consent of the COEC, a member of the COEC may work elsewhere, provided that this does not cause a conflict of interest or prevent from performing his duties properly (Article 11, paragraph 2).

When performing their duties, the Chairperson and the members of the COEC may not participate in activities of political parties and other political organizations or violate the principle of political neutrality (Article 11, paragraph 3).

The COEC has the Secretariat, which provides administrative services for the COEC members and consists of civil servants and persons working under employment contracts. Trainings for the staff are usually organized in the same way as trainings for all persons in civil service. Additionally, COEC's personnel improve its competence by participation in events organized by multilateral organizations, e.g. OECD Working Party of Senior Public Integrity Officials (SPIO) workshops, OECD Public Governance Committee sessions, EU Anti-corruption experience-sharing programs, etc.

The number of staff of the COEC (including auxiliary staff):

2013: 17 employees;

2014: 19 employees;

2015: 21 employees;

2016: 24 employees;

2017: 25 employees.

As it is stressed in the Article 9, paragraph 3, the Law on the COEC, financing of activities of this Commission from the state budget must enable to properly perform its functions. In fact, the budget was as follows:⁴

2013: EUR 0.391 million;

2014: EUR 0.430 million;

2015: EUR 0.493 million;

2016: EUR 0.578 million.

In accordance to the Article 17 of the Law on the COEC, this Commission has such powers:

- supervises the implementation of the Law on the Adjustment of Interests, the Law on Lobbying Activities, other legal acts regulating the norms of official ethics and conduct of persons in the civil service assigned to the competence of the COEC; gives recommendations on the*

⁴ *Due to the growing quantity of investigations to be made by COEC, and needs to expand trainings activities, the number of staff and given budget are not very sufficient.*

- improvement and implementation of the provisions of these legal acts; takes decisions and resolutions on these issues;*
- *investigates notifications, complaints and requests of natural and legal persons regarding the conformity of actions of the persons in the civil service with the provisions of the Law on the Adjustment of Interests and the Law on Lobbying Activities;*
 - *carries out the investigation of the conduct of Chairmen and Deputy Chairmen of parliamentary political parties who are not members of the Seimas or municipal councillors, or are not appointed as Member of the Government in accordance with the procedure set forth by the Code of Conduct for State politicians;*
 - *upon the request or on its own initiative provides methodological assistance concerning the implementation of the provisions of the Code of Conduct for State Politicians;*
 - *makes recommendations of a methodological nature to municipal ethics commissions and provide consultations to them on the issues regarding the implementation of the Law on the Adjustment of Interests;*
 - *follows information announced by the mass media about the conduct of state politicians and, in case there are sound data that a state politician has committed a violation, transfer this information for investigation to appropriate entities of state politicians' conduct control;*
 - *analyses problems related to official ethics and conduct of persons in the civil service and gives relevant recommendations;*
 - *on the basis of available information prepares and implements the measures preventing violations of the norms of official ethics and conduct, fulfils other functions laid down for the COEC in legal acts, and takes appropriate decisions;*
 - *seeking to include the civic society as widely as possible in the democratic mechanisms of control over state government, informs periodically the public, state and municipal institutions about the meaning and importance for state government of the norms of official ethics and conduct of persons in the civil service and the legal acts regulating them; publicly informs about its activities on the website of the COEC; publishes its decisions and resolutions; etc.*

To carry out of its functions, the COEC has granted with powerful rights, e.g.:

1) receive all necessary information, explanations, orders, decisions and other documents from institutions, enterprises, bodies and other organizations, also obtain free of charge the information from state or departmental registers, which is necessary in order to fulfil the duties of the COEC;

2) instruct the head of a state or municipal institution or body to conduct investigation, if the reasoned information has been received that a person in the civil service does not meet the requirements of the Law on the Adjustment of Interests, and, when disagreeing with the conclusion of the conducted investigation, instruct to conduct investigation repeatedly or conduct investigation itself and take its own decision;

3) make reports of administrative violations and impose on the administrative sanction⁵ if the person has violated the provisions of the Law on the Adjustment of Interests;

4) propose to the collegial state or municipal institution, the head of the state or municipal body, or the state or municipal institution or body of a higher subordination level to impose disciplinary penalties on the persons who have violated the Law on the Adjustment of Interests; or propose to repeal, suspend or amend the legal acts or decisions and transactions which do not meet the requirements of the Law on the Adjustment of Interests or the Law on Lobbying Activities, or propose to take the measures which would prevent violations of other legal acts in the future;

5) file claims (submit requests) to the court regarding termination of or declaring null and void the civil service relationships, employment contracts and transactions concluded in violation of the requirements of the Law on the Adjustment of Interests;

6) participate in preparation of legal acts regulating the requirements of official ethics and conduct of persons in the civil service;

⁵ The COEC is granted by the right to impose on the administrative sanction from the January 1, 2017 only. Previously the COEC in such cases had to appeal to the Court.

- 7) check the data on private interests declared by persons in the civil service;
- 8) adopt resolutions of recommendatory character, which contain the opinion of the COEC on a certain issue or summarise the practice of activities of the COEC;
- 9) inspect activities of lobbyists and activity reports of lobbyists; and so forth.⁶

There are several laws, which outline elements for *management of conflict of interest situations*. One of them is the Law on the Adjustment of Public and Private Interests in the Civil Service (hereinafter – **the Law on the Adjustment of Interests**), as well as the Law on the Civil Service, Recommendations (general or individual), Regulations and Resolutions laid down by the COEC, which guideline activities of public officials and heads of public institutions, and authorized representatives, who manage conflict of interest.

The COEC applies complex of basic measures aimed to promote integrity of public service and prevent conflict of interests.

- *Trainings*

The COEC organizes trainings on management of conflict of interest situations and on filling the private interest declarations for different types of audience: civil servants and other persons in public service; managing officers responsible for supervising of subordinate persons in public service;⁷ sectoral staff (e.g. physicians, dentists).⁸

Each institution can also provide its own anti-corruption trainings. There is also an ethics module within the orientation trainings that is mandatory for all newly employed civil servants (respective trainings are under the competence of the Civil Service Department, the Ministry of Interior). Such training is evaluated by a questionnaire that participants must complete, and which allows the ministry or agency to evaluate the effectiveness of the training that was provided.

Trainings on Anti- corruption self evaluation of concrete institution are organized by the SIS.

- *Raising awareness of civil society*

COEC strives to raise awareness of society and cultivate a culture of integrity by spreading information about its activity, publishing its decisions, giving explanations on conflict of interest manner, giving recommendations, announcing resolutions, opinion, and presentation of annual reports of the COEC.

- *Guidance on implementation of the Law on the Adjustment of Interests*

The heads of public institutions are responsible for the implementation of the Law on the Adjustment of Interests in their subordinate institutions. And the COEC as supervising body supports them, The COEC gives respective guidance, i.e. gives recommendations, which could be addressed to individual public servants or to the state or municipal institutions in general;

⁶ Article 18, the Law on the COEC.

⁷ Recent aim of the COEC is to design the trainings in „Train the trainers“ principle.

⁸ E.g. since March, 2017 the COEC has organized trainings for more than 1200 servants (41 seminars). It should be stressed that due to lack of human resources there are only 2 specialists (trainers) in the COEC who carries out such trainings.

organizes trainings, do revisions on results of particular institutional investigation. Moreover, the COEC gives recommendations to the state or municipal authorities what special institutional regulations they should set and how to improve them when needed, etc.

In COEC opinion, one of the most important goals is to identify the reasons of non-ethical behaviour and prevent them. This could be more efficient with *engagement of state and municipal institutions*. Thus COEC calls on the institutions to strengthen their self-control (i.e. internal supervision on disclosure process of respective institution's employees; analysis of submitted disclosure declarations; recommendations on conflict of interest management; indicating and prevention of risk factors) and conduct more internal investigations themselves if the Law on the Adjustment of Interests was breached. COEC tries to achieve these goals by educational campaigns, trainings for the heads of institutions, authorized persons, conflict managers, public officers and other interested persons.

- *Preventive actions*

The COEC periodically organizes targeted and long-terming preventive actions, usually dealt with particular public sector more risky to corruption – healthcare, local governance, state enterprises.

- *IDIS system*

The COEC has designed the IDIS system – it is an electronic database on private interests, which was created as an assistant tool for the heads of public institutions to administer the disclosure declarations in respective institution.⁹

- *Register of Private Interests (PIR)*

Currently one of the main goals for the COEC is to design and foster the PIR.¹⁰

- *Supervision of activity of lobbyists*

It is known that the transparency and integrity of public sector are closely related with activities of lobbyists. In accordance to the Law on the Chief Official Ethics Commission, the control and supervision of this important and complicated sphere belongs to the COEC.

Despite that lobbying activities in Lithuania were regulated since 2000, the law was ineffective because of legal loopholes, e.g. narrow definitions of lobbying activity and of lobbyist. After a long considerations and hot confrontations, with a help of multinational organisations and domestic bodies, new Law on Lobbying Activity was adopted and came into force since September 1, 2017. The main goals of this law are to ensure publicity and transparency in respective sphere and to prevent illegal lobbying activities.

Lobbying activities shall be conducted only by a person recorded in the Register of Lobbyists. A person who wishes to engage in lobbying activities shall file an application to the COEC to be recorded in the Register of Lobbyists.

⁹ Please find more detailed information below in the text.

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A lobbyist must submit a report on lobbying activities by electronic means (online) for every legal act or a draft of the legal act, following the procedure laid down by the COEC not later than within 7 calendar days (in comparison with previous annual reports only) from the day of the beginning of a certain lobbying activity - verbal or written communication with lobbied person (by electronic means too) regarding certain provisions concerning the legal acts or administrative decisions. For that purpose COEC has set up a website www.lobistai.lt (The Register of Lobbyists) maintained by COEC. Registered lobbyists can easily sign in to this website and report lobbying activities.

Reports of lobbyists are public. Thus citizens will see who attempts to influence whom in government. The register will allow citizens to search the register by the part of the word.

It should be noticed that seeking to reduce negative perceptions about lobbying, COEC intends to organize training activities for state institutions, private sector, develop online resources and tools to raise public awareness and educate on lobbying activities. Consequently, COEC will seek that non-governmental organisations would also be included (as they don't included still) in regulation of lobbying.