

Further to its competence arising from Article 59 of the Rules of Procedure of the Croatian Parliament, the Legislation Committee of the Croatian Parliament, at the 45th session held on 16 April 2013, established the revised version of the Act on the Prevention of Conflict of Interest (Official Gazette 26/11), the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12) and the Decision of the Constitutional Court (Official Gazette 126/12), which establish the time of their entry into force.

Class: 021-17/13-02/10

Zagreb, 16 April 2013

President
of the Legislation
Committee
of the Croatian
Parliament
**Ingrid Antičević
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ACT

ON THE PREVENTION OF CONFLICT OF INTEREST

(revised version)

TITLE I

GENERAL PROVISIONS

Article 1

(1) This Act regulates the prevention of conflict between private and public interest in the exercise of public office, the parties that are bound to proceed according to the provisions of this Act, the obligation to submit the declaration of assets and the content of the declaration of assets, the procedure of checking the data in such declarations, the duration of the obligations referred to in Act, the election, composition and competence of the Commission for Conflict of Interest and other issues of importance for the prevention of conflict of interest.

(2) The purpose of this Act is to prevent conflict of interest in the exercise of public office, to prevent private matters from influencing decision-making in exercising public office, to strengthen integrity, objectivity, impartiality and transparency in exercising public office and to strengthen the trust of citizens in bodies vested with public authority.

Article 2

(1) When exercising public office, officials may not put their private interest above the public interest.

(2) Conflict of interest arises when the private interests of officials are contrary to the public interest, and particularly in cases:

- where the private interest of an official affects his or her impartiality in exercising public office, or

- where there is a founded opinion that the private interest of an official affects his or her impartiality in exercising public office, or

- where the private interest of an official may affect his or her impartiality in exercising public office.

Article 3

(1) For the purposes of this Act, the term official means:

1. The President of the Republic of Croatia,

2. The President and Deputy Presidents of the Croatian Parliament,

3. Representatives in the Croatian Parliament,

4. The Prime Minister and members of the Government of the Republic of Croatia (Deputy Prime Ministers and Ministers in the Government of the Republic of Croatia),

5. The president, deputy president and judges of the Constitutional Court of the Republic of Croatia,

6. Deputy ministers,

7. Head of Office of the Prime Minister of the Government of the Republic of Croatia,

8. Heads of state offices,

9. The Chief of Police,

10. The head of the Tax Directorate,

11. The head of the Customs Directorate,

12. The Chief Inspector of the State Inspectorate,

13. The Chief State Auditor and his or her deputies,

14. The Governor, Deputy Governor and Vice-Governor of the Croatian National Bank,

15. The Ombudsman and his or her deputies,
16. The Ombudsman for Children and his or her deputies,
17. The Ombudsman for Gender Equality and his or her deputies,
18. The Ombudsman for Persons with Disabilities and his or her deputies,
19. The Secretary of the Croatian Parliament,
20. The Secretary of the Government of the Republic of Croatia,
21. The Secretary General of the Constitutional Court of the Republic of Croatia,
22. The Secretary of the Supreme Court of the Republic of Croatia,
23. The Deputy Secretary of the Croatian Parliament,
24. The Deputy Secretary General of the Government of the Republic of Croatia,
25. The Deputy Head of Office of the Prime Minister of the Government of the Republic of Croatia,
26. Assistant ministers,
27. The Spokesperson of the Government of the Republic of Croatia,
28. Heads of state administrative organisations;
29. The Director and Deputy Directors of the State Property Management Agency,
30. The Head and assistant heads of the Croatian Pension Insurance Institute,
31. The Head, Deputy Head and assistant heads of the Croatian Institute for Health Insurance,
32. The Head and deputy heads of the Croatian Employment Service,
33. The Chief State Treasurer,
34. The Head of Office of the President of the Croatian Parliament,
35. Heads of agencies and directorates of the Government of the Republic of Croatia and heads of institutes appointed by the Government of the Republic of Croatia,
36. Officials in the Office of the President of the Republic of Croatia, appointed by the President of the Republic of Croatia in compliance with the provisions of a special act and other legal acts,
37. The Chief and deputy chiefs of the General Staff Headquarters of the Armed Forces of the Republic of Croatia,

38. The Chief Defence Inspector,

39. Commanders and deputy commanders of branches of the Armed Forces of the Republic of Croatia, and of the Command for Logistic Support, the Head and Deputy Head of the Croatian Military Academy, and the Commander of the Coast Guard of the Republic of Croatia,

40. The President, Deputy Presidents and members of the State Electoral Commission of the Republic of Croatia,

41. Presidents and members of management boards of companies majority owned by the State,

42. Prefects and the Mayor of the City of Zagreb, and their deputies,

43. Mayors, heads of municipalities, and their deputies,

44. The President, deputies and members of the State Commission for the Supervision of Public Procurement Procedures,

45. The President and members of the Commission for Conflict of Interest.

Pursuant to Article 1 of the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12), which entered into force on 26 January 2012, paragraph 1 was amended.

(2) The provisions of this Act shall also apply to acting officials appointed or confirmed by the Croatian Parliament, appointed by the Government of the Republic of Croatia or the President of the Republic of Croatia, with the exception of persons appointed by the President of the Republic of Croatia in conformity with the provisions of the Act on Service in the Armed Forces of the Republic of Croatia.

(3) The provisions of this Act referred to in Articles 8, 9 and 10, Title III, Articles 42 to 46, and Article 55 paragraph 3 shall also appropriately apply to senior civil servants appointed by the Government of the Republic of Croatia on the basis of a previously conducted public recruitment procedure.

THE MEANING OF TERMS USED IN THIS ACT

Article 4

(1) The salary of an official, in the meaning of this Act, shall be any monetary income for the exercise of public office with the exception of travel and other expenses for the exercise of public office.

(2) A family member of an official, in the meaning of this Act, shall be the official's spouse or common-law partner, his or her consanguine within a vertical line of descent, the official's brothers and sisters, and the official's adopter or adoptee.

(3) A business relation, in the meaning of this Act, shall relate to public procurement contracts, state subsidies and other forms of acquisition of funds from bodies of public

authority, and concessions and public-private partnership agreements, with the exception of state aid in the event of natural disasters.

(4) Business entities, in the meaning of this Act, shall include companies, institutions and other legal entities, as well as other business entities, such as sole traders, craftsmen and freelance operators, and title holders and members of other legally established business entities.

(5) Connected persons, in the meaning of this Act, shall include the persons referred to in paragraph 2 of this Article and other persons who on other grounds and according to other circumstances may justifiably be deemed to have connections of interest with the official.

(6) Words and terms having a gender meaning, regardless of whether they are used in the male or female grammatical gender, relate equally to both the male and female sex.

PRINCIPLES OF ACTION

Article 5

(1) In the exercise of public office, officials shall act in an honourable, honest, conscientious, responsible and impartial manner, maintaining their personal integrity and the dignity of the official office entrusted upon them, as well as the trust of citizens.

(2) Officials shall be personally responsible for their activities in exercising the public office to which they were appointed or elected with regard to the body or citizens who appointed or elected them.

(3) Officials shall not use public office for their personal gain or the gain of a person who is connected with them. Officials shall not be dependent in any manner on persons who might influence their objectivity.

(4) Citizens shall have the right to be acquainted with the conduct of officials as public persons, which are connected with the exercise of public office.

TITLE II

THE PREVENTION OF CONFLICT OF INTEREST

OFFICIALS' ACTIONS IN THE CASE OF DOUBT ABOUT WHETHER CONFLICT OF INTEREST EXISTS

Article 6

(1) If there is doubt about whether certain conduct complies with the principles of public office, officials shall request an opinion from the Commission for Conflict of Interest (hereinafter: the Commission).

(2) The Commission shall, within 15 days at the latest of receiving the request, provide a reasoned opinion on the official's request.

(3) During the procedure to assess whether conflict of interest exists, the nature of tasks that the official performs will be especially taken into account.

(4) After election or appointment to public office, an official shall be obliged to arrange his or her private affairs in order to prevent foreseeable conflict of interest. If such conflict of interest occurs, the official shall be obliged to resolve it in such a manner as to protect the public interest. In the case of doubt about possible conflict of interest, the official shall be obliged to do everything necessary to separate private from public interest.

PROHIBITED ACTIONS BY OFFICIALS

Article 7

Officials shall be prohibited to act in the following manner:

- a) to receive or solicit benefits or a promise of benefits for exercising public office,
- b) to obtain or receive a right if the principle of equality before the law is violated,
- c) to misuse the special rights of an official which stem from or are necessary for exercising public office,
- d) to receive additional compensation for tasks stemming from exercising public office,
- e) to solicit, accept or receive something of value or a service for voting on any issue, or to influence a decision made by a body or a person for personal gain or the gain of a connected person,
- f) to promise employment or any other right in exchange for a gift or the promise of a gift,
- g) to exert influence in obtaining jobs or contracts through public procurement,
- h) to use privileged information about the activities of state bodies for personal gain or for the gain of a connected person,
- i) to use an official position in any other manner by influencing decisions of legislative, executive or judicial authorities in order to achieve personal gain or the gain of a connected person, a privilege or a right, to conclude a legal affair, or in any other manner to receive benefits of personal interest or of interest to another connected person.

PROVIDING INFORMATION ON THE ASSETS OF OFFICIALS

Article 8

(1) Officials shall be obliged to submit a report to the Commission, within 30 days of assuming office, with data on: the office they perform on a professional or non-professional basis; other performed duties or activities; the activity they performed prior to assuming their office, including data on their assets and the assets of their spouse and children under the age of 18, with the situation on the day of submission.

(2) Officials shall be obliged to submit a report to the Commission, within 30 days of the day when they cease to exercise public office, with data on their assets. If a significant change in the data in respect of the assets has occurred during the exercise of public office, officials shall also be obliged to submit a declaration thereof to the Commission by the end of the year during which the change took place.

(3) Officials who have been re-elected at elections or re-appointed to the same office, irrespective of whether they exercise the office on a professional or non-professional basis, must, within 30 days of assuming office, at the beginning of their new term of office, submit a declaration of their assets and the assets of their spouse and minor children to the Commission, with the situation on the day of submission.

(4) The officials referred to in Article 3, paragraph 3 of this Act shall submit declarations of assets to the Commission within 30 days of the day of appointment, and every four years for the duration of their office, with data on their assets and the assets of their spouse or common-law partner and minor children, with the situation on the day of submission. If, while exercising office, a significant change has occurred in the state of assets, they shall submit a declaration thereof to the Commission at the end of the year when the change occurred. The persons referred to in Article 3, paragraph 3 of this Act shall, within 30 days of their relief from office, submit a declaration of assets with the situation on the day of submission.

(5) Data on officials' assets shall include data on inherited assets and data on acquired assets.

(6) Data on inherited assets shall include data on the type and total value of inheritance including information on from whom it has been inherited.

(7) Data on acquired assets shall include data on:

- real estate acquired by purchase, exchange, as a gift, by conferral and appropriation of real estate from a company, real estate acquired in a liquidation or bankruptcy procedure, real estate acquired on the basis of a ruling of a court or other body, by restitution of the property acquired in a denationalisation process, and real estate acquired in any other way from other persons,
- movable assets of greater value,
- business shares and stocks in companies,
- shares owned by other business entities,
- savings deposits if they exceed the annual net income of the official,
- debts, assumed guarantees and other liabilities,
- income from paid employment, income from self-employment, income from property and proprietary rights, income from capital, income from insurance and other income,
- receipts which are not considered as income and receipts for which no income tax is charged.

(8) Movable property of greater value referred to in paragraph 7, indent 2 of this Article includes vehicles, vessels, aircraft, working machines, hunting weapons, art objects, jewellery, other valuable objects for personal use, securities, animals and other acquired movables of a per-item value higher than HRK 30,000, with the exception of household objects and clothes.

(9) The Commission shall determine a form for the report referred to in paragraph 1 of this Article.

(10) The data referred to in paragraphs 1, 2, 3 and 4 of this Article are public and may be published without the consent of the official.

(11) In addition to the data referred to in paragraph 5 of this Article, the Commission may require the officials to enclose corresponding evidence.

(12) An official shall not be able to receive his or her salary prior to fulfilling the obligations referred to in paragraphs 1, 3 and 4 of this Article.

(13) For the purpose of checking data from the declaration of assets of officials pursuant to the provisions of this Act, the competent authorities in the Republic of Croatia must, without delay, at the request of the Commission, submit the requested information, facts and evidence.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, paragraph 13 is partly repealed, after the words: »Croatia«, the words: »as well as banking institutions and business entities,« are repealed.

(14) Repealed

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, paragraph 14 is repealed.

PROVIDING INFORMATION ON THE ORIGIN AND THE MANNER OF ACQUIRING ASSETS

Article 9

(1) In the report referred to in Article 8 of this Act, officials shall include data on the manner they acquired assets and the origin of income used to purchase movable and immovable assets, which the official is obliged to declare pursuant to this Act.

(2) When acting in public, the officials shall provide true and full information when responding to questions about their assets, the origin of income and the manner of acquiring the same, which relate to himself or herself or the persons whose state of assets he or she is obliged to declare pursuant to this Act.

Article 10

(1) If the Commission establishes that the official has failed to meet the obligations referred to in Article 8 and Article 9, paragraph 1 of this Act, it shall request the official in writing to meet the obligation in question.

(2) The deadline to meet the obligation referred to in paragraph 1 of this Article may not exceed 15 days from the receipt of the request in writing.

(3) If the official fails to meet the obligation within the deadline referred to in paragraph 2 of this Article, the Commission shall instigate proceedings against the official for breaching the provisions of Articles 8 and 9 of this Act.

RECEIVING OF GIFTS

Article 11

(1) Within the meaning of this Act, a gift shall mean money, items regardless of their value, rights and services provided without compensation, which bring an official or might bring him or her into a state of dependency or which create an obligation towards the giver.

(2) Within the meaning of this Act, usual gifts between family members, relatives and friends, and state and international acknowledgements, decorations and awards shall not be considered as gifts.

(3) An official may keep a gift whose value is symbolic and if it does not exceed the value of HRK 500 from the same giver.

(4) An official may not accept the gift referred to in paragraph 3 of this Article if it comes in the form of money, regardless of the amount, or in the form of a security or precious metal.

(5) Gifts that are received as part of protocol and which exceed the amount of HRK 500, and other gifts that the official does not keep when entitled to do so, shall come into the ownership of the Republic of Croatia.

(6) The Government shall prescribe by regulation the manner of dealing with gifts which are the property of the Republic of Croatia.

COMPENSATION OF OFFICIALS

Article 12

(2) Officials who, during the time they exercise public office, receive a salary for the office they exercise, may not receive any other salary or remuneration for exercising another public office, except if explicitly regulated otherwise by law.

PERFORMANCE OF OTHER OFFICIALS' TASKS

Article 13

(1) While exercising public office for which they were elected or appointed, public officials may not exercise any other public office, except if explicitly regulated otherwise by law.

(2) Officials who exercise public office on a professional basis may not during its exercise perform any other activity for remuneration or to earn income, in the sense of a regular or

permanent occupation, unless the Commission, on a prior request of the official, establishes that the activity in question does not affect the legal exercise of the public office.

(3) The prior approval of the Commission referred to in paragraph 2 of this Article shall not be deemed necessary for scientific, research, educational, sporting, cultural, artistic activities, independent agricultural activities and for earning income on the basis of copyright, patent and similar intellectual and industrial property rights, and for earning income and remuneration for participation in international projects funded by the European Union, a foreign state, and a foreign and international organisation and association.

(3) Officials shall declare the income referred to in paragraphs 2 and 3 of this Article to the Commission.

(4) If the Commission establishes that the official is performing other activities in the sense of a regular and permanent occupation in contravention of the provisions of this Article, the official shall be ordered to cease to perform the activity within a minimum of 15 and a maximum of 90 days.

MEMBERSHIP IN MANAGEMENT AND SUPERVISORY BOARDS

Article 14

(1) Officials may not be members of management bodies and supervisory boards of companies, management councils of institutions, or supervisory boards of extra-budgetary funds, nor may they perform management tasks in business entities.

(2) Exceptionally, officials may be members of a maximum of two management councils of institutions, or supervisory boards of extra-budgetary funds which are of special interest to the state, or are of special interest to a unit of local or regional self-government, unless it is specified in a special law that an official is a member of the management council of an institution or of the supervisory board of an extra-budgetary fund by virtue of his or her position. The official shall not be entitled to remuneration for membership of the management councils of institutions or of the supervisory boards of extra-budgetary funds, except for the reimbursement of travel and other justifiable expenses.

(3) The Croatian Parliament shall determine a list of legal entities of special interest to the state, on a proposal of the Government of the Republic of Croatia.

(4) The representative body of the unit of local or regional self-government shall determine the list of legal entities of special interest to that particular unit.

(5) Officials may be members of management and supervisory boards of a maximum of two non-profit organisations and foundations, but are not entitled to remuneration or to accept gifts in this role, except for the reimbursement of travel and other justifiable expenses.

Article 15

The members of management bodies and supervisory boards of companies in which the Republic of Croatia owns shares or has an ownership stake (company capital) shall be

proposed to the general assembly, or the company assembly, by the Government of the Republic of Croatia.

Pursuant to Article 2 of the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12), which entered into force on 26 January 2012, in paragraph 1, after the word: »Croatia«, the comma is replaced by a period, and the words: »on the basis of a previously conducted public competition"« are deleted.

(2) Paragraph 2 is deleted.

Pursuant to Article 2 of the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12), which entered into force on 26 January 2012, paragraph 2 is deleted.

(2) The members of management bodies and supervisory boards of companies in which units of local and regional self-government own shares or have an ownership stake (company capital) shall be proposed to the general assembly, or the company assembly, by the representative body of the unit of local and regional self-government.

Pursuant to Article 2 of the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12), which entered into force on 26 January 2012, in paragraph 3, which becomes paragraph 2, after the words: »representative body of the unit of local and regional self-government« the comma is replaced by a period, and the words: »on the basis of a previously conducted public competition"« are deleted.

(4) Paragraph 4 is deleted.

Pursuant to Article 2 of the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12), which entered into force on 26 January 2012, paragraph 4 is deleted.

MEMBERSHIP AND SHARES OF OFFICIALS IN COMPANIES AND OPERATING RESTRICTIONS

Article 16

(1) An official who owns 0.5% or more shares, or has such an ownership stake (company capital) while exercising public office shall transfer his management rights on the basis of shares in the capital of the company to another person, with the exception of the persons referred to in Article 4, paragraph 5 of this Act, or to a special body. This person or special body (commissioner) shall act with regard to exercising the membership rights and shares in the company on his, her, or its own behalf, and on account of the official.

(2) A commissioner shall be deemed to be a person connected to the official in the meaning of Article 4, paragraph 5 of this Act.

(3) If the company referred to in paragraph 1 of this Article, through a public tender or in any other way, establishes a business relation with state authority bodies or with units of local or regional self-government or with companies in which the Republic of Croatia or a unit of

local self-government has a controlling interest, it shall be obliged to notify the Commission of such a business event.

(4) For the time while his or her management rights in companies are transferred to another person or a special body, the official may not give information, instructions, orders or in any other way be in connection with this person or body and thus affect the exercise of the rights and the meeting of obligations arising from membership rights in these companies. The official has the right to be informed once a year on the state of the companies in which he or she has part ownership.

Article 17

(1) The business entity in which an official has 0.5% or more part ownership (company capital) may not enter into a business relation with a state authority body in which the official exercises his or her office, nor can it be a member of a community of bidders or a subcontractor in this business relation.

(2) The restriction referred to in paragraph 1 of this Article shall apply to business entities in which a member of the official's family has 0.5% or more part ownership, in the case where a member of the official's family has in any way, directly or indirectly, acquired the part ownership in question or the shares from the official from a period of two years prior to his or her appointment or election to public office until the end of the exercise of office.

(3) An official shall be obliged, within 30 days of assuming office, to report to the Commission the name, personal identification number and seat of the business entity referred to in paragraphs 1 and 2 of this Article. The official shall be obliged to regularly report to the Commission all the changes of data on the business entities with which they are not allowed to establish a business relation pursuant to paragraphs 1 and 2 of this Article within 30 days of the day when the change occurred.

(4) The Commission shall publish on its website and regularly update the list of business entities subject to the restrictions referred to in paragraphs 1 and 2 of this Article. Bodies of public authority shall publish on their website and regularly update the list of business entities with which they are not allowed to establish a business relation pursuant to paragraph 1 and 2 of this Article. Bodies of public authority which do not have their own website shall publish and regularly update in official journal the list of business entities with which they are not allowed to establish a business relation pursuant to paragraphs 1 and 2 of this Article.

(5) Legal transactions and legal acts concluded or adopted in contravention of the provisions of paragraphs 1 and 2 of this Article shall be null and void. The Commission shall, without delay, deliver the case to the competent state attorney office for further processing to establish the null and void nature of the legal transaction or legal act.

(6) The provisions of this Article shall not apply to activities based on business relations concluded before the official began to exercise his or her office. Within 60 days of beginning to exercise office, an official shall align his or her activities concerning previously concluded business relations for the purpose of removing possible and preventing foreseeable conflicts of interest.

Article 18

(1) In the case where the body in which the official exercises public office enters a business relation with a business entity in which a member of the official's family has 0.5% or more part ownership, the official must promptly notify the Commission thereof.

(2) The Commission shall within 15 days of the day of receiving the notification draw up an opinion with instructions for the official and the body in which the official exercises public office on how to proceed for the purpose of avoiding conflicts of interest of the official and ensuring compliance with this Act.

(3) If circumstances in a specific case so require, the Commission shall draw up and deliver the opinion referred to in paragraph 2 of this Article without delay, at the latest within five days of receiving the notification.

(4) The official, or the body in which the official exercises his or her office, must, before entering a business relation, deliver to the Commission all the documentation which shows that the instructions of the Commission referred to in paragraph 2 of this Article have been followed.

(5) The Commission shall, by a special decision, without delay, and at the latest within five days of the day of delivery of the opinion referred to in paragraph 2 of this Article, pursuant to the provisions of this Act concerning the procedure before the Commission, establish whether the instructions of the Commission referred to in paragraph 2 of this Article have been followed in a manner which allows for the avoidance of conflict of interest of the official and ensures his or her lawful conduct in the case in question.

(6) Legal transactions or legal acts concluded or adopted without the prior notification of the Commission referred to in paragraph 1 of this Article, against the instructions of the Commission referred to in paragraph 2 of this Article, or the submission of incomplete or untruthful documentation referred to in paragraph 4 of this Article, or which are in any other way contrary to the provisions of this Article, shall be null and void. The Commission shall, without delay, deliver the case to the competent state attorney office for further processing to establish the null and void nature of the legal transaction or legal act.

PROVIDING INFORMATION ON UNDUE INFLUENCE EXERTED ON THE IMPARTIALITY OF OFFICIALS

Article 19

Officials who have been offered a gift or any other benefit in relation to their exercise of public office in contravention of the provisions of this Act shall be obliged to report this to the competent authorities.

DURATION OF THE OBLIGATIONS REFERRED TO IN THIS ACT AND LIMITATIONS AFTER THE TERMINATION OF OFFICE

Article 20

(1) Within one year of his or her termination of office, an official may not accept appointment or election in or conclude contracts of employment with a legal entity which, at the time when he or she was exercising public office, had a business relation, or when at the moment of

appointment, election or the conclusion of a contract, it may clearly be derived from all the circumstances of the particular case that it intends to establish a business relation, with a body in which he or she used to exercise public office.

(2) The legal entity referred to in paragraph 1 of this Article may not appoint or elect to office an official or conclude a contract of employment with an official within one year of his or her termination of office in contravention of the provisions of this Article.

(3) The official's obligations arising from Articles 7, 8, 9, 14 and 17 of this Act shall apply from the day of assuming office and shall last twelve months from the day of the termination of office.

(4) In the event referred to in paragraph 1 of this Article, the Commission may give approval for the official to be appointed, elected or for a contract of employment to be concluded if it arises from the circumstances of the particular case that there is no conflict of interest.

(5) When the Commission establishes an infringement of paragraphs 1, 2, and 3 of this Article, it shall notify the competent state attorney office without delay.

TITLE III

CHECKING OF DATA FROM AN OFFICIAL'S DECLARATION OF ASSETS

Article 21

- (1) The Commission shall check data from the official's submitted declarations of assets.
- (2) The procedure of checking the data in the submitted declarations of assets shall be closed to the public.
- (3) The Commission must reveal to the public the final results following the procedure of checking the data.

Article 22

The checking of data from the official's submitted declarations of assets may constitute:

- a preliminary (administrative) check,
- a regular check.

Article 23

(1) A preliminary (administrative) check shall include:

- checking the status of the person submitting the declaration of assets in terms of the existence of the obligation to submit the report referred to in Articles 8 and 9 of this Act,
- checking whether the official has submitted the declaration on time,

- checking whether the declaration of assets has been signed by the official,
- checking whether the declaration of assets has been correctly and fully completed by the official.

(2) A preliminary (administrative) check shall be conducted for each declaration of assets of an official, immediately on receiving the declaration, at the beginning of the term of office, at the time of any significant change in the state of the assets, and at the end of the term of office, and before entering the data in the Register of Officials and their publication on the Commission's website.

Article 24

(1) A regular check of data means a check of data referred to in Article 8 and 9 of this Act, which is conducted by collecting and sharing data, and by comparing the reported data on the assets from the official's submitted declarations of assets with the data acquired from the Tax Administration and other competent bodies of the Republic of Croatia pursuant to the provisions of this Act and bylaws legislation adopted pursuant to this Act.

(2) A regular check of data shall be conducted for each submitted declaration of assets of the official.

Article 25

In order to conduct the check referred to in Article 24 of this Act, the Commission may request data from an international organisation or a foreign association.

Article 26

(1) The Commission shall, without delay, request from an official a written statement with necessary evidence if, when checking the data, it is established that there is a mismatch or disproportion between the assets in the submitted declaration referred to in Articles 8 and 9 of this Article and the state of the assets of the official as derived from the data acquired from the competent bodies referred to in Article 24 of this Act.

(2) An official shall deliver to the Commission a written statement and attach to it relevant evidence within 15 days of the receipt of the written request.

(3) Paragraph 3 is repealed.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, paragraph 3 is repealed.

Article 27

If an official fails to submit to the Commission the written statement referred to in Article 26 within 15 days or fails to enclose relevant evidence needed to match the declared assets to the established assets in the checking procedure with the acquired data on the official's assets, the Commission shall instigate a procedure against the official on the grounds of violation of the

provisions of Articles 8 and 9 of this Act and shall inform the competent state institutions thereof.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, Article 27 is partly repealed, after the words: »15 days«, the words: »or fails to justify the mismatch or disproportion« are repealed.

TITLE IV

COMMISSION FOR CONFLICT OF INTEREST

LEGAL STATUS AND COMPOSITION OF THE COMMISSION

Article 28

(1) For the purpose of implementing this Act, a Commission for Conflict of Interest shall be formed.

(2) The Commission shall be a standing, independent and autonomous state body performing tasks in its remit and competence, as determined in this Act. Any form of influence on the work of the Commission which could threaten its autonomy and independence in making decisions within its remit shall be prohibited.

(3) The Commission shall be composed of the President of the Commission and four members of the Commission.

(4) The President and the members of the Commission shall be elected for a term of office of 5 years in the manner and according to the procedure specified in this Act.

FUNDS FOR THE OPERATION OF THE COMMISSION

Article 29

Funds for the operation of the Commission shall be earmarked in the State Budget.

THE COMPETENCES OF THE COMMISSION

Article 30

(1) The Commission shall be competent for the following:

- instigating conflict of interest proceedings and rendering decisions on whether a particular action or the failure to act of an official represents an infringement of the provisions of this Act,

- adopting the Ordinance which regulates the manner in which the Commission operates and renders decisions, gives opinions, prescribes forms and establishes a register in order to apply the individual provisions of this Act,

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By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 30, paragraph 1, sub-paragraph 2 is partly repealed, after the words: »Ordinance«, the words: »on procedures before the Commission,« are repealed.

- checking data from the declarations of assets of officials pursuant to the provisions of this Act.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 30, paragraph 1, sub-paragraph 3 is partly repealed, after the words: »this Act«, the words: »and in the manner prescribed by the Ordinance that regulates the procedure of checking data from the declarations of assets of officials, adopted pursuant to this Act,« are repealed.

- drawing up guidelines and instructions for officials for the purpose of efficiently preventing conflict of interest,

- regularly conducting training for officials on conflict of interest and on submitting declarations of assets,

- co-operating with the competent body for drawing up legislation in the area of preventing conflict of interest of officials and submitting initiatives to competent bodies for proposing amendments to legislation,

- co-operating with NGOs and maintaining international co-operation in the prevention of conflict of interest,

- performing other tasks specified in this Act.

(2) The Commission shall report to the Croatian Parliament on its work once a year, at the latest by 1 June of the current year for the previous year.

(3) The Ordinances referred to in paragraph 1 subparagraphs 2 and 3 of this Article shall be adopted by the Commission with the agreement of the Croatian Parliament.

ELECTION OF THE PRESIDENT AND MEMBERS OF THE COMMISSION

Article 31

(1) The President and members of the Commission are elected by the Croatian Parliament by a majority vote of all Members of Parliament in a secret ballot based on a candidate list compiled by the Committee for Elections, Appointments and Administrative Affairs of the Croatian Parliament (hereinafter: the Committee).

(2) The President of the Commission and the members of the Commission shall be elected pursuant to a public invitation.

(3) The term of office of the President and members of the Commission shall begin to run on the day they assume office.

PROCEDURE OF ELECTING CANDIDATES

Article 32

- (1) Six months before the expiration of the duty of the President or members of the Commission, the Committee shall initiate a procedure for the election of a new President or member of the Commission.
- (2) The Committee shall publish a public invitation for candidates for President or members of the Commission. The deadline for receiving applications from candidates following the published invitation shall be 15 days.
- (3) The public invitation shall be published in the Official Gazette, on the website of the Croatian Parliament and in one daily newspaper sold throughout the territory of the Republic of Croatia. The public invitation shall contain the requirements for the election of the President and members of the Commission specified in this Act, the deadline for the submission of proposals of candidates, and the enclosures that must be delivered with the proposals.
- (4) Based on the received applications, the Committee shall establish, without delay, a list of candidates who meet the requirements for the President or members of the Commission. The list shall be published on the official website of the Croatian Parliament.
- (5) The Committee shall conduct interviews with each of the candidates on the list referred to in paragraph 4 of this Article within 15 days of the publication of the list. The public shall have the right to attend the interviews of candidates. A basic security vetting of candidates shall be carried out.
- (6) On the basis of the conducted interviews, the Committee shall compile a single short list generally consisting of twice the number of candidates for the President and a single short list generally consisting of twice the number of candidates for members of the Commission. The candidates in the single short list shall submit the declaration of assets referred to in Articles 8 and 9 of this Act to the Committee upon invitation.
- (7) The single short lists shall be published at a session of the Committee, with a brief statement of reasons for including each candidate on the list. A special note shall be made on whether a candidate has been included on the list by a unanimous decision of the Committee.
- (8) The single short lists shall be submitted to the Croatian Parliament, which will conduct, in conformity with the submitted lists, the election of the President and members of the Commission.
- (9) The Croatian Parliament shall conduct the elections for President and members of the Commission from the proposed candidates in a secret ballot. The candidate who obtains most votes of all the representatives shall be elected President of the Commission. The four candidates who obtain most votes of all the representatives shall be elected members of the Commission.
- (10) Following the election of the President and members of the Commission, the Committee shall publish their declarations of assets referred to in paragraph 6 of this Article on the website of the Croatian Parliament.

REQUIREMENTS FOR THE ELECTION OF THE PRESIDENT AND MEMBERS OF THE COMMISSION

Article 33

(1) Any person may be elected President or member of the Commission who:

1. has citizenship of the Republic of Croatia and permanent residence in the territory of the Republic of Croatia,
2. has completed a graduate university course or a specialist graduate professional course through which 300 ECTS credits are awarded, or a four-year undergraduate course by which a higher education qualification (VSS) was gained according to earlier regulations;
3. has a minimum of eight years of working experience in the profession and outstanding working results,
4. has not been convicted of a criminal offence and against whom criminal proceedings for criminal offences for which *ex officio* proceedings are initiated are not being conducted;
5. is not a member of a political party, nor was a member of a political party in the five years prior to putting forward his or her candidature for President or member of the Commission.

(2) The President of the Commission must have completed graduate university course of law (MLL) and have passed the judicial exam.

STATUS OF THE PRESIDENT AND MEMBERS OF THE COMMISSION

Article 34

(1) The President of the Commission shall be entitled to a salary to the amount of the salary of the President of the State Election Commission of the Republic of Croatia, and the members of the Commission shall be entitled to a salary to the amount of the salary of the members of the State Election Commission of the Republic of Croatia.

(2) The President and members of the Commission may not participate in political activities, exercise any other form of public office or be employed in another body of state authority or in a company or another business entity, nor engage in any other activity, except those referred to in Article 13 paragraph 3 of this Act.

(3) The President and members of the Commission shall have the right to return to work, to return to the tasks on which they worked prior to their appointment, or to other suitable tasks with the employer for whom they had worked before being appointed to office.

(4) The President and members of the Commission, prior to assuming office, shall conclude an agreement with the employer on their right to return to work, which will define in more detail the conditions and the timeline of exercising their right to return to work.

(5) The general labour rules shall appropriately apply to the President and members of the Commission.

DURATION OF OFFICE

Article 35

- (1) The President and members of the Commission shall be appointed for a period of five years.
- (2) The President and members of the Commission may be appointed to their office only twice.

AUTHORITIES OF THE PRESIDENT

Article 36

- (1) The President of the Commission shall organise and manage the work of the Commission.
- (2) The President of the Commission shall determine one member of the Commission to be his or her deputy in the event that he or she is detained or absent.
- (3) The President of the Commission may delegate responsibility for a particular area under the competence of the Commission to a particular member of the Commission.
- (4) The President of the Commission shall call and chair the meetings of the Commission.
- (5) The President of the Commission shall sign acts adopted at the meetings of the Commission.
- (6) The President of the Commission shall take due care of the correct and efficient implementation of procedures before the Commission and perform other tasks specified in this Act and in other bylaws adopted by the Commission.
- (7) The President shall prepare a proposal to ensure funds for the operation of the Commission, and issue orders for the financial and material operation of the Commission.

TERMINATION OF OFFICE OF THE PRESIDENT AND MEMBERS OF THE COMMISSION

Article 37

- (1) The office of the President and members of the Commission shall cease before the expiration of the period to which they were appointed in the case of death and in cases of dismissal from office.
- (2) The President and members of the Commission shall be dismissed from office in the following cases:
 1. at their own request,
 2. in the case of permanent loss of the ability to exercise the office,

3. if the requirements needed for appointment referred in Article 33, paragraph 1, items 1, 4 and 5 of this Act cease to exist,

4. in the case of breach of the provisions of this Act.

(3) The existence of the reasons referred to in paragraph 2 of this Article for the dismissal of the President and members of the Commission before the expiration of their term of office shall be determined by the Committee. The decision on dismissal from office of the President and members of the Commission shall be adopted by the Croatian Parliament.

(4) If the President or a member of the Commission requests to be dismissed from office, and the Croatian Parliament fails to adopt a decision following this request within three months of the submission of the request, the office of the President and member of the Commission shall be terminated by force of law when the period of three months from the submission of the request has expired.

(5) In the case of the termination of office of the President of the Commission, the members of the Commission shall elect from among themselves an acting President who shall exercise this office until the election of a new President.

(6) Within 30 days of the termination of office of the President and a member of the Commission, the Committee shall initiate a procedure for the election of a new President or member of the Commission.

(7) The President and members of the Commission shall be obliged within 30 days of the termination of office to submit a declaration of assets to the Committee, and if a significant change has occurred in the state of their assets while they were exercising their office, they shall be obliged to submit a declaration thereof to the Committee at the end of the year in which the change occurred.

RENDERING DECISIONS

Article 38

The Commission shall decide at the sessions of the Commission by a majority vote of all members of the Commission.

PROCEDURE BEFORE THE COMMISSION

Article 39

(1) The Commission may instigate a procedure within its competence based on its own decision, upon a credible, well-founded and non-anonymous report, or in cases where it has knowledge of a potential conflict of interest of an official. The Commission shall render a decision in writing on instigating or not instigating a procedure. The Commission shall inform of its decision the person who filed the report.

(2) The Commission must instigate a procedure within its competence upon an official's personal request.

(3) The Commission shall inform the official about the instigation of the procedure referred to in paragraph 1 of this Article, and must request his or her opinion on the allegations contained in the report, which the official shall submit to the Commission within 15 days of receiving the written request.

(4) The person filing the report referred to in paragraph 1 of this Article shall be guaranteed anonymity.

(5) The Commission has the right to obtain the facts and evidence through the actions of other bodies of state authority. The competent bodies in the Republic of Croatia must, without delay, at its request, submit the requested information and evidence.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 39, paragraph 5, partly repealed, in the first sentence after the words: »Commission is entitled«, the words: »to establish the facts through its own actions or« are repealed, and in the second sentence after the words: »Republic of Croatia«, the words: »banks and other financial institutions« are repealed.

(6) Unless otherwise regulated in this Act, the procedure before the Commission, with the exception of the voting procedure, shall be open to the public. The Commission must reveal to the public the final results of the conducted procedure.

(7) The decisions of the Commission must include a statement of reasons. The decisions of the Commission shall be published on the website of the Commission.

PROFESSIONAL SERVICE OF THE COMMISSION

Article 40

(1) The Commission shall have a professional service – the Office of the Commission, which performs professional, administrative and technical tasks.

(2) The Ordinance on the internal organisation of the Office of the Commission (hereinafter: the Ordinance) regulates the internal organisation and manner of operation of the administrative and professional service of the Commission, determines jobs and job descriptions, the number of staff, and professional and other requirements for the assignment of staff to posts.

(3) The regulations concerning civil servants shall apply to the staff of the administrative and professional service of the Commission.

(4) The Ordinance referred to in paragraph 2 of this Article shall be adopted by the Commission by a majority vote of all its members.

Article 41

(1) The Head of the Office shall manage the work of the Office of the Commission, guiding and aligning the work of the Office, and shall be accountable to the Commission for its work.

(2) The Head of the Office of the Commission shall be a civil servant assigned to the post by a decision.

(3) The Head of the Office of the Commission shall have the status of the head of a body with regard to the employees of the Office of the Commission.

TITLE V

VIOLATIONS OF THE PROVISIONS OF THIS ACT

Article 42

(1) For violation of the provisions of this Act, the Commission may impose the following sanctions on the persons referred to in Article 3 of this Act:

1. reprimand,
2. suspension of payment of part of a net monthly salary,
3. public announcement of the decision of the Commission.

(2) For violation of the provisions of Article 7, Article 11, paragraphs 3 and 4, Articles 12, 13 and 14, Article 16, paragraphs 1 and 4, Article 17, paragraphs 3 and 6, and Article 18, paragraphs 1 and 4 of this Act, the Commission may impose sanctions referred to in paragraph 1, items 2 and 3 of this Article.

(3) For violation of the provisions of Articles 10 and 27 of this Act, the Commission shall impose the sanction referred to in paragraph 1, items 2 and 3 of this Article.

(4) If appropriate given the nature of the violation, the Commission may, during the procedure, order the official to remove the causes of the conflict of interest within a certain period and, if the official does so, it may suspend the procedure, or may complete it taking into account compliance with the order when imposing sanctions.

REPRIMAND

Article 43

An official may be given a reprimand if, according to his or her conduct and responsibility and the consequences caused, he or she has committed a manifestly light form of violation of the provisions of this Act.

SUSPENSION OF PAYMENT OF PART OF A NET MONTHLY SALARY

Article 44

(1) The sanction of suspension of payment of a net monthly salary shall be imposed by the Commission to an amount from HRK 2,000 to 40,000, taking into account the gravity and consequences of the violation of the Act.

(2) The sanction of suspension of payment of an official's net monthly salary may last no longer than twelve months, and the amount covered by the suspension may not exceed one half of the official's monthly salary.

(3) The decision on the sanction shall be served on the official in person. The Commission shall deliver the enforceable decision to the service that deals with the accounting of the official's salary.

PUBLIC ANNOUNCEMENT OF THE DECISION OF THE COMMISSION

Article 45

(1) The Commission may impose the sanction of public announcement of the decision of the Commission, taking into account the gravity and consequences of the violation of the Act, unless a mandatory imposition of this sanction is prescribed by this Act.

(2) The decision shall be published in the daily press.

(3) The Commission shall determine the manner of publication of the decision.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 45, paragraph 3, is partly repealed, after the words: »determine«, the words: »the period and« are repealed.

(4) The cost of publication shall be borne by the official.

MOTION TO DISMISS AN APPOINTED OFFICIAL FROM PUBLIC OFFICE

Article 46

Repealed

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, paragraph 46 is repealed.

INVITATION TO RESIGN FROM EXERCISING PUBLIC OFFICE

Article 47

Repealed

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, paragraph 47 is repealed.

Article 48

(1) An administrative dispute may be instigated against the decision of the Commission referred to in Articles 42 to 47 of this Act.

(2) The court shall decide in the administrative dispute within 60 days of the instigation of the dispute.

MISDEMEANOUR PROVISIONS

Article 49

(1) A fine from the amount of HRK 5,000 to HRK 50,000 shall be imposed on an official who, within one year of his or her termination of office, accepts appointment or election in or concludes a contract of employment with a legal person which, at the time when he or she was exercising public office, had a business relation, or when at the moment of appointment, election or the conclusion of a contract, it may clearly be derived from all the circumstances of the particular case that it intends to establish a business relation, with a body in which he or she used to exercise public office (Article 20, paragraph 1).

(2) For the violation referred to in paragraph 1 of this Article, besides the imposed fine, the proceeds of the violation shall also be confiscated.

(3) For the violation referred to in paragraph 1 of this Article, besides the imposed fine, the security measure of prohibition to exercise a profession, particular activities, tasks or offices shall be imposed on the natural person for the duration of one year.

Article 50

(1) A fine from the amount of HRK 50,000 to 1,000,000 shall be imposed on a legal person which, in contravention of the provisions of Article 20 of this Act, appoints or elects to office an official or concludes a contract with him or her by which the official enters an employment relation within one year of the termination of his or her office.

(2) The legal person referred to in Article 16, paragraph 1 of this Act which fails to notify the Commission that it has established a business relation through a public tender or in any other way with state bodies or units of local or regional self-government or with companies in which the Republic of Croatia or the unit of local or regional self-government has a controlling interest (Article 16, paragraph 3) shall be punished for the violation by a fine from HRK 50,000 to 500,000).

(3) The responsible person within the legal person shall also be punished with a fine from the amount of HRK 5,000 to 50,000 for the violations referred in paragraph 1 and 2 of this Article.

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

Article 51

(1) The election of the President and members of the Commission pursuant to the provisions referred to in Title IV of this Act shall be conducted within 90 days from the entering into force of this Act.

(2) The Committee referred to in Article 31 of this Act shall instigate the procedure of election of the President and members of the Commission pursuant to the provisions referred to in Title IV of this Act.

(3) Until the appointment of the President and members of the Commission, the Commission shall perform tasks in its present composition in conformity with this Act.

Article 52

(1) The Office of the Commission, which was established in conformity with the provisions of the Act on the Prevention of Conflict of Interest in the Exercise of Public Office (Official Gazette 163/03, 94/04, 48/05, 141/06, 60/08, 38/09, and 92/10), shall continue to perform tasks in its remit.

(2) Within 30 days of the election, the Commission shall adopt the Ordinance on the internal organisation of the Office of the Commission referred to in Article 40, paragraph 2 of this Act, and until then the Ordinance on the internal organisation of the Office of the Commission for Conflict of Interest of 20 May 2010 shall remain in force.

(3) The state bodies referred to in Article 3, paragraph 2 of this Act shall submit to the Commission a list of persons subject to appointment, election or confirmation at the latest within six months of this Act entering into force.

Article 53

(1) Paragraph 1 is repealed.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 53, paragraph 1, is repealed.

(2) Paragraph 2 is repealed.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 53, paragraph 2, is repealed.

(3) The Commission is authorised to conclude Protocols of Co-operation with the bodies referred to in Article 24, paragraph 1 of this Act.

Article 54

Officials who, with the entering into force of this Act, exercise two or more public offices shall be obliged to proceed pursuant to Article 13 of this Act for no longer than three months after this Act enters into force, unless otherwise regulated by law.

Article 55

(1) The Commission referred to in Article 51, paragraph 3 of this Act shall determine, within 30 days of this Act entering into force, the content of the form of the declaration referred to in Article 8 of this Act.

(2) Paragraph 2 is repealed.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, in Article 55, paragraph 2, is repealed.

(3) The persons referred to in Article 3 of this Act who, on the day when this Act enters into force, have not submitted a declaration of assets, shall be obliged to submit such a declaration within 30 days of the adoption of the form referred to in paragraph 1 of this Article.

(4) The persons referred to in Article 3 of this Act shall be obliged to supplement their declarations of assets with the necessary data pursuant to Article 8 of this Act within 30 days of the adoption of the form referred to in paragraph 1.

By the Decision of the Constitutional Court (Official Gazette 126/12), at the session held on 7 November 2012, paragraph 4 is partly repealed, at the end of the sentence after the words: »referred to in paragraph 1«, the words: »and the declaration referred to in paragraph 2 of this Article« are repealed.

Article 56

(1) All subordinate legislation adopted pursuant to the Act on the Prevention of Conflict of Interest in the Exercise of Public Office (Official Gazette 163/03, 94/04, 48/05, 141/06, 60/08, 38/09 and 92/10) shall remain in force until the adoption of new subordinate legislation.

(2) The Decision on the List of Legal Entities of Special Interest to the State (Official Gazette 144/10) shall remain in force.

(3) Procedures initiated before the Commission prior to the entering into force of this Act shall be completed according to the provisions of the Act on the Prevention of Conflict of Interest in the Exercise of Public Office (Official Gazette 163/03, 94/04, 48/05, 141/06, 60/08, 38/09 and 92/10).

(4) Procedures pursuant to the declarations referred to in Article 55, paragraphs 3 and 4 of this Act and reports received after the entering into force of this Act shall be conducted by the Commission elected in conformity with the provisions of Title IV of this Act.

Article 57

(1) On the date of entry into force of this Act, the Act on the Prevention of Conflict of Interest in the Exercise of Public Office (Official Gazette 163/03, 94/04, 48/05, 141/06, 60/08, 38/09 and 92/10) shall cease to have effect.

Article 58

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

TRANSITIONAL AND FINAL PROVISIONS

of the Act on Amendments to the Act on the Prevention of Conflict of Interest (Official Gazette 12/12).

Article 3

On the date of entry into force of this Act, the Regulation on the manner of holding public tender procedures and criteria for the members of supervisory or management boards of companies in which the Republic of Croatia holds stock or shares (Official Gazette 95/10) shall cease to be valid.

Article 4

Members of the management and supervisory boards of companies in which the Republic of Croatia or a unit of local and regional self-government owns shares or has an ownership stake (company capital), appointed at the proposal of the Government of the Republic of Croatia or the representative body of the unit of local and regional self-government further to a previously conducted public tender procedure, shall continue to work until appointment of new members in accordance with the provisions of this Act.

Article 5

This Act shall enter into force on the day of its publication in the Official Gazette.