

Conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7-9 of the UN Convention against Corruption

Conflicts of interest prevention and asset declaration

- 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.

For the purpose of fulfilling this legal obligation, the Central Election Commission of Bosnia and Herzegovina prescribed a layout Form of Personal Data of elected officials, executive functionaries and advisors, which contains personal data, data on the function performed by an official, data on close and distant relatives, data on personal engagement in public companies, private enterprises, the Agency for Privatization, associations and foundations, as well as information on fees, financial and ownership interest in a company.

These forms are submitted on the beginning of a mandate and upon the request of the Central Election Commission of Bosnia and Herzegovina.

Data from a Form of Personal Data are used for creation of database and records of all elected officials, executive functionaries and advisors, based on what it is verified whether violation of the provisions of the law on conflict of interest took place.

The laws on conflict of interest have not stipulated sanctions if an official does not submit a completed form, but given the fact that each official must fill out a statement under full material and criminal liability that he/she confirms with their signature that the information provided is true and accurate, the Central Election Commission of Bosnia and Herzegovina, in case of establishing that some information have not been given or that some information are inaccurate, pursuant to Article 17 of the Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina, may file a report to the competent Prosecutors Office.

- Articles 15.7, 15.8 and 15.9 of the Election Law of Bosnia and Herzegovina regulate the obligation of all candidates at all levels to submit a signed statement to the Central Election Commission on their total ownership which contains data on revenues, properties and expenditures of candidates and members of their immediate family at home and abroad. This statement shall be submitted at the beginning and end of their mandate.

The forms of the Statement on Ownership was regulated by the Election Law of BiH in 2002, and in 2010 amendments were made to the form in a technical sense, i.e. the items include mandatory questions that are related to the type of income, properties and liabilities in the form.

The form of the Declaration of Assets shall be submitted by elected members of government, while executive functionaries and advisors are not obliged to submit a Declaration of Assets. The abovementioned Declaration of Assets contains the information prescribed in Article 15.7 (1) of the BiH Election Law, and includes data on the wealth of candidates and members of their immediate family, spouse, children and household members, according to which candidate has a legal obligation to deliver, in accordance with Article 15.7 (2) of the BiH Election Law. The forms are submitted, depending on the level of government: when the candidacy for the state level and entity level, at the beginning of the mandate of other levels of government and at the end of the mandate for all levels of government.

The Central Election Commission of Bosnia and Herzegovina, in accordance with Article 15.9 of the Election Law of Bosnia and Herzegovina, provides the availability of the forms containing the statement of the total wealth available to the public, but is not responsible for the accuracy of information relating to the information contained on the form. Accordingly, the Central Election Commission receives the declarations of assets for candidates for elective office at the state level and entity level, and for elected members of authorities other than the level of BiH and entity levels, which are kept, and the same placed on the website of the Central Election Commission www.izbori.ba in order to make them available to the public.

Failure to submit a complete Declaration of Assets is regulated by a fine ranging from 200 to 3,000 BAM.

- The State Civil Service Agency has established an application form for civil servants and a check of the financial details provided in the form is within the remit of the inspecting authority. Unlike the previous system, amendments to the Law of 2009 have led to the introduction of penalties (including severe fines) for providing inaccurate or false information and failing to submit the financial report.

Code of ethics for civil servants

- Article 3 of the Law on Changes and Amendments to the Law on Civil Service in the Institutions of Bosnia and Herzegovina (“The BiH Official Gazette”, number: 43/09) creates legal basis for issuance of the Code of Conduct for state level civil servants. The BiH Civil Service Agency had prepared the text of the Code and Proposal of the Code of Conduct for Civil Servants in the Institutions of BiH has been submitted to the procedure of adoption at the BiH Council of Ministers.
- The FBiH Civil Service Agency adopted changes and amendments to the Code of Ethics for Civil Servants in FBiH (FBiH Official Gazette issue 82/09) which incorporate provisions to regulate specifically the question of understanding the concept of risk of corruption and concept of ethics, as well as conduct of civil servants in accordance with prescribed rules.
- The Government of the Republika Srpska, on its 139th session held on September 3rd 2009, adopted the Code of Amendment to the Code of Conduct of Civil Servants of Republika Srpska and thus established clear rules which regulate movement of civil servants to private sector in order to avoid conflict of interests.
- The BiH Civil Service Agency BiH organizes regularly training courses for newly recruited civil servants. One of the modules of training is also *Ethics in public administration*. In addition to the ethics module, another module of training for newly recruited staff (which lasts all week, eight hours a day, and must be attended by each civil servants) includes the Behavioural Code of Conduct for Civil Servants.
- Trainings for civil servants on provisions of the Law on Conflict of Interest are organized and held by the BiH Civil Service Agency, as part of mandatory training for newly-employed civil servants.

Reporting of Corruption (protection of Whistleblowers)

- Law on Agency for Prevention of Corruption and Coordination in Fighting Corruption („Official Gazette of BiH“, no. 103/09) provides basis protection for “reporting corruption”. The law determines that “no one would be punished or suffer any consequences for reporting, in good faith, the matter believed to be corruptive acting or irregularity in the prescribed procedures. In case a person who informed of the potential corruptive behaviour or misconduct in public service, suffers consequences, he/she has right to a compensation defined in the separate procedure before a competent body to be additionally regulated by the Agency.”
- Agency for Prevention of Corruption and Coordination in Fighting Corruption has developed the online system for reporting corruption