

# THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY SLOVENIA

## ARTICLE 7, PARAGRAPH 4 UNCAC CONFLICT OF INTEREST

### SLOVENIA (NINTH MEETING)

CPC and made it not only the national focal point for prevention of corruption, but also for lobbying oversight, whistleblower protection, integrity of public sector and expanded its reach beyond the public into the private and business sector. The amendments to the Act adopted in June 2011 further strengthened the powers of the CPC to subpoena financial documents for the public and private sector and to hold accountable magistrates, officials, public servants, management and boards of public enterprises for corruption, conflict of interest or breach of ethics.

#### ARTICLE 7, PARAGRAPH 4:

1. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.
2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

The main responsible body for strengthening transparency and preventing conflict of interest, incompatibilities of functions and restrictions of operation in Slovenia is the Commission for the Prevention of Corruption (hereinafter the Commission / CPC).

Regarding the existence of a possible conflict of interest, we should note the provisions of the IPCA, which provide that official persons (which includes civil servants throughout the public sector) must be watchful of any actual or possible conflict of interest and must do everything to avoid that, and official persons may not use their office or work in such a way that would afford them or another person any illicit private interest (Article 37).

Pursuant to the same law, a conflict of interest is defined as a circumstance where the private interest of the official person influences or gives the impression of influencing the impartial and objective performance of their public tasks, where private interests are defined as material or non-material benefits for the official person, their family members, and other individuals or legal entities with whom that person has or has had personal, business or political connections. Concerning the possible existence of a conflict of interest, the civil servant's head of department (where they are informed of the existence or possibility of a conflict of interest) or the CPC, if the civil servant does not have a head of department, decides within 15 days and informs the official person. In deciding on the possible existence or otherwise of a conflict of interest, the head of department or Commission determines the existence of elements relative to the stated provisions.

If there is a possibility that a conflict of interest has arisen in the official conduct of official persons, the CPC may initiate a procedure for the establishment of the actual existence of the conflict of interest and its consequences. If it is established, on the basis of the procedure carried out, that a conflict of interest has arisen, the CPC shall inform the competent authority or the employer and set the time limit by which the body or the employer is obliged to inform it of the measures taken in this respect. If the CPC finds that, in the situation addressed, an official person knew or should have or could have known that the conflict of interest existed but, despite this, acted in contravention of the provisions on the prevention of conflicts of interest, the Commission shall inform all other competent authorities. The CPC may initiate a procedure referred to in paragraph 1 of this Article within two years of the performance of the official acts.

Where the findings relate to a senior office holder or official, the CPC sends the findings to the head of the body or to the body competent for directly overseeing the work of the person in question or their appointment and dismissal. Within 30 days, that body must introduce controls and disciplinary procedures and adopt appropriate measures in accordance with the law, the code of conduct and integrity plan, and notify the CPC accordingly (seventh paragraph of Article 13 of the IPCA).

For civil servants in state bodies and local community administrations the ZJU also regulates the prohibition on performing activities and conflicts of interest (paragraph seven of Article 100). An civil servant who observes that a situation has arisen where their personal interest might affect the impartial and objective

performance of their tasks or where the circumstances would arouse doubt about their impartiality and objectivity, must immediately where possible in view of the circumstances notify the head of the body and act in accordance with the head's instructions. In such case the head of the body must ensure that tasks are performed lawfully, impartially and objectively, and must verify whether they have indeed been performed in this way.

In the event that seriously corrupt conduct has been established, the CPC sends to the body competent for appointment and dismissal a proposal for dismissal, regarding which it also notifies the public (tenth paragraph of Article 13 of the IPCA).

Having in mind above mentioned we can divide Slovenian "interest" disclosure in following instances:

**"Preliminary" interest disclosure:**

a) A public official must disclose entities in which they or their family member are participating as a manager, management member or legal representative, or in which they have more than a 5% share of participation in the founders' rights, management or capital, either by direct participation or through the participation of other legal persons. According to Article 35 of the IPCA, such entity should not conduct business with the public sector body or organisation in which the public official holds the office. The declaration has to be submitted no later than one month after taking the public office and afterwards within eight days of any change occurring.

b) According to Article 26 of the IPCA, a professional public official may not be engaged in any professional or other activity aimed at generating income or proceeds, except pedagogical, scientific, research, artistic, cultural, sports and publishing activities, managing their farm or their own assets. If a public official intends to engage in pedagogical, scientific, research, artistic or cultural activities, they must disclose such an activity to the CPC. Such a declaration should be made at least 8 days before the engagement in the abovementioned activity.

c) There is no obligation for other official persons to preliminary disclose their interests (meaning before the entering into the office).

**Ad hoc interest disclosure:**

d) Any official person who, upon taking up a post or office or during the performance of the duties of the post or office, finds that a conflict of interest has arisen or might arise, must immediately declare their contravening private interest. The rules governing the ad hoc disclosure of interest are stipulated in special procedural acts (e.g. Administrative Procedure Act, Criminal Procedure Act, Labour Act, and Public Procurement Act); if no such rules exist, general conflict of interest rules stipulated in the IPCA apply. Despite the fragmentation of the ad hoc interest disclosure rules, there are no major differences among them.

The ad hoc interest declaration rules apply to official persons. The term "official person" includes elected and appointed officials, senior public officials, other public officials and civil servants as well as managers, members of management and supervisory boards, and employees of state owned enterprises.

The preliminary declarations of interests are collected and kept by the CPC. The ad hoc declarations are stored by the body or organization responsible for carrying out the official task to which the situation of conflict of interest relates. Such declarations are not publically available. However they can be received under the system of free access of the information (explained in details in further text under this point).

IPCA also defines fines for not obeying mentioned provisions:

- A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who
  - fails to immediately inform his superior or the Commission of a conflict of interest or the possibility that a conflict of interest may arise.

## **Incompatibilities of functions IPCA defines as follows:**

### Article 26

#### (Incompatibility of office and exceptions)

(1) A professional official holding a public office may not be engaged in any professional or other activity aimed at generating income or proceeds.

(2) Notwithstanding the provision of the preceding paragraph, professional officials may engage in pedagogical, scientific, research, artistic, cultural, sports and publishing activities, manage a farm and their own assets, unless otherwise provided by another Act. An official who obtains permission from his employer or enters into a contract to engage in one of the aforementioned activities, except in the cases of sports and publishing activities and of managing a farm or one's own assets, shall notify the Commission of this in writing within eight working days of the commencement of the activity and enclose with the notification the employer's permission and the contract under which he may perform the activity or profession.

(3) The Commission may within fifteen working days of receipt of the notification referred to in the preceding paragraph initiate a procedure for assessing the incompatibility of office if it considers that the performance of the activity, given the actual scope and nature of the activity in question and the office held by the professional official, is likely to present a disproportionate risk to the objective and impartial discharge of the duties of the office, or jeopardise its integrity. In this case, the Commission may issue a decision prohibiting the official from performing an additional activity or imposing conditions or restrictions on the official that must be complied with when performing the activity.

(4) Unless otherwise provided by another Act, the Commission may allow a professional official to perform a professional or other activity aimed at generating income, taking into account the public interest and the level of risk the performance of the activity poses to the objective and impartial discharge of the duties of the office or to its integrity. If a professional official wishes to obtain income from the body in which he holds office, the Commission shall not issue an authorisation. If the Commission issues an authorisation, it may impose conditions and limitations on the official that must be complied with when performing another activity.

(5) If the Commission finds that the official has not complied with the conditions and restrictions imposed by the decision referred to in paragraph 3 or the authorisation referred to in the preceding paragraph, or that the official performs a professional or other activity in a manner that interferes with the objective and impartial discharge of the duties of his office, it shall issue a decision revoking the authorisation. The official shall immediately or no later than after the decision on revocation of the authorisation has become final cease to perform the professional or other activity in question.

(6) In an administrative dispute against the Commission's decision on the revocation of the authorisation, the Administrative Court shall give priority to the matter. (7) If the official does not cease to perform the professional or other activity after the decision on the revocation of the authorisation has become final, the Commission shall inform the body responsible for the appointment and dismissal of the official. The body shall take appropriate measures against the official within 30 days in accordance with the law and its integrity plan and shall inform the Commission of this.

### Article 27

#### (Prohibition of membership and activities)

(1) A professional official may not be a member of a company, economic interest grouping, cooperative, public institute, public fund, public agency, or other entity governed by public or private law, or engaged in management, supervision or representation activities in these entities, the exceptions being societies, institutions and political parties.

(2) A non-professional official may not be a member of any entity governed by public or private law referred to in the preceding paragraph, or engaged in management, supervision or representation activities in these entities if the duties of his office include direct supervision of their work.

(3) The prohibition under paragraph 1 of this Article regarding the membership of public institutes, public funds, public agencies and other entities governed by public or private law, and the performance of management, supervision or representation activities in these entities, if the entity governed by private law is a holder of public authority or a public service provider, shall also apply to non-professional mayors and deputy mayors who hold their office in the municipality that is related to the entities referred to in this paragraph in terms of founding, ownership, supervision and finance.

#### Article 28

(Termination of activity, office or membership)

(1) An official who, prior to taking office, performed an activity or held an office that is incompatible with his office under this Act or is contrary to the preceding Article shall cease to perform the activity or hold office no later than within 30 days of the date of his election or appointment or the approval of his mandate. (2) An official who, prior to taking office, was a member of bodies whose membership is incompatible with his office under this Act or is contrary to the preceding Article, shall immediately submit his resignation or make a request to have his membership terminated; the membership shall be terminated within 30 days of the date of his appointment to office.

#### Article 29

(Warning by the Commission and the consequences of a failure to comply)

(1) If an official does not cease to perform an activity, hold membership, or hold an office that is incompatible with his office under this Act within the time limit referred to in the preceding paragraph, the Commission shall warn the official and set the time limit by which the official must cease to perform the activity or hold office. The time limit set by the Commission may not be shorter than 15 days or longer than three months. The Commission shall warn the official who, after taking office, commences an activity, gains membership or takes an office which is incompatible with his office under this Act on incompatibility and shall set the time limit by which the official must eliminate the incompatibility in question. This time limit may not be shorter than 15 days or longer than three months.

(2) If the Commission establishes that the official continues to perform the activity, hold a membership, or hold an office after the time limit set by the Commission has expired, it shall inform the relevant authority competent to propose or commence a procedure for the removal of the official from office. The competent authority shall inform the Commission of its final decision.

(3) The provisions of the preceding paragraph do not apply to directly elected officials. If the Commission establishes that the facts referred to in the preceding paragraph in connection with directly elected officials are true then it shall inform the public of its findings and publish them on its website.

#### **IPCA also defines fines for not obeying mentioned provisions:**

- A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who
  - o fails to inform the Commission that he is carrying out a professional or other activity;
  - o fails to comply with the Commission's decision on the prohibition of the performance of an additional activity or with the conditions or restrictions imposed on him by the Commission's decision;
- A fine of between EUR 1 000 and EUR 2 000 shall be imposed on an individual who
  - o fails to cease to perform a professional or other activity after the decision made on revocation of the authorisation has become final;
  - o fails to cease to hold an incompatible office, perform an incompatible activity, or revoke his membership.

**IPCA defines also restrictions of operations as follows:**

Article 35

(Restrictions on business activities and the consequences of violations)

(1) A public sector body or organisation which is committed to conducting a public procurement procedure in accordance with the regulations on public procurement or which carries out the procedure for granting concessions or other forms of public-private partnership, may not order goods, services or construction works, enter into public-private partnerships or grant special and exclusive rights to entities in which the official who holds office in the body or organisation concerned or in cases where the official's family member has the following role:

- participating as a manager, management member or legal representative; or
- has more than a 5% level of participation in the founders' rights, management or capital, either by direct participation or through the participation of other legal persons.

(2) The prohibition referred to in the preceding paragraph shall also apply to the public sector body or organisation's business dealings with the official or the official's family member as a natural person.

(3) The prohibition of operation within the scope detailed in paragraph 1 and the preceding paragraph of this Article shall not apply to other procedures or ways of obtaining funds that are not covered in paragraph 1 of this Article, providing that the provisions of this or any other Act relating to conflicts of interest and the obligation to avoid any conflicts of interest are duly complied with, or that the official is consistently excluded from all stages of decision-making on the performance and entering into of procedures or transactions. If the official or the official's family member violates the provisions on the avoidance of conflicts of interest or exclusion, the consequences shall be the same as those specified for the prohibition of operation. (4) The prohibition of operation referred to in paragraph 1 of this Article and the prohibition referred to in the preceding paragraph shall also apply to smaller parts of a municipality (village, local and quarter communities), which have their own legal personality, if the municipal official is a member of the council of a smaller part of the municipality or if a particular transaction may be entered into only with the municipal official's consent.

(5) Officials shall communicate the name, registration number and head office of those entities with which they or their family members have a relationship, as specified in paragraph 1 of this Article, to the body in which they hold office within one month after taking office and then no later than within eight days of any change occurring. The body shall submit the list of entities referred to in the preceding sentence of this Article to the Commission no later than within 15 days of receipt of information on or a notification of changes regarding the entities. The Commission shall publish the list of entities referred to in the first sentence of this paragraph on its website every month.

(6) The restrictions under the provisions of this Article do not apply to operation on the basis of contracts concluded prior to the official taking office.

(7) A contract or other forms of obtaining funds that are in conflict with the provisions of this Article shall be null and void.

Article 36

(Temporary prohibition of operation after the termination of office)

(1) An official may not act as a representative of a business entity that has established or is about to establish business contacts with the body in which the official held office until two years have elapsed from the termination of his office.

(2) The body in which the official held office may not do business with the entity in which the former official has a 5% participation in the founders' rights, management or capital, either by direct participation or through the participation of other legal persons until one year has elapsed from the termination of the office.

(3) The body in which the official held office shall immediately, or within 30 days at the latest, inform the Commission of the situation referred to in paragraph 1 of this Article.

Besides contracts and other acts shall be null and void, IPCA also defines fines for not obeying mentioned provisions:

- A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who
  - o fails to provide to the body in which he holds office information details on the entities with which he or his family members have a relationship, as specified in paragraph 1 of Article 35 of this Act;
  - o within two years of the termination of the office in relation to the body in which he held office, acts as a representative of a legal person that has established or is about to establish business contacts with the aforementioned body, in contravention of the provision of paragraph 1 of Article 36 of this Act;
- A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a body or organisation of the public sector or a smaller part of a municipality which acts in contravention of paragraphs 1, 2 or 4 of Article 35 of this Act, and on a responsible person of a body who fails to submit a list of the entities referred to in paragraph 5 of Article 35 of this Act to the Commission.
- A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a body in which the official has held office which does business with the official's business entity in contravention of paragraph 2 of Article 36 of this Act.
- A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a body in which the official has held office which, in contravention of paragraph 3 of Article 36 of this Act, fails to inform the Commission of conduct by an official that is contrary to paragraph 1 of Article 36 of this Act.

#### **Verification / control regards conflict of interests / incompatibilities / restriction on operations:**

The CPC may on its own motion, following a report submitted by any legal or natural person, or upon a request of certain state bodies, initiate proceedings relating, inter alia, to violations of the rules on conflicts of interest or restrictions on business and other activities. Such proceedings involve evaluation whether a person has failed to fulfil their obligation to submit a preliminary or ad hoc declaration.

Additionally, the truthfulness and legal relevance of ad hoc declarations is mandatorily subjected to examination by a head of the body or organization of public sector within which the reporting official person performs its public duties.

The investigative powers of the CPC are relatively broad. A finding that an official person has omitted their duty to declare private interest may be accompanied with decision that the person has acted in circumstances of conflict of interest or even that they acted corruptly. The investigation is conducted as a slightly modified administrative procedure. The CPC may request information and documentation from other bodies and organization of public sector and even from legal persons of private sector, as well as utilize the law enforcement bodies to gather relevant information.

In case of violations, the CPC may propose the discharge of the official person to their superseded and inform the public of its findings. Besides, the Commission can also issue fines for violating obligations under the IPCA, as already explained above.

#### **Disciplinary offences**

A civil servant (this term is narrower as "official person" as it does not include public officials and employees in state owned companies) may be subjected to one of the following disciplinary measures:

- an admonition;

- a fine which may amount up to 20-30 per cent of monthly salary, received in the month in which the serious violation was committed;
- divestment of, or dismissal from position;
- dismissal from title and appointment to a title one grade lower;
- cancellation of the contract of employment.

There is no explicit mention of an omission of declaration of interest among reasons to impose above stated measures. However, the Civil Servant Act permits such measure for any illegal conduct related to the performance of the public duties.

A judge may be subjected to one of the following disciplinary sanctions:

- a written admonition;
- suspension of promotions in forthcoming three years;
- reduction of salary up to 20% in the forthcoming year;
- relocation to a different court;
- dismissal from office.

Omissions of declaration of interest, both preliminary and ad hoc, are explicitly mentioned as a ground for imposing disciplinary sanction.

There are no disciplinary sanctions for high officials.

## Statistical data:

### a) Conflict of interests

Please find in the table below the number of cases in which the CPC investigated allegations that a person had failed to fulfil their duty to declare conflict of interest, together with the data on what was the outcome of the investigation. Please note that although these numbers are not limited to cases where the person under the investigation had the status of public official - we do not keep such a detailed statistics -the majority of the cases is related to such persons. Additionally, these statistics do not represent verification conducted in appeal procedures in concrete cases, nor do they represent supervisory/inspection procedures conducted by other state bodies (e.g. administrative inspection).

	2011	2012	2013	2014	2015	2016	2017
Number of cases (opened based on received report and on own motion)	NA	NA	109	105	86	83	101
Number of concluded cases	30	49	94	100	87	75	93
Number of cases with identified violations	3	15	21	15	8	12	16
Number of opened misdemeanour cases	NA	NA	17 misdemeanour acts with decisions (payment order) 2 reprimands,	19 misdemeanour acts with decisions 1 written warning	6 misdemeanour acts with decisions 2 written warnings, 1 payment order	16 misdemeanour acts with decisions 6 reprimands, 4 written warnings,	10 misdemeanour acts with decisions

			1 written warning		1 official notice of not issuing a written decision	9 payment order	3 reprimands 6 payment order 9 written warnings
Number of written opinions regards Col	136	106	118	94	164	125	140

Cases where CPC found violations (please see above mentioned statistics) were not made public. The only case which was in public (a case against economy minister whose company received funds from his ministry and who acted very transparent and who excluded himself from all activities connected with his subject), was made due to the fact media sent question to CPC

However, according to adopted Guidelines for dealing with Conflict of Interests cases from 28.3.2013, CPC informs public about statistics and work regards Col (but without concrete names) quarterly (on every fourth month, for previous 4 months of work)) on its web-page. Such information / report consists of following information:

- provisions of IPCA and work method regards Col;
- how many cases CPC analysed in previous 4 months;
- what were the results of analysis (how many violations, how many referrals to other bodies, how many dismissals, etc.);
- description of cases (anonymised) where violations were identified;
- analysis of dismissals of cases (reasons for dismissals - not regards concrete substance, but which reason CPC used (e.g. no substance of violation; cases were already analysed in the past; CPC was not competent for the allegation; criticisms; implausible allegation; etc.);
- information on possible misdemeanour procedures and what were the outcomes with this regard;
- information on issued legal opinions.

#### **b) Incompatibilities of functions**

Please find in the table below the number of cases in which the CPC investigated allegations that a person had failed to fulfil their duties regards incompatibilities:

	2013	2014	2015	2016	2017
Number of cases (opened based on received report and on own motion)	22	6	12	33	17
Number of concluded cases	18	6	12	25	13
Number of cases with identified violations	8	2	4	11	0
Number of opened	0	0	4 misdemeanour acts	6 misdemeanour acts with	6 misdemeanour acts with



misdemeanour cases			with decisions: 4 written warnings	decisions: 4 written warnings, 2 payment order	decisions:
Number of written opinions regards Col	73	132	58	36	31

### c) Restrictions of operation

Please find in the table below the number of cases in which the CPC investigated allegations that a person had failed to fulfil their duties regards restrictions of operations

	2013	2014	2015	2016	2017
Number of cases (opened based on received report and on own motion)	127	28	39	48	8
Number of concluded cases	119	28	39	40	23
Number of cases with identified violations	68	5	11	20	11
Number of opened misdemeanour cases	59 cases: 9 payment order (from 400 – 8800 EUR), 41 written warnings,	3 misdemeanour acts with decisions 1 written warnings	7 misdemeanour acts with decisions 3 written warnings	17 misdemeanour acts with decisions: 12 written warnings, 5 payment order	2 misdemeanour acts
Number of written opinions regards Col	153	124	57	36	24

**Description of training or advisory services to public officials regarding Col regulations:**

Statistics regarding the number of public officials that have participated in general anti-corruption and integrity training is already given under Article 5, Paragraph 2 (point 2 and 3).

Regarding CPs obligation to provide advices (written »legal« opinions / answers) on strengthening integrity and preventing and eliminating the risks of corruption in the public and private sectors, we gathered and prepared following statistics:

	2012	2013	2014	2015	2016	2017	TOTAL
Number of written opinions regards Col	106	118	94	164	120	140	742
Number of written opinions regards Gifts	14	13	11	11	8	4	61
Number of written opinions regards Incompatibilities of functions	82	73	132	58	36	31	412
Number of written opinions regards restrictions of business activities	153	73	124	57	36	24	467

With such provided opinions and advices CPC work in proactive way with the aim to prevent possible occurrence of corruption and other illegal behaviours and to advice persons how to act in different situations.

Having in mind that the CPC is the main body in Slovenia regards prevention of corruption, the CPC also published (and issued its own) publications with the aim to inform public about corruption and anti- corruption issues. Publications are available on following web pages:

- <<https://www.kpk-rs.si/sl/korupcija-integriteta-in-etika/publikacije-in-multimedija/55>>

- <<https://www.kpk-rs.si/sl/korupcija-integriteta-in-etika/publikacije-in-multimedija/multimedija>> -  
<[https://www.kpk-rs.si/upload/datoteke/Zbornik\\_Javna\\_etika\\_in\\_integriteta\\_odgovornost\\_za\\_skupne\\_vrednote.pdf\(1\).pdf](https://www.kpk-rs.si/upload/datoteke/Zbornik_Javna_etika_in_integriteta_odgovornost_za_skupne_vrednote.pdf(1).pdf)>

- etc.

# **THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY SLOVENIA**

## **ARTICLE 7, PARAGRAPH 4 UNCAC**

### **CONFLICT OF INTEREST**

#### **SLOVENIA (THIRD MEETING)**

#### **GOOD PRACTICES REGARDS CONFLICT OF INTERESTS**

Because of the fact that provisions on conflict of interests, reporting acts of corruption, assets declarations and public-private partnership are in Slovenian legal system since 2010 in majority updated, changed and modernised, we would like to emphasis those in more wider content. Provisions of new Integrity and Prevention of Corruption Act and Commission for the Prevention of Corruption, which is responsible to implement and supervise it, are covering also define articles (7—9 and 12) of UNCAC as follows:

#### **SLOVENIAN LEGISLATION ON CONFLICT OF INTEREST, GOOD PRACTICES AND PRACTICAL EXAMPLES CONFLICT OF INTEREST**

(Incompatibility of office, Restrictions on business activities due to conflict of interest and Conflict of interest)

#### **Good practices reported by Slovenia:**

- new provisions of Integrity and Prevention of Corruption Act (hereinafter: IPCA) in this matter;
- wide range of persons who are subjects of these new provisions;
- penalties for violations;
- control and supervision of such provisions; etc.
- establishments and maintenances of records of public officials and cases where Commission found the existence of conflicts interests; violations on business activities and Incompatibility of offices;
- preparation of legal opinions, explanations and interpretation of the statutory provisions and other materials relating to incompatibilities and conflicts of interest with an emphasis on responding to the questions by public and formal institutions;
- organisations of seminars regards Conflict of Interests;
- online submission of report about violation of the Integrity and Prevention of Corruption Act (reports about acts of corruption, unethical or other unlawful behaviour, incompatibility of office, conflict of interest etc.).

Slovenian legal system (IPCA) defines obligation to avoid Conflict of Interests in promoting and strengthening transparency and “fair play” within the processes and

procedures of exercising public authority, public functions and public affairs. IPCA1 institutes aimed at absolute prohibition (prevention) of **certain conflict of interests**:

- incompatibility of office and prohibition of activities for officials,
- restriction of business between public sector institutions and enterprises connected to
- officials or their family members.

**Conflict of interest** means *circumstances in which the private interest of an official person influences or appears to influence the impartial and objective performance of his/her public duties.*

**Private interest of an official person** means *a pecuniary or non-pecuniary benefit which is either to his/her advantage or to the advantage of his/her family members or other natural or legal persons with whom s/he maintains or has maintained personal, business or political relations.*

According to IPCA every official person<sup>2</sup> must pay attention to any actual or possible conflict of interest and shall make every effort to avoid it.

IPCA further on defines that official person who, upon taking up a post or office or during the performance of his/her official duties finds out that a conflict of interest has arisen or might arise must:

- 1) *immediately inform his/her superior in writing, and if s/he has no superior, the Commission for the Prevention of Corruption (if not, official person can be punished with a fine of not less than 400 and not more than 1200 euro) , and*
- 2) *immediately cease to perform any work with regard to the matter in which the conflict of interest has arisen, unless the delay would pose a risk.*

The superior or the Commission must decide on the conflict of interest within 15 days and immediately communicate the decision to the official person.

- **The second (or first) possibility: self-exclusion of official person** from the matter in which the conflict of interest has arisen
- *The purpose and the goal: an official person may not use his/her office or position to advance his/her personal interests or the personal interests of another person.*

It should also be stressed that Commission for the Prevention of Corruption of the Republic of Slovenia is (since June 2010) responsible body to take all necessary procedures for investigating the possible conflicts of interests as follows:

- if there is a possibility that a conflict of interest has arisen in the official conduct (act) of official person, the Commission *initiates a procedure for establishing the*

- actual existence of the conflict of interest and its consequences* (it can be done within two years of the performance of the official acts).
- in case of establishing conflict of interests, the Commission has the following competences/duties:
  - to *inform the competent authority or the employer of the official person and set the time limit by which the competent authority or the employer is obliged to inform the Commission of measures taken in this respect, and*
  - in case of *intentional breaking of obligation to avoid conflict of interests*, the Commission informs also *all other competent authorities*.

In previous year 2011 Commission for the Prevention of Corruption dealt with a total of 30 cases where violations of the provisions of avoiding conflicts of interest were in place (conflict of interests was identified in four cases; three cases were sent to other competent authorities; in remaining cases conflict of interests were not confirmed).

Furthermore, at the request and questions of various authorities and public, Commission for the Prevention of Corruption issued:

- 27 opinions, guidelines or recommendations in relation with the notion of conflict of interest,
- approximately 170 opinions and answers.

Example of identified conflict of interest in public sector:

*Commission for the Prevention of Corruption received question (allegation) about possible conflict of interest of three municipal councillors and members of the Local Commission for mandates, elections and appointments (hereinafter Local Commission) in one of the local municipalities in Slovenia. Anonymous writer explained that members of Local Commission are at the same time municipal councillors. When allegation came it was time to nominate, select and appoint new supervisory directors of one company. Three municipal councillors which were at the same time also members of local Commission nominated themselves for candidates; voted in Local Commission for themselves as the most suitable candidates and also confirmed themselves on the Municipality Council plenary.*

**Conclusions:**

- *all three were in conflict of interest when they were voting for the most suitable candidate at Local Commission plenary (they did not exclude themselves from the voting);*
- *one was in conflict of interest as a member of Municipality Council because he voted in a process where he was a candidate for supervisory director;*
- *We also started misdemeanour procedure (fine 400 – 1200 EUR).*

**Restrictions on business activities due to conflict of interest**

**Good practice reported by Slovenia:**

- new provisions of Integrity and Prevention of Corruption Act (hereinafter: IPCA) in this matter;
- automatisisation of detection of violations through Supervisor;
- establishments and maintenances of records of public officials and cases where Commission found the existence of violations of these provisions;
- preparation of legal opinions, explanations and interpretation of the statutory provisions;
- organisations of seminars; IPCA defines number of restrictions on business activities amongst public and private bodies as follows:

A public sector body or organisation which is committed to conducting a public procurement procedure in accordance with the regulations on public procurement or which carries out the procedure for granting concessions or other forms of public-private partnership, **may not order goods, services or construction works, enter into public-private partnerships or grant special and exclusive rights** to entities in which the official who holds office in the body or organization concerned or in cases where the official's family member has the following role:

- participating as a manager, management member or legal representative; or
- has more than a 5% level of participation in the founders' rights, management or capital, either by direct participation or through the participation of other legal persons.

The mentioned prohibition also applies to the public sector body or organisation's business dealings with the official or the official's family member as a natural person.

A contract or other forms of obtaining funds that are in conflict with the above mentioned prohibitions **shall be null and void**.

#### **Regards the prevention of such violations Commission for the Prevention of Corruption:**

- prepared online electronic form for reporting entities which are subject to the restrictions of business activities (it also allows a direct and automated publishing all entities on the Commission's web site - <https://www.kpk-rs.si/en>);
- in 2011 prepared and published several legal opinions and answered approximately 160
- questions related to restrictions of business activities;
- launched in 2011 a project to establish a system for the automatic identification of transactions (violation of provisions on restriction of business activities) through the online application Supervisor. The system confirmed 61 violations so far.