

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
BOSNIA AND HERZEGOVINA

ARTICLE 7, PARAGRAPH 4 UNCAC

CONFLICT OF INTEREST

BOSNIA AND HERZEGOVINA (NINTH MEETING)

THEMATIC COMPILATION OF RELEVANT INFORMATION
SUBMITTED BY BOSNIA AND HERZEGOVINA, CONCERNING
THE NINTH INTERSESSIONAL MEETING OF THE WORKING
GROUP FOR PREVENTION

I. - Information requested from States parties in relation to preventing and managing conflicts of interest (art. 7, para.4):

Commission for Deciding on Conflict of Interest:

In order to prevent a conflict of interest, the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina ("Official Gazette of B&H", No. 16/02, 14/03, 12/04, 63/08, 18/12, 87/13 and 41/16) defines special commitments of elected officials, executive office holders and advisers in the Governmental Institutions of B&H in exercising their duty. The Law on Conflict of Interest in the institutions of B&H defines a conflict of interest as a situation where elected officials, executive office holders and advisers have personal interest that have influence or may have influence on legality, transparency, objectivity and impartiality in exercising their duty. The Law sets principles of conduct of elected officials, executive office holders and advisers including integrity, transparency and ethics.

Article 2 of the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina: „(Code of Conduct) 1. In the exercise of public duties, elected officials, executive office holders and advisers must act legally, effectively, impartially, honestly and they must apply the principles of responsibility, integrity, due-diligence, transparency and credibility. 2. Elected officials, executive office holders and advisers shall be held personally responsible for their conduct in the exercise of their appointed or elected public office and they shall be politically accountable to the authority or citizens who have appointed or elected them. 3. Any elected official, executive office holder and advisers exercising public duties must conduct in a responsible and conscientious manner, they must not compromise the confidence and trust by citizens, and must respect legal and other rules governing the rights, duties and responsibilities in the exercise of public duties. 4. In exercising public duties, elected officials, executive office holders and advisers must apply to the ethics of the profession and duties they are performing. 5. In exercising public duties, elected officials, executive office holders and advisers must not prefer their private interest at the expense of the public interest. 6. Elected officials, executive office holders and advisers must not use the public duty for a personal gain of a person related to them. They must not be in any relationship of dependence in respect of persons who might influence their impartiality. 7. In their position as public persons, all elected officials, executive office holders and advisers must act in the interest of citizens. 8. In the exercise of their duty elected officials, executive office holders and advisers shall be bound to use the property, instruments of labour and financial resources entrusted to them for specified purposes only for the intended purpose and in an efficient manner. 9. In the exercise of public duty elected officials, executive office holders and advisers shall receive salary and allowances for the duty they exercise. Unless explicitly provided in this Law, elected officials, executive office holders and advisers shall be prohibited to receive any other remuneration.

For the purpose of implementation of this Law, the Commission for Deciding of Conflict of Interest has been established (hereinafter: Commission). Competencies of the Commission have been prescribed by Article 17a: „1. The Commission shall act on the basis of this Law, best practices, political accountability and credibility of elected officials, executive office holders and advisers. 2. The Commission shall make its decisions by majority votes of all members, which implies the votes of at least two members from each constituent people. 3. The Commission shall enact the Rules of Procedure. 4. For the purpose of applying the provisions of this Law, the Commission shall provide opinions, issue instructions, prescribe forms and manner of keeping the Register. The Commission shall enact the Rules of Procedure regulating keeping of the Register, which shall specify the rules on keeping of the Register and on forms, as well as other issues necessary for functioning of the Register, shall enact the rulebook on procedure, prescribing the implementation rules of handling the procedure and furnishing of decisions and compiling of reports. 5. The Commission shall make a decision on whether some action or failure to act constitutes a violation of this Law. Commission's decision must be reasoned. 6. The Commission shall submit annual reports on its work to the Parliamentary Assembly of Bosnia and Herzegovina“.

The Office of the Commission on Deciding of Conflict of Interest has been established within APIK for carrying out the expert, administrative and technical tasks under competencies of the Commission on Deciding of Conflict of Interest. After the Council of Ministers of B&H gave an approval¹ on the Book of Rules on internal organization of APIK, this institution officially has taken over the Section for implementation of the Law on Conflict of Interest in Governmental Institutions of B&H from the Central Election Office since 01.09.2015. Department for conflict of interest/Office of the Commission on Deciding of Conflict of Interest was established as per the Book of Rules on internal organization of APIK giving the Office and its employees dual roles so they perform tasks under the competencies of APIK and expert, administrative and technical tasks under the competency of the Commission on Deciding of Conflict of Interest.

Since the amendment and changes to the Law on Conflict of Interest, from 2013 until now the Commission held 18 sessions where they discussed in total of 171 points of the agenda. 14 proceedings were initiated and 10 sanctions were imposed on elected officials and advisers for violation of provisions of the Law on Conflict of Interest in Governmental Institutions of B&H and 16 opinions given in regards to possible violation of provisions of the mentioned Law.

The Commission on Deciding of Conflict of Interest have published their Decisions on the following website: http://apik.ba/ozsi/odluke-komisije/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1

¹On the 16th session of Council of Ministers B&H held on 27 July 2015.

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CONFLICT OF INTEREST

BOSNIA AND HERZEGOVINA (THIRD MEETING)

- The Central Election Commission of Bosnia and Herzegovina is responsible for implementing the Law on Conflict of Interest in Governmental Institutions of BiH (Bosnia and Herzegovina („Official Gazette of BiH", no. 16/02,14/03, 12/04 and 63/08), Law on Conflict of Interest in the Governmental Authorities of the Federation of Bosnia and Herzegovina („Official Gazette of the Federation BiH", no. 70/08), Law on Conflict of Interest in Institutions of the Brcko District of BiH („Official Gazette of the Brcko District of BiH, no. 43/08) and the Election Law of Bosnia and Herzegovina ("Official Gazette of BiH", no: 23/01, 07/02, 09/02, 20/02, 25/02, 04/04, 20/04.25/05, 52/05.65/05, 77/05, 11/06, 24/06, 32/07, 33/08 and 37/08).

Article 12 of the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina, regulates the obligation of elected officials, executive functionaries and advisors to submit regular financial reports as required by law and rules and regulations of the Central Election Commission. The same obligation is prescribed by Article 13 of the Law on Conflict of Interest in the Government of the Federation of Bosnia and Herzegovina and Article 13 of the of the Law on Conflict of Interest in Institutions of the Brcko District of BiH.