



Republika e Kosovës
Republika Kosova – Republic of Kosovo
AGJENCIA KUNDËR KORRUPSIONIT
AGENCIJA PROTIV KORUPCIJE
ANTI – CORRUPTION AGENCY



A PRACTICAL GUIDE ON PREVENTION OF CONFLICT OF INTEREST IN PUBLIC INSTITUTIONS APPLICABLE TO RESPONSIBLE AUTHORITIES



PRINTING OF THIS GUIDANCE WAS SUPPORTED BY THE BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS (INL) IN THE UNITED STATES EMBASSY IN PRISTINA.

Anti-Corruption Agency

PRISHTINA, FEB 2020 | STR. NAZIM GAFURRI NO. 31, 10000, PRISHTINA, KOSOVO

The list of Content

Executive Summary.....	2
Responsible Authorities and Legal Entities to whom the provisions of the Law on Prevention of Conflict of Interest apply.....	3
Obligations of the Responsible Authorities.....	4
Actions of the Responsible Authorities.....	5
Duties and Responsibilities of the Responsible Authorities.....	6
Restrictions of senior public officials and preventive measures of public institutions.....	8
Actions of the Responsible Authorities in handling cases	11
Sources of information and their verification.....	12
Actions of the Responsible Authorities in cases of conflict of interest	14
Identification, handling, declaring and registering 'case by case' of conflict of interest cases by the Responsible Authorities.....	15
Reporting to the Anti-Corruption Agency.....	16
The role of the Anti-Corruption Agency in relation to the Responsible Authorities.....	17
Use of forms.....	18
Attached Annexes	19

Executive Summary

The Practical Guide on Prevention of Conflict of Interest in Public Institutions applicable to Responsible authorities provide guidance and clarification to the Responsible Authorities on how to set the rules, procedures, duties and what are their responsibilities vis-à-vis obligations arising from the provisions of Law No. 06/ L-011 on Prevention of Conflict of Interest in Discharge of a Public Function [hereinafter referred to as “Law on Prevention of Conflict of Interest”].

This Guide contains a basic overview of the legal framework which is intended to facilitate and provide a proposal for drafting of rules for handling cases of conflict of interest within the institution, in accordance with the Law on Prevention of Conflict of Interest.

The guide was developed in the framework of professional assistance provided by the Anti-Corruption Agency to all public institutions - referred to as Responsible Authorities by the Law on Prevention of Conflict of Interest, pursuant to Article 5, paragraph 1, sub-paragraph 1.8, of Law No. 03/L-159 on the Anti-Corruption Agency and Article 20 and Article 21 of the Law on Prevention of Conflict of Interest.

In addition to the explanations contained in this Guide, the Anti-Corruption Agency extends an on-going cooperation to the Responsible Authorities in order to ensure a proper implementation of the provisions of the Law on Prevention of Conflict of Interest and the internal regulation of public institutions. Such an approach is more rational and effective as opposed to other models of prevention of conflict of interest, e.g. centralizing all tasks related to the prevention of conflict of interest at a single institution’s hands. This enables enhanced control of situations and prevention of conflicts of interest at source.

This is the First Edition of this Guide, developed by the Anti-Corruption Agency, which is aimed at supporting the Responsible Authorities in their efforts regarding identifying, addressing and resolving potential conflict of interest situations. Therefore, as such, subject to the challenges or issues presented by the Responsible Authorities, the Anti-Corruption Agency has the right to revise, amend, revoke or supplement this Guide with a view to ensuring an enhancement of the latter in line with the needs that may arise during the work process. This Guide may be used for the drafting of sub-legal acts in accordance with the Law on Prevention of Conflict of Interest in accordance with the Administrative Instruction on Standards for Drafting of Normative Acts.

Responsible Authorities and Legal Entities to whom the provisions of the Law on Prevention of Conflict of Interest apply

Pursuant to paragraph 1 of Article 20 of the Law on Prevention of Conflict of Interest, it is stipulated that the Agency is the central authority who is responsible for supervising the implementation of the provisions of this law, but not alone. This law stipulates that all public institutions, including central and local public enterprises, are responsible for preventing conflicts of interest.

According to paragraph 2 of Article 20 of the Law on Prevention of Conflict of Interest, it is stipulated that the authorities responsible for implementing this law in institutions are as following:

- direct managers of officials, according to hierarchy, within an institution;
- institutions and managing authorities under the law.

Therefore, the definition of the term “Responsible Authority” stands for (1) direct managers of officials and (2) other institutions and managing authorities according to the law in cases where they have been entrusted with the competency to review cases of conflict of interest.

The Law on Prevention of Conflict of Interest defines the principles, rules and procedures of permitted and prohibited activities of officials in the performance of public duties as well as the measures foreseen for violation of provisions defined in this law. Further, based on paragraph 1, sub-paragraph 1.3, sub-paragraph 1.4, and sub-paragraph 1.5 of the Law on Prevention of Conflict of Interest, this law shall apply to all public officials and includes: senior officials¹ and official persons², all referred to as officials or senior officials respectively.



LAW SHALL APPLY TO:

- ⇒ ALL PUBLIC INSTITUTIONS
- INCLUDING ALSO
CENTRAL AND LOCAL
PUBLIC ENTERPRISES
- ⇒ ALL PUBLIC OFFICIALS

¹ Defined by the relevant Law on Declaration of Property

² Any other person elected or appointed to a state body as well as official persons designated under the Criminal Code of the Republic of Kosovo who exercise public duties.

Obligations of the Responsible Authorities

Paragraph 3 of Article 20 of the Law on Prevention of Conflict of Interest stipulates that all institutions within their internal regulations, prescribe and implement specific rules in order to prevent conflict of interest.³ Pursuant to this legal basis all Responsible Authorities⁴, which include all public institutions, including central and local public enterprises, are obliged to have their separate sub-legal acts adopted for the purpose of preventing conflicts of interest. Article 2 of the Law on Prevention of Conflict of Interest, regulates also the procedures for reporting obligations, measures for prevention, identification, management and resolution of conflict of public and private interest during and after discharge of official public duties and the duties and responsibilities of competent authorities.

All public institutions, including central and local public enterprises - Responsible Authorities, except for laying down specific rules for the prevention of conflict of interest, pursuant to paragraph 4 of Article 20 of the Law on Prevention of Conflict of Interest, are required to define the procedure, manner and rules in their sub-legal acts as regards:

- ⇒ gathers and receives information from legitimate sources regarding the private interests of an official, including public or private data, information provided by the media and complaints of citizens according to the relevant law on protection of informers and all other legal provisions in force;
- ⇒ verifies the reliability of resources and information in order to prove a conflict of interest;
- ⇒ makes the official aware of the information provided on him that constitutes grounds for a conflict of interest and give him the opportunity to prove otherwise if so requested by the official;
- ⇒ shall notify in writing the reporting person within a period of fifteen (15) days to further review the information.

³ Paragraph 3, Article 20 of Law No. 06/L-011: *“Institutions within their internal regulations, prescribe and implement specific rules in order to prevent conflict of interest, depending on the field of activity of such institution”*.

⁴ Pursuant to sub-paragraphs 2.1 and 2.2, Paragraph 2, Article 20 of Law No. 06/L-011: *The authorities responsible for implementing this law in institutions are: 1.direct managers of officials, according to hierarchy, within an institution; and 2. .institutions and managing authorities according to law.*

Actions of the Responsible Authorities

All public institutions, including central and local public enterprises, are required to adopt sub-legal acts (Regulations, Administrative Instructions, or acts with such legal capacity) in order to lay down specific rules for the prevention of conflict of interest within their institution, consistent to the nature of the work and the scope of the institution.

In their legal act for the purposes of preventing conflict of interest and dealing with cases of conflict of interest, the Responsible Authority is required to make reference to the provisions of the Law on Prevention of Conflict of Interest. In the first part of the sub-legal act, it shall focus on the definitions, scope of the act and the purpose of the act. The other sections will be guided as follows in this Guide.

However, when drafting the sub-legal act, the Responsible Authorities are required to comply with the provisions of Administrative Instruction No. 03/2013 on Standards for the Drafting of Normative Acts.⁵ Considering that the purpose of this Administrative Instruction is to define and unify standards for the drafting of normative acts by the institutions of the Republic of Kosovo and its provisions are obligatory for all institutions and respective units, and all persons participating in the process of drafting, consulting, reviewing and approving normative acts.

When using terms in a legal act, the institution shall make reference to the terms used in Article 3 of the Law on Prevention of Conflict of Interest, but not be limited to:

- **Private interest of an official** – any advantage of the official person, his family, relatives, friends and persons or organizations with which he had or has business relations;
- **Senior official** – senior public officials defined by the respective law for declaration, control and origin of property;
- **Official person** – every other person elected or appointed in a governmental body as well as official persons designated by the Criminal Code of the Republic of Kosovo who exercise public duties and are not included in subparagraph 1.3 of this Article;

⁵ Administrative Instruction No. 03/2013 on Standards for the Drafting of Normative Acts:
http://www.kryeministri-ks.net/repository/docs/Udhezim_Administrativ_Nr_032013_per_standardet_e_hartimit_te_akteve_norm....pdf

- **Official** - any senior official and any official as per sub-paragraphs 1.3 and 1.4. of this Article;
- **Person related to an official** – spouse or the live-in partner, relatives in a direct blood line with no limitations, relatives in an indirect line up to the fourth level, the adopter, the adopted, relative on the spouses side up to the second level and every legal or natural person who has had or has a joint pecuniary or non-pecuniary interest with the official;
- **Decision** – last moment of the decision-making process during which the final content of the act or contract is decided on as well as preliminary moments of decision that are essential and determining in which participation, influence and position of the official determine the final content of the act or contract, and any action of the official in exercising their public function;
- **Institution** – public institutions at central and local level, enterprises of central and local level where there is participation of state or local capital and other institutions established by law;
- **Responsible Authority** – shall mean direct managers according to the hierarchy, institutions and managing authorities under the law, as well as responsible persons authorized within the relevant institutions.

In the sub-legal act, other expressions should also be used, which are used in the said act and due to the nature and scope of the institution may not be known to the public.

Duties and Responsibilities of the Responsible Authorities

All public institutions are required to appoint responsible officials for prevention of conflict of interest within their institutions. Due to the nature and challenges related to the conflict of interest cases, it is recommended to appoint staff from the Human Resources Office or the Legal Office of the institution concerned in the capacity of responsible officials.

Depending on the mandate, competencies, scope, number of employees, function, and complexity of the institution, as well as other factors, the head of the institution may decide to appoint one or more officials in the capacity of responsible officials for the conflict of interest cases within the institution - responsible authority.

In the scope of their competencies, the Responsible Authorities shall inform, advise and monitor officials within their institution of potential conflict of interest situations, undertake preventive measures, and report to the Anti-Corruption Agency.

In special cases, responsible authorities seek professional help and assistance as well as advice or suggestions from the Anti-Corruption Agency, in order to better manage and resolve specific cases of Conflicts of Interest.

Responsible Authorities are required to provide briefing sessions to new officials in the institution so that each official receives instructions with regard to avoiding and addressing conflicts of interest. Furthermore, these authorities are obliged to use forms prepared by the Anti-Corruption Agency in relation to cases of conflict of interest declaration and the form of registration of cases of conflict of interest.

RESPONSIBLE AUTHORITIES

- ✓ SHALL APPOINT THE RESPONSIBLE OFFICIAL(S);
- ✓ SHALL COLLECT AND RECEIVE FROM LAWFUL SOURCES INFORMATION ABOUT AN OFFICIAL'S PRIVATE INTERESTS, INCLUDING PUBLIC OR PRIVATE INFORMATION, THE INFORMATION PROVIDED BY THE MEDIA AND CITIZEN COMPLAINTS UNDER THE RELEVANT LAW ON PROTECTION OF WHISTLEBLOWERS AND ANY OTHER APPLICABLE LEGAL PROVISION;
- ✓ SHALL VERIFY THE RELIABILITY OF SOURCES AND INFORMATION IN ORDER TO PROVE THE CONFLICT OF INTEREST;
- ✓ SHALL INFORM THE OFFICIAL OF THE INFORMATION PROVIDED TO HIM OR HER THAT IS THE CAUSE OF THE CONFLICT OF INTEREST AND GIVING THE OPPORTUNITY TO PROVE OTHERWISE IF THE OFFICIAL SO REQUESTS;
- ✓ SHALL NOTIFY THE REPORTER IN WRITING WITHIN FIFTEEN (15) DAYS FOR THE FURTHER REVIEW OF THE INFORMATION.

Restrictions of senior public officials and preventive measures of public institutions

All public institutions - responsible authorities - are required to make reference to the provisions regarding restrictions on senior officials after the termination of the public function set forth in Article 18 of the Law on the Prevention of Conflict of Interest. In this context, the commencement of employment of such officials shall be prohibited in cases stipulated by this Article.

Senior Official has no right to be employed or appointed for a period of up to two (2) years after termination of the public function, in a leadership or management position, or be involved in the control or audit of public and private institutions and their subordinate institutions which have a business relationship with the institution where he has exercised a public function, if his duties during the two-year period prior to the termination of public function were directly related to supervision, control or sanction of their activity.

Similarly, the aforementioned senior official has no right:

- ⇒ for a period of two (2) years after his public function is terminated, to get involved in a direct contractual relationship or through a relative or trustee, with the institution in which he has exercised public function;
- ⇒ for a period of two (2) years after his public function is terminated, to represent, assist or advise any natural or legal person, directly or through a relative or trustee, in a conflict or business relationship with the institution, regarding the job he has performed or is on-going; and
- ⇒ for a period of two (2) years after his public function is terminated, to use the privileged or confidential information obtained during the exercise of the public function for other purposes or employment in the future to his private interest or that of a relative or trustee.

The institution in which the senior official has exercised a public function cannot do business with the subject in which the former official, a relative or a trustee have a share of no less than five percent (5%) as the rights of founders, management or capital, be that through direct participation or through the participation of other legal persons.

The institution in which the senior official has exercised a public function shall immediately and at latest within thirty (30) days, inform the Anti-Corruption Agency of any of the situations referred to in paragraph 1 of Article 18 of the Law on Prevention of Conflict of Interest.

Every superior of the official or a leading institution shall take the necessary scaled and proportionate measures, to avoid in advance and in every case the real or potential conflict of interest as the result of the election, appointment or assignment of certain duties or responsibilities of an official. These measures include but are not limited to:

- ☒ the limitation of certain information to the official or avoidance of duties and responsibilities that constitute cause in the appearance of conflicts of interest or incompatibilities;
- ☒ exclusion of the official from participation in decision-making
- ☒ review or change the duties and powers of the official or transfer to another position that avoids conflict of interest, to the extent that is otherwise provided by law;
- ☒ avoidance of appointment or election of the official in functions in which conflicts of interest exist or may arise;
- ☒ revocation or cancellation of an act taken under conditions of conflict of interest.

PREVENTIVE MEASURES

- ✓ DETERMINING THE BEGINNING AND END OF THE OFFICIAL'S MANDATE;
- ✓ CARE WITH REGARD TO THE ESTABLISHMENT OF A EMPLOYMENT RELATIONSHIP WITH THE OFFICIAL (SENIOR);
- ✓ AWARENESS OF ACTIONS PERMITTED AND PROHIBITED BY AND WITH THE OFFICIAL.

Notwithstanding the above basic measures and any other measures provided by law, the official or his manager in the hierarchy are not dispensed from liability when the measures taken are not effective to prevent and resolve conflicts of interest or incompatibilities under the Law on the Prevention of Conflict of Interest.

The manager or managing institution shall notify the Anti-Corruption Agency on the measures taken to prevent and resolve conflicts of interest or incompatibilities under this law.

Each institution or manager of the leading institution shall ensure that the official in the exercise of a public function, performs the following duties:

- ✓ transfers his private interest and rights in the management of the enterprise as specified in Article 15 of the Law on the Prevention of Conflict of Interest;
- ✓ takes measures for self-exclusion or prior exclusion from decision-making process, discussion and voting of the issue in conflict unless explicitly stated by law;

- ✓ resigns from the duties, functions or activities that are in conflict or incompatible with his public function;
- ✓ resigns from the public function.

Further, every superior of the official or a leading institution shall take the necessary scaled and proportionate measures, to avoid in advance and in every case the real or potential conflict of interest as the result of the election, appointment or assignment of certain duties or responsibilities of an official. These measures include but are not limited to:

- the limitation of certain information to the official or avoidance of duties and responsibilities that constitute cause in the appearance of conflicts of interest or incompatibilities;
- exclusion of the official from participation in decision-making;
- review or change the duties and powers of the official or transfer to another position that avoids conflict of interest, to the extent that is otherwise provided by law;
- avoidance of appointment or election of the official in functions in which conflicts of interest exist or may arise;
- revocation or cancellation of an act taken under conditions of conflict of interest.

Notwithstanding the above basic measures and any other measures provided by the Law on Prevention of Conflict of Interest, the official or his manager in the hierarchy are not dispensed from liability when the measures taken are not effective to prevent and resolve conflicts of interest or incompatibilities under this law

The manager or managing institution shall notify the Agency on the measures taken to prevent and resolve conflicts of interest or incompatibilities under the Law on Prevention of Conflict of Interest.

Actions of the Responsible Authorities in handling cases

All institutions are required to handle each case with special care. Adherence to principles of professionalism, integrity, confidentiality and other principles necessary are required in order to ensure the most effective and efficient handling of cases. For each conflict of interest situation reported, the responsible authority shall record the official's identity, his or her private interests, the reasons for the conflict of interest and the conflict or incompatibility found, the stakeholders, the source of information, and the decisions made to prevent, handle and resolve the same.

The responsible authority shall first determine the manners in which information can be received or handled. In this context, the Responsible Authority collects information related to the conflict of interest from various sources. Thereafter, verification of information is required anytime information is obtained from unidentified or anonymous sources of information.

Responsible authorities are required to notify the person making the report with regard to the receipt of information within 15 (fifteen) days in relation to further review of the information.

Responsible authorities shall administer the documentation related to the cases handled and shall complete the register of conflict of interest cases. The register should contain the personal data of the official (name, surname, DoB, as well as other particulars), his or her private interest which was the cause of the conflict of interest, the interested parties, the source of the data and the manner in which they were obtained and verified together with other relevant data concerning the case.

After handling the situation of the conflict of interest the responsible authorities shall compile a report with regard to the assessment or determination of the situation.

In cases where the involvement of the Anti-Corruption Agency is required, the Responsible Authority is required to submit all the necessary information collected. The information concerned must be accurate and verified, reflecting the real situation regarding the case for which the professional assistance is requested.

Sources of information and their verification

The responsible authority collects information related to the conflict of interest from various sources. These sources can be from:

- ⇒ the official himself;
- ⇒ other officials or servants of the institutions;
- ⇒ law enforcement institutions and other public institutions;
- ⇒ private entities and other persons;
- ⇒ media;
- ⇒ other sources of information (databases, publicly available information, etc.).

Verification of information is required anytime information is obtained from unidentified or anonymous sources of information.

Upon receiving the written case-by-case declaration, the responsible authority shall record it, inform the head of the institution with regard to the receipt of statement and the circumstances mentioned therein and ultimately it initiates the verification process.

During verification, the responsible authority shall gather and receive information from legitimate sources regarding the private interests of an official, including public or private data, information provided by the media and complaints of citizens according to the relevant law on protection of informers and all other legal provisions in force.

The responsible authority shall verify the reliability of resources and information in order to prove a conflict of interest and subsequently the official with regard to the information provided on him that constitutes grounds for a conflict of interest and give him the opportunity to prove otherwise if so requested by the official. This information for the official shall be addressed in writing, except where it should be provided without delay.

When necessary information is gathered regarding the case and clarifications made by the official, the responsible authority elaborates a report on the case. The report should include information gathered from legitimate sources, key findings, clarifications by the official, recommendations regarding the case and additional actions mentioned above.

After conclusion of the verification procedure, the Responsible Authority shall submit the Final Report to the Head of the Institution.

When the head of the institution finds that the report does not contain sufficient evidence regarding the conflict of interest, then the case is either not properly verified or there are other obstacles preventing decision-making. The report along with appropriate instructions should be returned to the responsible authority for additional verifications.

When the head of the institution finds that the report does not contain sufficient evidence regarding the conflict of interest, then the case is either not properly verified or there are other barriers preventing decision-making. The report along with appropriate instructions should be returned to the responsible authority for additional verifications.

Once the head of the institution makes a decision on the case, the responsible authority shall register the official's private interests and shall take appropriate measures to resolve the conflict of interest. The outcomes of the verification are communicated to the Anti-Corruption Agency.

Decisions taken during the verification process must be made in accordance with the administrative process in public institutions, be justified, well-founded, reasonable, with a straightforward right to appeal and conditions of application. This decision shall be addressed in writing.

When the official fails to file a case-by-case declaration, rather, the responsible authority receives information on a current or potential conflict of interest, they shall request the official to submit the statement or written clarification. In this case, the responsible authority shall enjoy all the competencies provided for by the law with regard to verification under this verification guide. The verification process is the same as on a case-by-case declaration.

The verification process should be registered (documented), with particular emphasis the information obtained from sources of information and official's clarifications. All data (documents) reviewing the particular case shall be filed in a separate file and be kept separately according to the regulation on documentation. Access to this information and documentation (documents) is granted only to the management of the institution, the responsible authority, the Anti-Corruption Agency and other state institutions in accordance with their mandate and competencies.

Actions of the Responsible Authorities in cases of conflict of interest

When the responsible authority, in the course of verification, detects facts that determine breach of law, the latter shall include in the decision a proposal for further action by examining the following:

- ☐ disciplinary sanctions;
- ☐ revocation or cancellation of an act taken under the terms of the conflict of interest;
- ☐ submit materials to law enforcement agencies for further decision-making on the implementation of administrative and criminal liability;
- ☐ the responsibility of officials who have not prevented the conflict of interest;
- ☐ analysis of the causes of particular conflict of interest and proposals for improvement in the institution regarding the prevention of conflicts of interest or other necessary improvements.

Identification, handling, declaring and registering 'case by case' of conflict of interest cases by the Responsible Authorities

For each case of occurrence of a conflict of interest, the responsible authority registers the identity of the official, his private interests, reason for a conflict of interest and the conflict or the incompatibility found, stakeholders, source of the information, as well as decisions taken for their prevention, treatment and resolution.

For the purpose of declaring 'case by case' official's private interests, the responsible authorities are required to act in accordance with Article 17 of the Law on Prevention of Conflict of Interest. Therefore, when drafting bylaws, Responsible Authority - Institution is required to consider the following:

- ⇒ Each official during the discharge of his public function is obliged to make a preliminary case by case self-declaration, on basis of his knowledge and in good faith, of the existence of his private interests or those of persons related to him in regards to the decision making in a certain issue, that might be a cause for a conflict of interest and to withdraw from this decision making.
- ⇒ Case by case declaration of private interests is to be done by the official whenever this is required by the superior or by managing or supervising institution. As a rule, declaration shall be requested and made in advance. When this is not possible or when it has not happened, the declaration may be requested and made as quickly as possible but not later than thirty (30) days from the date of request or finding of conflict of interest.
- ⇒ Self-declaration or declaration on request, as a rule, is to be done in written when an official is included in a decision-making process for particular issues.
- ⇒ For each case of occurrence of a case by case conflict of interest, the employing institution registers the identity of the official, his private interests, reason for a conflict of interest and the conflict or the incompatibility found, stakeholders, source of the information, as well as decisions taken for their prevention, treatment and resolution.
- ⇒ Declarations on private interests and all accompanying documents are considered official documents.

Reporting to the Anti-Corruption Agency

The responsible authority is required to report to the Anti-Corruption Agency immediately following the decision on the case but not later than 15 days.

In addition to individual cases, the authorities responsible for implementing this law in institutions shall submit to the Agency each year for the previous year, but no later than January 31, a report on the activity carried out in pursuance of this law, including cases of conflict of interest, the methods under taken for the prevention or addressing them, the results achieved, and the status of addressing them.

Annual Report for the previous year of the Responsible Authority covers cases of conflict of interest, actions taken, preventive measures or their addressing, results achieved and case status.

The Anti-Corruption Agency publishes a report on the activities undertaken on its official website regarding cases of conflict of interest to all responsible authorities.

The role of the Anti-Corruption Agency in relation to the Responsible Authorities

The Anti-Corruption Agency is the central authority responsible for overseeing the implementation of the Law on Prevention of Conflict of Interest. The Agency assists Responsible Authorities in developing and improving policies, monitoring mechanisms of prevention and avoiding conflicts of interest as well as other duties in accordance with the mandate set by the legislation in force.

In relation to Responsible Authorities, Anti-Corruption Agency has the following responsibilities:

- ⇒ Provides professional and technical assistance in counselling and supporting legal and sub-legal initiatives, which must be taken by institutions in order to prevent conflict of interest;
- ⇒ Performs administrative investigation in accordance with the administrative procedure and provides recommendations for strengthening the capacities for the management of conflict of interest in institutions;
- ⇒ Provides advice to special senior officials, managers, managing institutions, at their request, in specific cases of conflicts of interest, including specific advice to officials under this law after the exhaustion of internal remedies in employer institutions and when the involvement of the Agency is deemed necessary;
- ⇒ Keeps records on cases of conflict of interest and appropriate measures taken by the Agency and collects information reported by institutions for proper records of declaration, addressing and resolution of cases of conflicts of interest.

For verification and administrative investigation of conflicts of interest and incompatibilities, the Anti-Corruption Agency has the right to use the necessary information in all institutions and legal persons both public and private, who are obliged to make available and/or provide access to the requested information or their resources in favour of the Agency, no later than within fifteen (15) days.

The Anti-Corruption Agency, while exercising its duties and responsibilities, shall express itself through decisions, recommendations and opinions.

In the administrative procedure, regarding conflict of interest, decisions of the Anti-Corruption Agency are final.

Use of forms

Immediately, following the entry into force of the Law on Prevention of Conflict of Interest, the Anti-Corruption Agency has adopted the Regulation No. 01/2019 of Work of the Anti-Corruption Agency, through which it approved two forms as following:

- 1. Conflict of Interest Disclosure Form;**
- 2. Conflict of Interest Register Form;**

These forms are required to be implemented and used by all public institutions - responsible authorities.

Depending on the entity: (1) The Conflict of Interest Disclosure Form shall be signed by the official upon taking office, employment, appointment, assignment; and (2) The Conflict of Interest Register Form shall serve the institution - respectively the Responsible Authority, regarding registration of cases and their reporting at the end of the year to the Anti-Corruption Agency.

Therefore, it is required that these forms be used by the Responsible Authorities, or referred to by-laws for the use of such forms by the responsible officials of the institution concerned.

Attached Annexes

The following Annexes are attached to the Guide:

- ⇒ Decision on appointing the responsible authority (Annex I);
- ⇒ Statement of the official's private interests (Annex II);
- ⇒ Data from the results of conflict of interest verification (Annex III);
- ⇒ Report of activities undertaken in accordance with the Law on Prevention of Conflict of Interest in Discharge of a Public Function (Annex IV)

This is the first edition of this Guide drafted by the Anti-Corruption Agency aimed at supporting responsible authorities in their work for identification, handling and resolving of potential conflict of interest situations. Therefore, as such, depending on the challenges or issues presented by the Responsible Authorities, the Anti-Corruption Agency has the right to revise, amend, revoke or supplement this Guide for the purpose of advancing it consistent with the needs that may arise in the course of business. This Guide may serve for drafting of sub-legal acts in accordance with the Law on Prevention of Conflict of Interest in compliance with the Administrative Instruction on Standards of Drafting Normative Acts.

Developed by
Anti-Corruption Agency

Prishtina
February, 2020

ANNEX I

(Name of the institution and logo)

Protocol No.:

Date: / /

Pursuant to [the legal basis of the institution making the decision] and Article 20 of Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, [title of institution leader], issues the following

DECISION

on the appointment of the responsible authority

1. Responsible Authority for the prevention of conflict of interest is established within [name of institution].
2. Composition and structure of the responsible authority is as follows:
 - 2.1. Mrs/Mr (name and surname), (position) as head of the responsible authority;
 - 2.2. Mrs/Mr (name and surname), (position);
 - 2.3. Mrs/Mr (name and surname), (position) as members of the responsible authority unit.
3. In order to fulfil its duties regarding the prevention of conflicts of interest, the responsible authority is authorized to:
4. gathers and receives information from legitimate sources regarding the private interests of an official, including public or private data, information provided by the media and complaints of citizens according to the relevant law on protection of informers and all other legal provisions in force;
5. require the official involved in the investigation of a conflict of interest case to submit additional information or a statement of the official's private interest upon request;
6. register the official's private interest;
7. verify the reliability of sources and information in order to prove a conflict of interest.
8. verify cases of conflict of interest and decide whether there are violations of legal provisions regarding the prevention of conflict of interest or other legal provisions;
9. issue decisions in special cases, propose further actions and activities in the prevention of conflict of interest in the institution, inform the Anti-Corruption Agency;

10. inform new officers and conduct regular training of officials and advise them on the prevention of conflicts of interest;
11. if necessary, carry out other activities in this regard.
12. The decision shall enter into force on the date of signature.

Having said the above, it was decided as in the enacting clause of this decision.

Legal Advice: The dissatisfied party shall have the right to appeal against this Decision to the Dispute Resolution Commission on [name of institution] within 30 (thirty) days from the date of receipt of this decision.

Name & Surname

position

The decision shall be disseminated to:

- *Members of the Responsible Authority and their direct supervisors;*
- *Office of [Director, Secretary, Minister]*
- *Legal Department;*
- *Office of Personnel;*
- *Archive.*

ANNEX II

(Name of the institution and logo)

Protocol No.:

Date: / /

Pursuant to Article 17 of Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function:

Declaration of official's private interests

Part A (to be completed by the official)

Name of institution	
Name of official (name and surname)	
Unit and position	
Submission date	
Contact details (phone number, email address, address)	

<input type="checkbox"/> Self-declaration	<input type="checkbox"/> Declaration upon request
---	---

Private interests that cause or may use a conflict of interest	
Description of the conflict of interest situation or potential conflict of interest	
Actions taken to resolve the conflict of interest	
Proposal for resolving the conflict of interest	
Additional information (if any)	

I... (name and surname), confirm that the information provided by me in this statement is true, complete, accurate, and I am legally responsible for:

..... (signature, name, surname)

Part B (to be completed by the responsible authority)

Date of receipt	
Responsible Authority (position, name, surname)	
Number of registration	

<p>Further action: disciplinary sanctions; revocation or cancellation of the act; submitting materials to law enforcement agencies (for further consideration on the application of administrative or criminal liability); responsibility of officials who have not prevented conflicts of interest; other actions (if any).</p> <p>* Please explain and justify the proposed actions or refusal of any of the options mentioned.</p>	
Analyse the causes of conflict of interest and propose improvements	

Date	
Signature	
(Position, name, surname)	

ANNEX III

(Name of the institution and logo)

Protocol No.:

Date: / /

Data from the results of conflict of interest verification

Name of institution			
Number of registration			
Name of official (name and surname)			
Unit and position			
Date of submission of the statement or information received		Date of decision	
Case description (data received, source of information, persons involved, etc.)			
Decision made and reasoning			
Analysis of the causes of conflict of interest and proposals for improvements			
Contact (name, position, phone number, email address)			

ANNEX IV

(Name of the institution and logo)

Protocol No.:

Date: / /

Report of activities undertaken in accordance with the Law on Prevention of Conflict of Interest in Discharge of a Public Function

No.	The case of conflict of interest	Undertaken actions to prevent or address the case	Results achieved	Status of addressing them
1.				
2.				
3.				

No.	Other activities undertaken by the institution preventing conflicts of interest

Position, name, surname:

Contact details (phone, email)