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PARLIAMENT OF THE REPUBLIC OF MACEDONIA

Pursuant to article 75, paragraphs 1 and 2 from the Constitution of the Republic of Macedonia, the president of the Republic of Macedonia and the president of the Parliament of the Republic of Macedonia hereby issue the following

**ORDINANCE
FOR THE PROCLAMATION OF THE LAW ON CHANGES AND ADDITIONS TO
THE LAW ON PREVENTION OF CONFLICTS OF INTEREST**

We hereby proclaim the Law on Changes and Additions to the Law on Conflicts of Interests, which the Parliament of the Republic of Macedonia enacted on its session, held on the 10th of September 2009.

Num. 07-3884/1
10th September 2009
Skopje

President of
the Republic of Macedonia,
Gjorgje Ivanov.

President of the Parliament of the Republic of Macedonia,
Trajko Veljanoski

**LAW ON CHANGES AND ADDITIONS TO THE LAW ON PREVENTION OF
CONFLICTS OF INTEREST**

Article 1

In the Law on Prevention of Conflicts of Interests (“Official Gazette of the Republic of Macedonia” no. 70/2007), in article 1, paragraph (1), the words: “power and in the entrusted public authorizations by the Officials exercising the public authorizations” shall be replaced with the words: “public authorizations and duties performed by Official persons”.

Article 2

Article 2 shall be changed to read:

“The aim of this law is to ensure the prevention of the abuse of public authorizations and duties on officials for the purpose of achieving personal gain or gains for those close to him/her and to ensure the prevention of the possibility for the private interest of an official to jeopardize the public interest.”

Article 3

In article 3, paragraph (1), line 1 shall change to read:

“- “Conflicts of interest” shall mean a conflict between the public authorizations and duties on one hand with the private interests of officials, where the official has a private interest which has an impact or could have an impact on the performance of his/her public authorizations and duties.”.

Line 2 shall change to read:

“-“public authorizations and duties” shall mean the execution of activities of public interest under equal conditions in the material and immaterial sense,”.

In line 3, the words, the words: “duties of public interest” shall be replaced with the words “public authorizations and duties”.

In line 5, the period shall be replaced with a comma which shall be followed by the words: “as well as any natural person or legal entity with which the official has a private interest”.

Line 6 shall change to read:

“- “a gift” within the meaning of this law, shall mean securities, objects, rights and other services offered to the official in exchange for performing or failure to perform a public authorization or duty,”.

After line 7, a new line 8 shall be added, which shall read:

“- “statement of interest”, within the meaning of this law, shall be a statement made by the official, stating his/her private interests in the performing of the public authorizations and duties,”.

Paragraph (2) shall change to read:

“Officials, within the meaning of this law shall be the president of the Republic of Macedonia, the members of parliament, the mayors, the ambassadors and other persons appointed by the Republic of Macedonia to positions abroad; the persons elected or appointed to and by the Parliament of the Republic of Macedonia and the Government of the Republic of Macedonia, the state administration authorities and other state authorities, the judicial authorities, public enterprises, institutions, other legal entities of the central government and the local authorities, the civil servants and the employees in the state administration authorities and other state authorities, the judicial authorities, public enterprises, institutions, other legal entities of the central government and the local authorities, the counselors in the municipal councils, the counselors in the council of the city of Skopje, as well as persons employed through the agencies for temporary employment with authorizations specified by law.”

Article 4

In article 8, paragraph (1) shall be deleted.

In paragraph (2), which shall become paragraph (1), the words: “discharge of the function and protection of the public interest” shall be replaced by the words: “execution of the public authorizations and duties”.

Paragraph (3) shall be deleted.

Article 5

Article 9 shall change to read:

“Any official person that, before he she started to perform public authorizations or before he/she became a civil servant, or before he/she was employed as a person with special duties and authorizations specified by law, owned and managed a commercial company or an institution, shall be obligated, while performing the public authorizations or duties, to entrust the management to a another person or a separate body, with the exception of the persons stipulated in article 3, paragraph 1, line 5 of this law.”

Article 6

Article 10 shall be deleted.

Article 7

Article 15 shall change to read:

“An official person shall not receive any gifts while performing public authorizations or duties, with the exception specified by the Law on Usage and Management of Assets Used and Managed by Government Bodies.”

Article 8

In article 16, the words: “of the event to the competent authority that had elected or appointed him/her” shall be replaced by the words: “to the State Commission”.

Article 9

Article 17 shall change to read:

“(1) An officer, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not get employment in a company where he/she performed supervision or had established a contractual relationship whilst performing the public authorizations or duties.

(2) An officer, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not acquire in any way shares or parts in the legal entity where he/she worked or performed supervision.

(3) If an officer, within the time period stipulated in paragraph (2) of this article, does acquire shares or parts by way of inheritance, then he/she shall be obligated to report this to the State Commission.

(4) An officer, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not be able to represent natural persons or legal entities from the authority where he had previously worked, if he/she participates in the making of a decision on a specific case.”

Article 10

The title of VIII shall change to read: “VIII. MEMBERSHIP IN MANAGEMENT AND SUPERVISORY AUTHORITIES”.

Article 11

Article 18 shall change to read:

“(1) An official person may not be a member in a management or a supervisory board of a company, public enterprise, agency, fund as well as all other organizational forms with dominant state capital, unless otherwise specified by law.

(2) Notwithstanding paragraph (1) of this article, a civil servant or a person with special duties and authorizations specified by law, can be a member of the management board or the supervisory authority of a company”.

Article 12

Article 19 shall be deleted.

Article 13

The words: “and foundations” shall be added in the title of Chapter IX after the words: “citizen’s associations”.

Article 14

In article 20, paragraph (1), the words: “and foundations” shall be added after the words “citizen’s association”.

After paragraph (1), two new paragraphs (2) and (3) shall be added, which shall read:

“(2) An official person can be a member of management or supervisory authorities of non-profitable organizations, citizens’ associations and foundations that perform scientific, cultural, sports, humanitarian and other similar activities, without the right to receive compensation except for traveling costs related to the activity of these organizations, associations and foundations.

(3) In the cases stipulated in paragraph (2) of this article, the official person shall be obligated to inform the State Commission within a time period of 30 days”.

Article 15

After article 20, a new chapter IX-a and five new articles 20-a, 20-b, 20-c, 20-d and 20-e shall be added which shall read:

“IX-a. STATEMENT OF INTERESTS

Article 20-a

The President of the Republic of Macedonia, the members of parliament, the mayors, the ambassadors and the other persons appointed by the Republic of Macedonia abroad, the persons elected or appointed to or by the Parliament of the Republic of Macedonia and the Government of the Republic of Macedonia, the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institutions and other authorities of the central government and the local authorities specified by law, when assuming the performance of public authorizations and duties, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of a conflict of interest to the State Commission.

Article 20-b

The civil servants and employees in the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institution, other legal entities of the central and local governments specified by law, as well as persons employed through agencies for temporary employment with authorization, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of conflicts of interest, to the authorities where they perform their duties, i.e. where they are employed.

Article 20-c

If, while performing public authorizations and duties, an officer finds himself/herself in a state of conflicting interests, then he/she shall be obligated, within 30 days from the time when the change occurred to inform the State Commission.

If an official person finds employment in a company or another legal entity in the private sector within a time period of three years, then he/she shall be obligated, within 30 days, to inform the State Commission thereof.

Article 20-d

The form and the content of the form of the statement of interests stipulated in articles 20-a and 20-b of this law shall be prescribed by the State Commission.

Article 20-e

In the event when there is a reasonable doubt or if there is evidence that suggests that a conflict of interest exists, then the State Commission, within the meaning of this law, shall verify the statements referring to the existence/non-existence of conflicts of interests given in accordance with the Law on Public Procurement.”

Article 16

In article 21, paragraph (1), line 7 shall change to read: “- imposes the measures specified by this law.”

Article 17

Article 22 shall change to read:

“(1) The State Commission shall implement the procedure for determining the existence of conflict of interest on the basis of the principles of legality, objectivity, non-selectiveness and impartiality.

(2) The State Commission shall implement the procedure for determining the existence of conflict of interest:

- ex officio,
- upon a request of the official person,
- on the basis of allegations from another person and
- upon a request of the appointed official that manages the authority.

(3) The procedure for determining the existence of a conflict of interest can also be instigated on the basis of an anonymous complaint, if the allegations therein have merit.

(4) For the purposes of the procedure and in order to determine the factual situation, the State Commission shall collect documents, data and information from natural persons and legal entities as well as from the official person.

(5) The entities stipulated in paragraph (4) of this article shall be obligated to submit the documents, data and information available to them within 15 days from the day when they received the request from the State Commission.

(6) If the entities stipulated in paragraph (4) of this article fail to act within the time period stipulated in paragraph (5) of this article, the State Commission shall verify the allegations for the existence of a conflict of interest ex officio.

(7) The State Commission shall be obligated to make a decision referring to the existence or non-existence of a conflict of interest within 30 days after the entities stipulated in paragraph (4) of this article have sent in their information, or after the allegations have been verified.”

Article 18

Article 23 shall be changed to read:

“(1) If the State Commission concludes that there exists a conflict of interest, then it shall be obligated to inform the official person and to ask him/her to remove the conflict of interest within 15 days from the day when the he/she received the decision.

(2) If the official person acts in accordance with the instruction, the State Commission shall stop the procedure and shall inform the official person as well as the entity that submitted the allegations.

(3) If the official person fails to act in accordance with paragraph (1) of this article, the State Commission shall enact a decision to impose a measure public warning which shall be submitted to the official person.

(4) If the official person which has a public warning measure imposed against him/her, fails to undertake actions to remove the conflict of interest and to inform the State Commission within 15 days after he/she received the decision, then the State Commission shall start an initiative for termination of the public authorizations or duties or an initiative for instigating a disciplinary procedure to determine the existence of a disciplinary violation, before the competent authority.”

Article 19

Article 24 shall be deleted.

Article 20

In article 25, paragraph (1) shall change to read:

“(1) One of the following measures shall be imposed against the official person:

- public warning,
- initiative for instigating a disciplinary procedure to determine the existence of a disciplinary violation and
- initiative for dismissal of the official person from the position where he/she performs public authorizations or duties.”

Article 21

Article 26 shall be changed to read:

“(1) A public warning measure shall be imposed against the official person if it is determined that the official person acted contrary to the provisions of this or another law which lead to a significant disruption of the performance of public authorization and duties.

(2) The measure involving the initiative to dismiss the official person from the position where he/she performs public authorizations or duties, i.e. the initiative to instigate a disciplinary procedure to determine the existence of a disciplinary violation, shall be imposed against the official person if a public warning measure had previously been imposed against this official person.”

Article 22

Articles 27 and 28 shall be deleted.

Article 23

In article 29, paragraph (1) shall change to read:

“Against the decision stipulated in article 23, paragraph (4) of this law, where one of the measures stipulated in article 25, paragraph (1) of this law is imposed, the official person can instigate a procedure before the competent authority or court.”

Article 24

Article 30 shall change to read:

“(1) The State Commission shall inform the public about the cases of conflict of interest it has acted upon, in accordance with the law.

(2) The State Commission shall be obligated to safeguard the data and information it comes across, from misuse for purposes of discrimination or demeaning the official person.”

Article 25

After article 31, a new Chapter XIII-a shall be added, as well as two new articles 31-a and 31-b, which shall read:

“XIII-a. MISDEMEANOR PROVISIONS

Article 31-a

(1) A fine in the amount of the MKD equivalent of 500 to 1,000 EUR shall be imposed against a natural person for a misdemeanor if he/she acts contrary to the provisions stipulated in article 17 of this law.

(2) A fine in the amount of the MKD equivalent of 3,000 to 5,000 EUR shall be imposed

against the responsible person in the legal entity if he/she acts contrary to the provisions stipulated in article 17 of this law.

(3) A fine in the amount of the MKD equivalent of 1,000 to 3,000 EUR shall be imposed against an official person for a misdemeanor if he/she acts contrary to the provisions stipulated in articles 20-a, 20-b and 20-c of this law.

Article 31-b

The misdemeanor procedure stipulated in article 31 of this law and the misdemeanor sanctions shall be implemented and imposed by the competent court.”

TRANSITIONAL AND FINAL PROVISIONS

Article 26

The bylaw stipulated in article 20-d of this Law shall be prescribed by the State Commission within three months from the legal effectuation of this law.

Article 27

The official persons within the meaning of this law, are hereby tasked to submit a statement of interests within three months from the legal effectuation of the act stipulated in article 20-d of this law.

Article 28

The legislative commission of the Parliament of the Republic of Macedonia is hereby authorized to determine the cleared version of the text of the Law on Prevention of Conflicts of Interest.

Article 29

This law shall become legally effective on the day when it is published in “the Official Gazette of the Republic of Macedonia”.