

# Guide on Best Practices in Using Cooling-off Periods and Preventing Conflicts of Interest

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NETWORK OF CORRUPTION  
PREVENTION AUTHORITIES



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The Guide is produced by the Commission for the Resolution of Conflicts of Interest, Croatia  
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## Introduction

A cooling-off period in the meaning of a post-employment restriction refers to the time which must elapse before a person who has held a public service position may move to a job/activity in the private sector or vice versa. These are often limited to the same sector of activity in order to avoid situations of conflicts of interest or undue influence. At the same time, it needs to be stressed that there exist a range of post-employment restriction, for example, prohibitions of the use of certain information, declaratory obligations and supervision, and they can all be used in combination.

Good practice in cooling-off periods stresses that the type of restriction and the length of a cooling-off period should be proportionate to the threat imposed from their role as a public official as well as take into account the specificities of the country context and size.

Two major components are at stake in terms of cooling-off periods; the length and how broad it is. Cooling off periods usually vary from one to two years while a six months-period has been considered very short. Cooling-off periods should also cover a range of post-employment situations and should not be limited only to situations of, for example, lobbying.

The aim of this Guide is to give retrospective of different arrangements regarding cooling off periods in various countries and to give us some good examples that already exist and can be helpful in making strategical plans for future.

## Key Findings

In the majority of cases referred to the present Guidelines:

- the Anti-Corruption Authorities (Agencies competent for the fight against corruption) are also competent for addressing Conflict of Interest situations and challenges.
- there is a specific law regulating conflict of interest situations and envisaging the cooling-off periods duration and standards.

In three countries (Brazil, Kenya, Tanzania) an Ethics Commission/Secretariat with an exclusive mandate on issues on Conflict of Interest and “Revolving Doors” has been established by law.

The cooling-off period varies from 6 months (Brazil) to three years (Italy).

The cooling-off period applied in Bulgaria, Greece, Georgia, Slovakia, Ukraine is one (1) year, while in Croatia is one year and a half (1,5) and in Kenya two (2) years.

Regarding the sanctioning powers, the authorities can impose disciplinary measures and fines that vary according to the severity of the violation. In cases where existing appointments breach the legislative framework, they are declared null and void.

The authorities, by identifying the importance of the issues raised, are mandated, inter alia, to develop and promote standards and best practices in integrity and develop codes of ethics/conduct in relation to public officers.

The authorities collect and retain data on cases regarding conflicts of interest and violations of cooling-off periods. Indicatively:

- **Croatia:** 300-400 cases per year
- **Kenya:** 80 cases per year
- **Albania** (2014 – 2020): 1.900 administrative fines have been imposed.
- **Bulgaria:** CACIAF has issued 162 Decisions in the field of Conflict of Interest.
- **Ukraine:** During 2020-2021, the National Agency on Corruption Prevention (NACP) has received 2.300 requests for clarification regarding the relevant legislation.

## Comparative Analysis

### The “cooling-off” regimes of the NCPA Members and Partners

#### ALBANIA

Regarding the **Albanian** legislative framework, Law no. 9367, dated 07.04.2005 “On the prevention of conflict of interest in the exercise of public functions”, as amended provides rules, means, manners, procedures, responsibilities and competencies for the identification, declaration, registration, treating, resolution and punishment of the cases of conflicts of interest.

The purpose of this law is to guarantee an impartial and transparent decision-making in the best possible interest of the public and of its trust in public institutions through preventing conflicts between public interests and private ones of an official in the exercise of his functions.

The law regulates all types of conflict of interest including actual, apparent, potential, case by case, and continuing conflict of interest and applies to every official in the executive branch at the central and local levels, the legislative and the judiciary, as well as state or local enterprises, commercial companies with a controlling participation of state or local capital, who takes part in a decision-making on: administrative acts and contracts; acts of the judicial organs, notaries acts, acts for the execution of executive titles by the execution organs and acts of the prosecutor’s office; normative acts, and only those laws that create juridical consequences for individually specified subjects.

The system adopted by law no. 9367/2005, as amended, in order to avoid, prevent or resolve conflicts of interest situations relies on a case-by-case self-declaration in which the subject itself assesses whether its private interests may lead to a conflict of interest situation, or upon request when this is required by the superior or superior institution, as well as on the identification by the subject of private interests that may be the cause of the emergence of a continuing conflict of interest and their behavior within the limits permitted by law. Self-declaration or declaration upon request is made in writing, exceptionally the declaration may be made verbally, if the declarations are recordable and documentable, according to the procedures established by law and/or internal regulations of the public institutions where the entity exercises its own functions.

The law no. 9367/2005, as amended, foresees a broad range of private interests to be declared that include: property rights and obligations of any kind of nature; every other juridical civil relationship; gifts, promises, favors, preferential treatment; possible negotiations for employment in the future by the official during the exercise of his function or negotiations for any other kind of form of relationships with a private interest for the official after leaving the duty performed by him during the exercise of duty; engagements in private activity for the purpose of profit or any kind

of activity that creates income, as well as engagements in profit-making and non-profit organizations, syndicates or professional, political or state organizations and every other organization; relationships (family or living together; community; ethnic; religious; recognized relationships of friendship or enmity); prior engagements from which the interests have arisen or arise.

The law no. 9367/2005, as amended provides prohibitions of private interests such as: prohibition/restrictions of entering into contracts with public authorities; prohibition on receiving income because of their function or position; prohibition of receiving gifts, favors, promises or preferential treatments; prohibition of indirect interests; restrictions of interests for the persons related to the public official. The restrictions of private interests specifically defined in this law are applied together with the restrictions of the same private interest expressly defined in another law, according to the principle that the restriction applied is the one that is more severe.

Regarding the cooling off period, there are provisions regulated in different laws, such as the Law no. 9131, date 8.9.2003 "On the Rules of Ethics in the Public Administration" and the by-laws issued based on it, the legislation regulating the bank of Albania or the legislation regulating the power energy supervisory board.

Finally, the duty of every official and every superior to avoid, prevent and put an end to conflicts of interest is imposed in Article 6 of the law no. 9367/2005, as amended. In order to comply with this broad principle, every official is obliged to make a self-declaration of the existence of his private interests that may become the cause for the emergence of a conflict of interest (Article 7 Law no. 9367/2005, as amended). He/she must also authorize HIDAACI to collect and check information about him/her.

## **BRAZIL**

In **Brazil**, Law n. 12,813/2013 establishes a period of 6 months, starting from the date of termination, exoneration, dismissal, removal from office or retirement, in which the holders of certain positions in the federal Executive Power cannot perform certain activities, under penalty of incurring in a conflict of interest.

The Office of the Comptroller General (CGU) and the Public Ethics Commission (CEP) have competence over matters related to conflict of interest and quarantine. Pursuant to Law n. 12,813/2013, when the situation involves an occupant of the following positions, the situation must be analyzed by the Public Ethics Commission:

I - of minister of state;

II - of a special nature or equivalent;

III - of president, vice-president and director, or equivalent, of autarchies, public foundations, state-owned companies or mixed capital companies; and

IV - of the Senior Management and Advisory Group - DAS, levels 6 and 5 or equivalent.

In all other cases, the competence to act lies with the CGU.

Law n. 12,813/2013 does not establish rules to be observed when hiring public servants. However, Article 9, item I, establishes the annual obligation for public agents to send to CEP or CGU, as the case may be, a statement with information on the asset situation, shareholdings, economic or professional activities and indication of the existence of a spouse, partner or relative, by consanguinity or affinity, in a direct or collateral line, up to the third degree, in the exercise of activities that may give rise to a conflict of interest.

In addition, Decree n. 10,571, of 9 December 2020, regulated this article and established the obligation to present information on conflict of interest at the time of taking office to the following public agents:

I – ministers of state;

II – incumbents of commissioned or trust positions of the Senior Management and Advisory Group – DAS of level 5 and above; and

III - the presidents, vice-presidents, and directors, or equivalent, of entities of the indirect federal public administration.

After exercising public office, public agents may not carry out the following activities, without being expressly authorized by the CEP or the CGU:

a) provide, directly or indirectly, any type of service to an individual or legal entity with whom they have established a relevant relationship due to the exercise of the position or employment;

b) accept the position of administrator or advisor or establish a professional relationship with an individual or legal entity that performs activities related to the area of competence of the position or employment held.

c) enter into a service, consultancy and advisory contract or similar activities with bodies or

entities of the Federal Executive Branch, linked, albeit indirectly, to the body or entity in which they have held the position or employment; or

d) intervene, directly or indirectly, in favor of a private interest before the body or entity in which he has held a position or job or with which he has established a relevant relationship due to the exercise of the position or employment.

According to Article 12 of Law n. 12,813/2013, public agents who practice acts that may constitute a conflict of interest incur in administrative improbity pursuant to Article 11 of Law n. 8,429, of 2 June 1992. In this case, the public agent is subject to the penalty of removal from office, pursuant to Article 132, item IV, of Law n. 8,112, of 11 December 1990.

In addition to removal from office, the public agent is still subject to the following penalties that may be imposed by a judge after the final decision of a judicial proceeding for administrative improbity:

I – Full compensation for damage, if any;

II – Loss of assets or values illicitly acquired;



- III – Removal from office;
- IV – Suspension of political rights;
- V – Payment of civil fine; and
- VI – Debarment from contracting with the government or receiving tax or credit benefits or incentives.

## **BULGARIA**

The main relative **Bulgarian** law is the Act on counteracting corruption and on forfeiture of illegally acquired property (ACCFIAP)

*Section IV: Restrictions after dismissal from a high public position – articles from 67-69*

**Art. 67.** Any person holding a senior public position, in relation of whom a conflict of interest, or a relevant violation of Art. 68, or 69 has been established, shall not be entitled during one year from the enforcement of the decision, with which the conflict of interest has been established, to hold a public position.

**Art. 68. (1)** Any person who has held a senior public position shall not be entitled during one year from his/her dismissal from the position, to sign labour contracts, contracts for consultant services or other contracts for performing head or control functions with trade companies, sole traders, cooperatives or non-profitable legal persons, in relation to which during the last year of performing his official powers, or duties has realized an order, regulation or control, or has signed contracts with them, as well as being a partner, to possess shares, or assets, to be manager or member of a managing or controlling body of such trade companies, cooperatives or non-profitable legal persons.

(2) The restrictions shall also apply to trade companies, related to the companies under Para. 1.

**Art. 69. (1)** Any person, having occupied a senior public position, who during the last year of performing his official powers or duties has participated in conducting procedures for public procurements, or in in procedures related to provision of means from the EU funds, or provided by the EU to the Bulgarian state, shall not be entitled during one year after his dismissal from the position to participate or represent a natural or legal persons in such procedures before the institution, in which he/she has occupied the position or before controlled by it legal person.

(2) The prohibition for participation in procedures for public procurement, or in procedures, related to provision of means from the EU fund, or provided by the EU to the Bulgarian state, shall also apply to a legal person, in which the person under Para. 1 has become a partner, possesses shares or is manager, or member of a managing, or control body after his/her dismissal from the position.

The provisions of this Section shall apply, unless a special act provides otherwise.

CACIAF carries out checks to establish the presence or absence of a conflict of interest in relation to the persons under Art. 6, para. 1 of ACCFIAP, based on a report submitted to the CACIAF, by decision of the CACIAF or at the request of the person holding a high public office. In the course of inspections of established proceedings for conflict of interest, the necessary information and documents are requested and received from the commissions under Art. 72, para. 2, items 1 and 3 of the ACCFIAP, respectively by the selection or appointment body, the bodies of state power, the bodies of local self-government, as well as by legal entities and individuals. Inquiries are made through direct access to electronic registers, databases and other information arrays maintained by other state bodies, with the exception of security services. If there is evidence of a committed crime, a proposal is made to the CACIAF to prepare and send the materials immediately to the prosecutor's office.

The prohibitions should be observed by the persons who held a senior public office and by sole traders or legal entities with whom the person under Art. 68 or 69 of ACCFIAP concluded a contract or which is represented or managed by a person under Art. 68 or 69 of ACCFIAP.

Before the appointment to a senior public position, the relevant person, with the exception of persons under the Law on Judicial Power, should submit declarations under Art. 35, para. 1 of ACCFIAP, namely – declaration of incompatibility and declaration of property and interests. Section IV of ACCFIAP (Art. 67 to Art. 70 inclusive) provides for the restrictions after release from a high public office. In brief, the restrictions refer to prohibitions introduced for the exercise of certain activities for a certain period of time, immediately after the release of the person from the senior public office held by him.

CACIAF is the competent authority that can carry out a check for conflicts of interest of persons holding a high public office, as well as for compliance with the restrictions in the ACCFIAP after the release from a high public office of the persons who held a high public office.

Articles from 171 to 172 from Act on counteracting corruption and on seizure of illegally acquired property envisage the sanctions regarding conflicts of interest.

## **CROATIA**

For **Croatia**, restrictions after the termination of activities related to the performance of state functions, local self-government and other obliged entities are part of the Act on the Prevention of Conflict of Interest.

Obliged entities may not be members of administrative bodies and supervisory boards of companies, boards of directors of institutions, i.e. supervisory boards of extrabudgetary funds, nor perform management tasks in business entities. Obligations

shall begin on the day of taking office and shall last for six or twelve months (depending on the salary compensation period) from the day of termination of office. For some obliged entities there is no this general provision because they don't have right to salary compensation by law ( for example members of the board in state owned companies).

Obliged entity of this Act may not accept appointment to management positions in a legal entity with which they were in a business relationship or performed supervisory, control or regulatory functions during the performance of their duties, and not otherwise prescribed by a special law. This limitation shall apply 18 months after the termination of office

Commission for the Resolution of Conflicts of interest is the only institution responsible for conflict of interest and cooling off periods.

In order to prevent corruption Act on the Prevention of Conflict of Interest provides restrictions on: the use of official powers or their position; receiving gifts; preventing the receipt of illicit benefits or gifts and their treatment; combination with other activities; joint work of persons near in relationship, submission of assets declarations, yearly reports of significant changes in property status, business restrictions, ad hoc conflict of interest disclosure, etc. Regarding its sanction competences the Commission can impose fines from 550 to 5.500 EUR.

## ECUADOR

In the **Ecuadorian** case, there is no single legislation to define and contextualize conflicts of interest. Nonetheless, there are several provisions to prevent the lack of impartiality in the decisions of public officials, which are foreseen in the Constitution and the bills that regulate public sector, public procurement, the judicial branch of government, among others.

For instance, the Constitution of the Republic of Ecuador (2008) forbids moonlighting and nepotism while conducting public duties:

Art. 230.- In the exercise of public service it is prohibited, in addition to what is determined by law:

1. To hold more than one public office simultaneously, with the exception of university teaching, provided that their schedule so permits.
2. Nepotism.
3. Discriminatory actions of any kind.

Likewise, it prohibits the involvement of public officers in overseeing bodies if they have interest in the areas that will be controlled or regulated; and, it also stipulates that public officers should not take any action if their private interests are contrary to those of the institutions where they work:

Art. 232.- Those who have interests in the areas to be controlled or regulated, or represent third parties that have such interests, may not be officials or members of

governing bodies of entities exercising state control and regulation powers. Public servants shall refrain from acting in cases where their interests' conflict with those of the agency or entity in which they provide their services.

In addition, the Constitution introduces a provision a cooling off in the following scenario:

Art. 153. - Those who have held the position of Minister of State and public servants of a higher hierarchical level as defined by law, once they have left office and during the following two years, may not be part of the board of directors or the management team, or be legal representatives or exercise the procuration of private legal persons, national or foreign, that enter into contracts with the State, whether for the execution of public works, rendering of public services or exploitation of natural resources, through concession, association or any other contractual modality, or be officers or officials of international financial institutions that are creditors of the country.

## GEORGIA

Considering the revolving door concept, in case of leaving the civil service, a dismissed **Georgian** public servant may not, within 1 year after dismissal, start working in the public institution or carry out activities in the enterprise which has been under his systematic official supervision during the past 3 years. Within this period, he/she also may not receive income from such public institution or enterprise.

In order to prevent the conflict of interest and incompatibilities, the law determines the responsibility of public official, within one year after dismissal, to complete and submit an official's asset declaration within the respective month of completion of the previous declaration, unless he/she is appointed to any other position. As a result, affecting on the reputation of public officials could also be considered as a mechanism of deterring the conflict of interest and incompatibilities.

Due to avoid the misuse of personal connections of the former position acquired during their tenure and/or impacts on improving property status after leaving office, an official shall, within two months after dismissal, within the calendar year of their dismissal, and within the same, respective month of completing the previous declaration in the year following the dismissal, unless they are appointed to another position, completes and submits an asset declaration (Article 14).

## GREECE

The **Greek** Law 4622/2019 on the Organization, Operation and Transparency of the Government, Government Institutions and Central Government Administration devotes an entire chapter (Part IV) on ineligibilities, incompatibilities and rules for the avoidance of conflicts of interest of Members of the Government, Deputy Ministers, General and Special Secretaries of governing bodies of the public sector and non-

permanent staff, among others. The relative provisions aim at ensuring transparency and integrity in public administration through rules that govern the action of members of the government. In particular, these rules govern their appointment, the carrying out of their duties and the period after they leave service. The main goal of these provisions is to safeguard the principles of integrity and impartiality which are expected from any person who holds a public office. The primary legal basis for these provisions is article 81 of the Greek Constitution which provides for the suspension of any professional activity for the members of the Government, Deputy Ministers and the President of the Parliament during the performance of their duties. The law extends this suspension to additional persons who exercise public authority given the need for complete dedication to their mandate. The implementation of these provisions is ensured with the creation of the Ethics Committee established within the auspices of the National Transparency Authority.

By article 68 specific categories of persons where the provisions apply, namely to: (a) members of the Government and Deputy Ministers, (b) General and Special Secretaries, and Coordinators of the Decentralized Administrations, (c) Presidents or Heads of Independent Authorities, and Presidents, Vice-Presidents, Governors, Deputy Governors, Directors or appointed advisors to legal persons governed by public law and private law, the selection of whom is reserved to the government, with the exception of bodies falling within the scope of Chapter B of Law 3429/2005 (Government Gazette A' 314).

As to the obligations after leaving service (article 73): For one year after they leave their post, persons appointed in positions of article 68 have the obligation to obtain authorization for any professional or business activity that relates to the activity of the entity to which they were appointed, if it could raise any conflict of interest, as described in article 71. The authorization requires the submission of a petition to the Ethics Committee discussed below.

In accordance with article 74 of Law 4622/2019, an Ethics Committee is established in the National Transparency Authority with the responsibility to (a) address any matter referred to it by the Prime Minister on ethical issues and avoidance of conflicts of interest of the persons appointed to the positions referred to in Article 68 of said Law, namely, members of the Government and Deputy Ministers, General and Special Secretaries, Coordinators of Decentralized Administrations, Presidents or Heads of Independent Authorities and to the Presidents, Vice-Presidents, Directors, Deputy Directors, Deputy Directors, Directors or appointed advisers to legal persons governed by public law and private law; (b) examine the requests submitted in the context of Article 73 (1) and (2) of said Law on obligations after leaving service. In addition, the Ethics Committee may, ex officio, review the implementation of the provisions on ineligibility, incompatibilities and rules for the avoidance of conflicts of interest and propose the imposition of the relevant sanctions; (d) to provide an advisory opinion on draft codes of conduct for persons appointed to the positions referred to in Article 68 or for other civil servants or officials of the public

administration, referred to by the Prime Minister and (e) examine, ex-officio or following a report, a possible breach of the obligations referred to temporary staff and political advisers and propose the imposition of the relevant to penalties referred to in Article 75.

Penalties imposed by the Ethics Committee of the National Transparency Authority:

In cases of violation of the provisions regarding ineligibility, incompatibilities, and rules for the avoidance of conflicts of interest, the Ethics Committee shall in accordance with article 75 para. 1 of Law 4622/2019 draw up a finding on the matter with proposed sanctions and shall send it to the Governor of the National Transparency Authority in order for him/her to adopt an administrative act concerning: (a) the imposition of a fine of up to twice the total remuneration and all the allowances received by the person referred to in Article 68 during his/her term of office, which is certified and is directly collected as public revenue, in accordance with the provisions of the Public Revenue Collection Code; (b) the prohibition of appointment, to the positions mentioned in Article 68 of this Law, for a period of up to five (5) years from the finding of the infringement. The above penalties shall be imposed cumulatively or alternatively. In the event of failure to pay the fine referred to in point (a), the period referred to in point (b) shall be extended for as long as the fine is not paid. All the decisions shall be posted on the website of the National Transparency Authority (para. 2), in addition to the publicity obligations, as set forth. Nullity of the contracts entered is also provided as an additional consequence.

Similar provisions regarding incompatibilities with the status of a civil servant are envisaged in Articles 31-34 of the Civil Service Code (Law 3528/2007) regarding working in the private sector, participating in businesses and boards of directors, being a member of a parliament or lawyer or possessing a second post in the public sector.

## ITALY

In the case of **Italy**, public appointments, the ANAC verifies compliance with Legislative Decree No. 39/2013 and the prohibition of 'pantouflage'.

Precisely, **ANAC, in case of the conferral of appointments, verifies that Legislative Decree No. 39/2013 has not been breached.** This legislation provides, before the cooling-off period has elapsed, that certain public offices may not be conferred to persons who pursue their own interests or those of private individuals, or who hold or have held political office.

**Moreover, this legislation provides that certain public offices cannot be conferred to persons who have been convicted of crimes against the public administration.** The duration of the prohibition on appointing persons convicted of offences against public administration depends on the seriousness of the crime. In some cases, the prohibition is temporary, in others it's permanent.

In addition, ANAC also verifies the legitimacy of the transfer of employees from the public to the private sector. Specifically, Italian legislation provides for the prohibition of “pantouflage”. This prohibition means that employees who have exercised, on behalf of the public administration, certain powers towards private companies during their last three years of service, may not take up professional positions with the same companies during the three years following the end of their employment with the public administration. The regulations just mentioned are particularly important because they serve to prevent conflicts of interest of public servants and provide for cases in which the assignments, from the origin, cannot be conferred or are incompatible.

In the case of a breach of the legislative framework, ANAC declares the appointments null and void. Therefore, those who received them are obliged to return the sums of money received. Moreover, those who have conferred the appointments cannot confer others for a period provided by the law.

Since the adoption of the above-mentioned legislative framework, ANAC has adopted numerous acts concerning the legitimacy of public appointments.

**ANAC**, however, not only verifies the legitimacy of appointments that have already been conferred, but also provides legal opinions to administrations wishing to confer appointments.

ANAC's decisions are published on its website and also on those of public administrations involved.

The Authority, in order to support public administrations and private citizens, also constantly publishes related documents (**such as guidelines, resolutions, etc.**) on its website. Recently, FAQs were published on the questions most frequently submitted to the Authority, concerning public appointments.

The experience gained by ANAC during its work has allowed it to discover best practices to avoid public appointments being made in violation of the legislative framework. In this sense, the declarations that the nominated parties must sign at the time of the assignment are particularly important. These statements allow verification of the absence of violations of law in the conferral and the absence of conflicts of interest. Control over these statements is the responsibility of the Corruption Prevention Officer (RPCT), a sort of integrity manager provided by the law within each public administration.

In June 2022 ANAC approved and released for public consultation the outline of the new National Anti-Corruption Plan 2022-2024 (PNA). A specific chapter of the PNA is focused on “pantouflage”, assuming the complexity of the issue and the need for integrative indications to the ones contained in the legislative provisions.

In this chapter, after clarifying some aspects of the legislation, ANAC, building on the experience of the application of the norms of last years, provides for some recommendations to public administrations to prevent the occurrence of “pantouflage”. Recommendations are related to the following aspects:

- integration of the Code of Conduct of the administration in order to provide for a duty of communication for the employee who receives work proposals from a private entity;
- specific clauses in staff recruitment contracts, which specifically provide for the regulation of pantouflage;
- declaration to be signed in the months prior to the termination of service, with which the employee undertakes to comply with the prohibition of pantouflage, in order to avoid any disputes regarding the knowledge of the rule;
- transmission, annually and in the three years following the termination of service, of one declaration by the former employee certifying the absence of violation of the pantouflage prohibition;
- provision in the tender notices of the obligation for the economic operator to declare that he has not hired former public employees in violation of the ban on pantouflage;
- promotion by the RPCT of specific in-depth, training and awareness-raising activities on the subject.

## MONTENEGRO

The **Montenegrin** Agency for Prevention of Corruption is the central preventive anti-corruption authority that establishes the existence of conflict of interest in the exercise of public function and take measures for its **prevention, controls restrictions in the exercise of public functions and restrictions for a period of two years upon termination of public office.**

Regarding the restrictions upon termination of public office, Article 15 of the Law on Prevention of Corruption regulates restrictions upon termination of office, which prescribes that a public official cannot within a period of two years after termination of public office, to:

- 1) Act, before the authority in which he exercised a public function, as a representative or attorney of a legal person, entrepreneur or international or other organization having or establishing a contractual or business relationship with this authority;
- 2) Establish a working relationship or business cooperation with the legal person, entrepreneur or international or other organization that, based on the decisions of the authority in which a public official has exercised function, acquires gain;
- 3) Represent a natural or legal person before the authority in which he exercised a public function in a case in which he participated, as a public official, in the decision-making;
- 4) Perform management or audit activities in the legal person in which, at least one year prior to the termination of public function, his duties were related to supervisory or control activities;



- 5) Enter into a contract or other form of business cooperation with the authority in which he exercised a public function;
- 6) Use, for the purpose of obtaining a benefit for himself or another, or to harm another, the knowledge and information acquired in the performance of public function, unless the knowledge and information are available to the public.

## SLOVAKIA

In the case of **Slovakia**, various regimes regulating conflict of interest are in force according to different categories of public officials/civil servants/judges/prosecutors/police officers.

As to the public officials, cooling-off periods (“revolving-door phenomenon”) and conflicts of interest are regulated in the Constitutional Act No. 357/2004 Coll. on Protection of Public Interest in the Performance of Functions of Public Officials (the “Act”) as of 26 May 2004.

The Act applies exclusively to public officials who are in the executive functions or members of a collective decision-making body, while advisers and senior civil servants closely associated with top executive functions are not included. The full list of public officials covered by the Act is stipulated in the Article 2, letters a) through zp).

Pursuant to the Article 9 (1) of the Act, the procedure on the proposal on matter of protection of public interest and prevention of conflict of interest is carried out by (i) dedicated committee - Committee of the National Council of the Slovak Republic on Incompatibility of Functions (the “Committee”); (ii) municipal council; (iii) council of a higher territorial unit; (iv) academic senate of a public university; depending on the category of the public official concerned.

According to the Article 8 (1) of the Act, in principle, public official who, in the period of two years before the end of the performance of public office, decided on providing state aid or on providing or permitting other support, benefits or on remission of obligations arising from generally binding legal regulation or from individual legal acts to natural persons or legal entities, is, within one year from the end of the performance of public office, prohibited:

- a) to be employed in an employment relationship or a similar employment relationship with those persons, where his/her monthly remuneration in this employment is 10 times higher than the minimum wage,
- b) to be a member of a management, control or supervisory body of those persons,
- c) to be a partner, member or shareholder of those persons,
- d) to conclude a contract of attorney, mandate contract, commission contract, mediation contract, commercial agency contract, silent partnership contract or donation contract with these persons,
- e) to conclude a contract, the content of which is the authorization to act on behalf of these persons.

The prohibition stated above shall apply also (i) to a public official whose decision or consent was a necessary condition for the decision under the Article 8 (1) of the Act; (ii) to a public official who, within the period of two years before the end of his/her public office, entered into a contract on behalf of a contracting authority with a tenderer in a procurement carried out by the above-limit method or the below-limit method; or (iii) to a public official who, within the period of two years before the end of his/her public office, exercised a fiduciary responsibility in respect of legal entities.

In this regard, the Act stipulates, in the Article 8 (5), an obligation for the former public official to submit a written declaration with a detailed information stating (i) the persons with whom he/she has been employed in an employment or similar relationship; (ii) in which legal entity he/she has been a member of a management, control or supervisory body; (iii) of which legal persons he/she has become a partner, member or shareholder; (iv) with which persons he/she has concluded contracts pursuant to the abovementioned letters d) and e), within 30 days after the lapse of one year cooling-off period upon the end of the tenure.

In addition to the obligation to leave the conflicted function without due delay (Article 9 (7) of the Act), the public official may be deprived of the function of the public office (Article 9 (8) of the Act) or may be fined up to a fine of twelve-month salaries.

## TANZANIA

The **Tanzanian** Public Leadership Code of Ethics (Control of Conflict of Interest GN No. 113 of published on 14/02/2020) provides for the rules governing conflict of interest. The regulations are made under section 31(2)(f) of the Public Leadership Code of Ethics Act Cap 398. Section 3 of the regulations makes a thorough explanation of such framework

The Ethics Secretariat is the authority charged with the responsibility/ mandate related to conflicts of interest and cooling off.

Not very sure of the rules since they are not written. However, there is a process of vetting which must be done before the appointments are made. The vetting process is however not an open one so not easy to know the rules and procedures applied.

## UKRAINE

Restrictions after the termination of activities related to the performance of state functions, local self-government are defined in Part 1 of Article 26 of the Law of **Ukraine** "On Prevention of Corruption". Pursuant to these provisions, persons authorized to perform the functions of the state or local self-government referred to in paragraph 1 of the first part of Article 3 of this Law who resigned or otherwise

terminated activities related to the performance of the functions of the state or local self-government shall be prohibited:

1) to enter into employment agreements (contracts) or to enter into transactions in the field of entrepreneurial activity with legal entities of private law or natural persons - entrepreneurs, if the persons specified in the first paragraph of this part the state or local self-government exercised the authority to control, supervise or prepare or make appropriate decisions regarding the activities of these legal entities or natural persons – entrepreneurs ) **within one year from the date of termination of the relevant activity;**

2) to disclose or otherwise use in their interest information that has become known to them in connection with the performance of official duties, except as provided by law;

3) to represent the interests of any person in cases (including those before the courts) in which the other party is the body, enterprise, institution, organization in which (which) they worked at the time of termination of the specified activity within a year from the date of termination of the relevant activity.

In accordance with part 2 of the cited article, the violation of the restriction on the conclusion of an employment agreement (contract) established by paragraph 1 of part one of this article is the basis for termination of the relevant agreement. Transactions in the field of entrepreneurial activity, committed in violation of the requirements of paragraph 1 of part one of this article, may be declared invalid.

If the National Agency on Corruption Prevention detects violations referred to in Part One of the Article 26 of the Law of Ukraine “On Prevention of Corruption”, it shall appeal to the court for termination of the employment agreement (contract) and to find the transaction null and void.

In accordance with Art. 11 of the Law the Ukrainian National Agency on Corruption Prevention is empowered to:

- monitoring and control over the implementation of legislative acts on issues of ethical behavior, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them;

- providing explanations, methodological and consulting assistance on the application of acts of legislation on ethical behavior, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them, application of other provisions of the Law and regulations adopted for its implementation.

Violation of restrictions after the termination of activities related to the performance of functions of the state or local self-government, defined in Art. 26 of the Law on concluding an employment agreement (contract) is the basis for terminating the relevant agreement. Acts in the field of entrepreneurial activity, committed in violation of the specified requirements, may be declared invalid. If the specified violations are

detected, the NACP applies to the court to terminate the employment agreement (contract), to declare the transaction invalid.

The rules and procedures used for pre- and post-appointment of persons authorized to perform the functions of the state or local self-government are defined in Art. 27 of the Law.

Persons applying for the respective positions are obliged to inform the head of the body to which they apply for the position, about persons close to them working in this body. The notification is made in relation to all close persons who work in the body, regardless of what position they hold, and whether such an appointment will lead to the formation of relations of direct subordination between close persons. Taking into account the specified requirement, a person cannot be appointed to a position if, as a result of such appointment, a conflict of interest arises for him or for a close person.

#### **Regarding " cooling off periods"**

The NACP found that the former Acting Minister of Energy of Ukraine participated in the preparation of decisions regarding the activities of Naftogaz of Ukraine. After his release, he was appointed head of Naftogaz of Ukraine and signed a one-year contract to manage this company.

The provisions of the Law in the specified situation are applied in case of at least one time, during the year before the termination of powers, the exercise of supervisory control functions or preparation or decision-making regarding the activities of legal entities.

In the described situation, the NACP issued an order to the persons authorized to resolve the issue of termination of the contract with the head of Naftogaz of Ukraine with a demand to eliminate the violation of the requirements of the Law, and a corresponding lawsuit was sent to the court.

## **KENYA**

*(Contribution as submitted by EAAACA, NCPA partner)*

According to the **NCPA partner East African Association of Anti-Corruption Authorities (EAAACA), the Kenyan** legislative framework provides that former State or public officers are generally, barred from engaging with or acting on behalf of a person or entity in a matter in which the officer was originally engaged in as a State or public officer, for at least **two years after leaving the State office.**

The Ethics and Anti-Corruption Commission of Kenya is mandated inter alia to develop and promote standards and best practices in integrity and anti-corruption and develop a code of ethics in relation to State officers. The Commission is also required to work with other State and public offices in the development and promotion of standards and best practices in integrity and anti-corruption. The Commission is mandated to oversee and enforce Leadership and Integrity Act (LIA) and Public Officer Ethics Act (POEA) which have provisions on the conflicts of interest (COI) and to

investigate allegations of conflicts of interest which is criminalized by section 42 of the Act.

State and public officers are to be selected on the basis of their competence, suitability and personal integrity. In order to determine the personal integrity of aspiring State and public Officers they are required submit to the Ethics and Anti-Corruption Commission a self-declaration form which the Commission uses to conduct integrity verification on the applicant. The results are communicated to the recruiting entity directly. Upon appointment, the State or public officer is obliged to submit a declaration of income, assets and liabilities to the relevant responsible Commission within 30 days.

The Commission does not monitor mobility of former public officials between the public and private sector unless upon a request by a private sector entity to verify the integrity of any person it seeks to appoint. No other agency monitors the mobility of public officials between public and private sector.

## References

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2. CoE / Conflicts of interest at local and regional level  
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3. United Nations  
Good practices in the prevention of corruption and regulation models in the public sector (Chapter VI)  
<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2010-December-13-15/V1056726e.pdf#page=13>
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## ANNEX

### (Responses of the NCPA members and partners to the Guide-related questionnaire – Members' Contributions)

Q1: Which are the rules governing cooling off periods? Is there a relevant legislative framework regulating Conflicts of Interest?

**Albania:** The Law no. 9367, dated 07.04.2005 “On the prevention of conflict of interest in the exercise of public functions”, as amended provides rules, means, manners, procedures, responsibilities and competencies for the identification, declaration, registration, treating, resolution and punishment of the cases of conflict of interest. The purpose of this law is to guarantee an impartial and transparent decision-making in the best possible interest of the public and of its trust in public institutions through preventing conflicts between public interests and private ones of an official in the exercise of his functions. The law regulates all types conflict of interest including actual, apparent, potential, case by case, and continuing conflict of interest and applies to every official in the executive branch at the central and local levels, the legislative and the judiciary, as well as state or local enterprises, commercial companies with a controlling participation of state or local capital, who takes part in a decision-making on: administrative acts and contracts; acts of the judicial organs, notaries acts, acts for the execution of executive titles by the execution organs and acts of the prosecutor’s office; normative acts, and only those laws that create juridical consequences for individually specified subjects. The system adopted by law no. 9367/2005, as amended, in order to avoid, prevent or resolve conflicts of interest situations relies on a case-by-case self-declaration in which the subject itself assesses whether its private interests may lead to a conflict of interest situation, or upon request when this is required by the superior or superior institution, as well as on the identification by the subject of private interests that may be the cause of the emergence of a continuing conflict of interest and their behavior within the limits permitted by law. Self-declaration or declaration upon request is made in writing, exceptionally the declaration may be made verbally, if the declarations are recordable and documentable, according to the procedures established by law and/or internal regulations of the public institutions where the entity exercises its own functions. The law no. 9367/2005, as amended foresees a broad range of private interests to be declared that include: property rights and obligations of any kind of nature; every other juridical civil relationship; gifts, promises, favors, preferential treatment; possible negotiations for employment in the future by the official during the exercise of his function or negotiations for any other kind of form of relationships with a private interest for the official after leaving the duty performed by him during the exercise of duty; engagements in private activity for the purpose of profit or any kind of activity that creates income, as well as engagements in profit-making and non-profit organizations, syndicates or professional, political or state

organizations and every other organization; relationships (family or living together; community; ethnic; religious; recognized relationships of friendship or enmity); prior engagements from which the interests have arisen or arise. The law no. 9367/2005, as amended provides prohibitions of private interests such as: prohibition/restrictions of entering into contracts with public authorities; prohibition on receiving income because of their function or position; prohibition of receiving gifts, favors, promises or preferential treatments; prohibition of indirect interests; restrictions of interests for the persons related to the public official. The restrictions of private interests specifically defined in this law are applied together with the restrictions of the same private interest expressly defined in another law, according to the principle that the restriction applied is the one that is more severe.

Regarding the cooling off period, there are provisions regulated in different laws, such as the Law no. 9131, date 8.9.2003 "On the Rules of Ethics in the Public Administration" and the by-laws issued based on it, the legislation regulating the bank of Albania or the legislation regulating the power energy supervisory board.

**Brazil:** In Brazil, Law n. 12,813/2013 establishes a period of 6 months, starting from the date of termination, exoneration, dismissal, removal from office or retirement, in which the holders of certain positions in the federal Executive Power cannot perform certain activities, under penalty of incurring in a conflict of interest.

The Office of the Comptroller General (CGU) and the Public Ethics Commission (CEP) have competence over matters related to conflict of interest and quarantine. Pursuant to Law n. 12,813/2013, when the situation involves an occupant of the following positions, the situation must be analyzed by the Public Ethics Commission:

I - of minister of state;

II - of a special nature or equivalent;

III - of president, vice-president and director, or equivalent, of autarchies, public foundations, state-owned companies or mixed capital companies; and

IV - of the Senior Management and Advisory Group - DAS, levels 6 and 5 or equivalent.

In all other cases, the competence to act lies with the CGU.

Law n. 12,813/2013 does not establish rules to be observed when hiring public servants. However, Article 9, item I, establishes the annual obligation for public agents to send to CEP or CGU, as the case may be, a statement with information on the asset situation, shareholdings, economic or professional activities and indication of the existence of a spouse, partner or relative, by consanguinity or affinity, in a direct or collateral line, up to the third degree, in the exercise of activities that may give rise to a conflict of interest.

In addition, Decree n. 10,571, of 9 December 2020, regulated this article and established the obligation to present information on conflict of interest at the time of taking office to the following public agents:



I – ministers of state;

II – incumbents of commissioned or trust positions of the Senior Management and Advisory Group – DAS of level 5 and above; and

III - the presidents, vice-presidents, and directors, or equivalent, of entities of the indirect federal public administration.

After exercising public office, public agents may not carry out the following activities, without being expressly authorized by the CEP or the CGU:

a) provide, directly or indirectly, any type of service to an individual or legal entity with whom they have established a relevant relationship due to the exercise of the position or employment;

b) accept the position of administrator or advisor or establish a professional relationship with an individual or legal entity that performs activities related to the area of competence of the position or employment held.

c) enter into a service, consultancy and advisory contract or similar activities with bodies or

entities of the Federal Executive Branch, linked, albeit indirectly, to the body or entity in which they have held the position or employment; or

d) intervene, directly or indirectly, in favor of a private interest before the body or entity in which he has held a position or job or with which he has established a relevant relationship due to the exercise of the position or employment.

According to Article 12 of Law n. 12,813/2013, public agents who practice acts that may constitute a conflict of interest incur in administrative improbity pursuant to Article 11 of Law n. 8429, of 2 June 1992. In this case, the public agent is subject to the penalty of removal from office, pursuant to Article 132, item IV, of Law n. 8,112, of 11 December 1990.

In addition to removal from office, the public agent is still subject to the following penalties that may be imposed by a judge after the final decision of a judicial proceeding for administrative improbity:

I – Full compensation for damage, if any;

II – Loss of assets or values illicitly acquired;

III – Removal from office;

IV – Suspension of political rights;

V – Payment of civil fine; and

VI – Debarment from contracting with the government or receiving tax or credit benefits or incentives.

**Bulgaria**: Act on counteracting corruption and on forfeiture of illegally acquired property (ACCFIAP)

Section IV Restrictions after dismissal from a high public position – articles from 67-69

Art. 67. Any person holding a senior public position, in relation of whom a conflict of interest, or a relevant violation of Art. 68, or 69 has been established, shall not be entitled during one year from the enforcement of the decision, with which the conflict of interest has been established, to hold a public position.

Art. 68. (1) Any person who has held a senior public position shall not be entitled during one year from his/her dismissal from the position, to sign labour contracts, contracts for consultant services or other contracts for performing head or control functions with trade companies, sole traders, cooperatives or non-profitable legal persons, in relation to which during the last year of performing his official powers, or duties has realized an order, regulation or control, or has signed contracts with them, as well as being a partner, to possess shares, or assets, to be manager or member of a managing or controlling body of such trade companies, cooperatives or non-profitable legal persons.  
(2) The restrictions shall also apply to trade companies, related to the companies under Para. 1.

Art. 69. (1) Any person, having occupied a senior public position, who during the last year of performing his official powers or duties has participated in conducting procedures for public procurements, or in in procedures related to provision of means from the EU funds, or provided by the EU to the Bulgarian state, shall not be entitled during one year after his dismissal from the position to participate or represent a natural or legal persons in such procedures before the institution, in which he/she has occupied the position or before controlled by it legal person.

(2) The prohibition for participation in procedures for public procurement, or in procedures, related to provision of means from the EU fund, or provided by the EU to the Bulgarian state, shall also apply to a legal person, in which the person under Para. 1 has become a partner, possesses shares or is manager, or member of a managing, or control body after his/her dismissal from the position.

The provisions of this Section shall apply, unless a special act provides otherwise.

**Croatia**: Restrictions after the termination of activities related to the performance of state functions, local self-government and other obliged entities are part of the Act on the Prevention of Conflict of Interest.

Obliged entities may not be members of administrative bodies and supervisory boards of companies, boards of directors of institutions, i.e. supervisory boards of extrabudgetary funds, nor perform management tasks in business entities. Obligations shall begin on the day of taking office and shall last for six od twelve months (depending on the salary compensation period) from the day of termination of office. For some obliged entities there is no this general provision because they don't have right to salary compensation by law ( for example members of the board in state owned companies). Obliged entity of this Act may not accept appointment to management positions in a legal entity with which they were in a business relationship or performed supervisory,

control or regulatory functions during the performance of their duties, and not otherwise prescribed by a special law. This limitation shall apply 18 months after the termination of office

**Ecuador**: In the Ecuadorian case, there is no single legislation to define and contextualize conflicts of interest. Nonetheless, there are several provisions to prevent the lack of impartiality in the decisions of public officials, which are foreseen in the Constitution and the bills that regulate public sector, public procurement, the judicial branch of government, among others.

For instance, the Constitution of the Republic of Ecuador (2008) forbids moonlighting and nepotism while conducting public duties:

Art. 230.- In the exercise of public service it is prohibited, in addition to what is determined by law:

1. To hold more than one public office simultaneously, with the exception of university teaching, provided that their schedule so permits.
2. Nepotism.
3. Discriminatory actions of any kind.

Likewise, it prohibits the involvement of public officers in overseeing bodies if they have interest in the areas that will be controlled or regulated; and, it also stipulates that public officers should not take any action if their private interests are contrary to those of the institutions where they work:

Art. 232.- Those who have interests in the areas to be controlled or regulated, or represent third parties that have such interests, may not be officials or members of governing bodies of entities exercising state control and regulation powers. Public servants shall refrain from acting in cases where their interests' conflict with those of the agency or entity in which they provide their services.

In addition, the Constitution introduces a provision a cooling off in the following scenario:

Art. 153. - Those who have held the position of Minister of State and public servants of a higher hierarchical level as defined by law, once they have left office and during the following two years, may not be part of the board of directors or the management team, or be legal representatives or exercise the procuration of private legal persons, national or foreign, that enter into contracts with the State, whether for the execution of public works, rendering of public services or exploitation of natural resources, through concession, association or any other contractual modality, or be officers or officials of international financial institutions that are creditors of the country.

As mentioned earlier, there are a variety of prohibitions and inabilities dispersed in several laws. Having said that the Organic Law of Public Service constitutes the referential framework on that matter. For example, Article 6 of the Organic Law of the Public Service, Nepotism, refers to the prohibition for all appointing authorities to appoint and/or hire in the same entity their relatives up to the fourth degree of consanguinity and second degree of affinity, or their spouse or with whom they have a common-law relationship.

In the event of a conflict of interest between public servants of the same institution, who are related to each other to any degree of kinship as established by law and must make decisions regarding the conflict of interest, they shall inform their immediate superior about the case and shall immediately excuse themselves from continuing to hear the controversial procedure, while their superiors resolve the pertinent matter.

Likewise, art. 9 of the aforementioned law, mentions that a special inability to enter the public service is incurred when persons are in arrears with the National Government, Decentralized Autonomous Governments, Internal Revenue Service, Central Bank of Ecuador, open or closed financial institutions belonging to the State, private law entities financed with fifty percent (50%) or more with public resources, public companies or, in general, with any entity or organism of the State; or, who are debtors of the State for a contribution or service that has been due for one year; or, who are in a state of judicially declared civil incapacity.

Other similar provisions are Organic Law of the National Public Procurement System, to avoid specific conflicts on interest in the acquisition of public goods and services.

In accordance with these mandates, both the legislative and executive branch of government have taken a step forward to request declarations of interest when a conflict of interest arise. However, this is not an standardize practice in the entirety of public sector.

**Legislative Power:** The 2020 reforms to the Organic Law of the Legislative Function, establish the obligation to declare possible conflicts of interest, as well as the duty to refrain from voting on decisions that result in a possible conflict, in accordance with articles 162 and 142 of the aforementioned regulations.

**Executive Branch:** Issued in May 2021, the Government Ethical Behavior Standards through Decree number 4 of the President, Guillermo Lasso. Article 10 states that Executive officials, prior to taking office, must declare possible conflicts of interest.

Likewise, article 11 establishes the guidelines in the event of a conflict, which consists of the excuse or exclusion of the activity in conflict.

It is worth to mention that in the Judicial Branch; the General Organic Code of Proceedings establishes a procedure to avoid that officials take an action when they encounter a conflict of interest:

Articles 22 to 29 of the General Organic Code of Proceedings and article 572 of the Integral Organic Criminal Code deal with the procedures of excusal and recusal. In this way, the specific cases in which a judge, prosecutor or expert must abstain from hearing a proceeding are indicated, which is convenient to avoid any suspicion of partiality, and to preserve the decorum and prestige of the officials involved in the administration of justice. The recusal process itself guarantees the right to be judged by a competent, independent and impartial judge.

Aside from that, the Office of the Comptroller General of the State of Ecuador could also play an important role concerning the prevention and management of conflict of interest; since the institution is developing a draft law on that area, which has considered observations from various public institution, including the Secretariat for Public Anticorruption Policy. In that sense, this draft law introduces the request of a declaration of interest for all public officers; which will be conducted electronically through the website of the Office of the Comptroller General of Ecuador. It should be notice that the supreme audit institution already receives and examines declaration of assets.

**Georgia:** The objectives of the monitoring of Public Official Asset Declarations are to increase accountability of public officials and prevent fraud and corruption. Considering the revolving door concept, in case of leaving the civil service, a dismissed public servant may not, within 1 year after dismissal, start working in the public institution or carry out activities in the enterprise which has been under his systematic official supervision during the past 3 years. Within this period, he/she also may not receive income from such public institution or enterprise.

The Law of Georgia on Conflict of Interest and Corruption in Public Institutions (Col) and the general rules of ethics in civil service, which are defined by the government's decree are the main legal framework regulating conflict of interest.

Based on the concept of “revolving door”, Article 13(10) of Col Law defines that a dismissed public servant may not, within one year after dismissal, start working in the public institution or carry out activities in the enterprise which has been under his/her systematic official supervision during the past three years. Within this period, he/she also may not receive income from such public institution or enterprise. The law also defines official supervision.

In addition, the general rules of ethics oblige the former civil servant to follow the principle integrity even in case of transfer to the private sector.

**Greece:** In Greece there is no special legislative framework governing cooling off periods.

Law 4622/2019 on the Organization, Operation and Transparency of the Government, Government Institutions and Central Government Administration devotes an entire chapter (Part IV) on ineligibilities, incompatibilities and rules for the avoidance of conflicts of interest of Members of the Government, Deputy Ministers, General and Special Secretaries of governing bodies of the public sector and non-permanent staff, among others. The relative provisions aim at ensuring transparency and integrity in public administration through rules that govern the action of members of the government. In particular, these rules govern their appointment, the carrying out of their duties and the period after they leave service. The main goal of these provisions is to safeguard the principles of integrity and impartiality which are expected from any person who holds a public office. The primary legal basis for these provisions is article 81 of the Greek Constitution which provides for the suspension of any professional activity for the members of the Government, Deputy Ministers and the President of the Parliament during the performance of their duties. The law extends this suspension to additional persons who exercise public authority given the need for complete dedication to their mandate. The implementation of these provisions is ensured with the creation of the Ethics Committee established within the auspices of the National Transparency Authority.

By article 68 specific categories of persons where the provisions apply, namely to: (a) members of the Government and Deputy Ministers, (b) General and Special Secretaries, and Coordinators of the Decentralised Administrations, (c) Presidents or Heads of Independent Authorities, and Presidents, Vice-Presidents, Governors, Deputy Governors, Directors or appointed advisors to legal persons governed by public law and private law, the selection of whom is reserved to the government, with the exception of bodies falling within the scope of Chapter B of Law 3429/2005 (Government Gazette A' 314).

As to impediments to appointment (article 69): Persons (a) who have been convicted or referred by a final order (of the judicial council) for a felony, (b) who have been deprived of their civil rights as a result of a conviction and for the period of time that the deprivation is issued, (c) who are subject to a prohibition of appointment, cannot be appointed to the positions of article 68.

Similar provisions regarding incompatibilities with the status of a civil servant are envisaged in Articles 8 and 9 of Law 3528/2007 (Civil Service Code).

As to incompatibilities (article 70): the exercise of any professional or business activity as well as the exercise of public office duties in any position in the public sector is automatically suspended for the persons mentioned in article 68. In addition, under

para. 4, these persons should not enter into any contract with the State or other legal persons of public law.

As to the obligations during the performance of duties (article 71): The persons appointed to the positions of article 68 have the obligation to exercise their duties with integrity, objectivity, impartiality, transparency and social responsibility and act exclusively for the public benefit (para. 1). They are required to refrain from the management of certain cases declaring a conflict where such conflict of interest exists. A conflict of interest is defined as any situation that would objectively influence the impartial exercise of their duties (para. 2). Such is the case where there is a benefit, financial or not, for themselves or their spouses and relatives, or a detriment financial or not for the persons with whom there is a special hostility (para. 3). Furthermore, the persons appointed to the positions of the article 68 must declare to the Presidency of the Government of any conflict of interest that may later arise as soon as they become aware of it (see article 72, para.2).

Provisions regarding the obligations of civil servants are envisaged in Articles 24 - 27 of Law 3528/2007 of the Civil Service Code for exercising their duties with legitimacy, professionalism, integrity, confidentiality etc.

As to the procedural obligations in order to avoid a conflict of interest (article 72): A specific procedure needs to be followed for the avoidance of conflicts of interest with the filing of a declaration within one month from appointment. More specifically, the persons specified in article 68 are required to declare (a) their professional activities (including those of their spouses) during the last three years and (b) their participation (including that of their spouses) in the capital or management of enterprises. They must also (c) submit a copy of their asset declaration form for the last three years, (d) declare any other activity (including any activity of their spouses) and (e) submit a copy of their criminal record. According to para. 2, they have the obligation to declare to the Presidency of the Government any conflict of interest that may later arise.

Relevant provisions are envisaged in the Civil Service Code (art.31 and 32 of Law 3528/2007) governing public servants regarding the authorisation to carry out a private project or work with remuneration and the obligation to declare their participation in private companies and receive an authorization.

As to the obligations after leaving service (article 73): For one year after they leave their post, persons appointed in positions of article 68 have the obligation to obtain authorization for any professional or business activity that relates to the activity of the entity to which they were appointed, if it could raise any conflict of interest, as described in article 71. The authorization requires the submission of a petition to the Ethics Committee discussed below.

**Italy:** With Law No. 190/2012, the legislator, establishing a system for combating corruption, focused on prevention tools, outlining a comprehensive framework and

attributing to the Italian National Anti-Corruption Authority a central role of coordination.

**Montenegro:** Regarding the restrictions upon termination of public office, Article 15 of the Law on Prevention of Corruption regulates restrictions upon termination of office, which prescribes that a public official cannot, within a period of two years after termination of public office, to:

- 1) Act, before the authority in which he exercised a public function, as a representative or attorney of a legal person, entrepreneur or international or other organization having or establishing a contractual or business relationship with this authority;
- 2) Establish a working relationship or business cooperation with the legal person, entrepreneur or international or other organization that, based on the decisions of the authority in which a public official has exercised function, acquires gain;
- 3) Represent a natural or legal person before the authority in which he exercised a public function in a case in which he participated, as a public official, in the decision-making;
- 4) Perform management or audit activities in the legal person in which, at least one year prior to the termination of public function, his duties were related to supervisory or control activities;
- 5) Enter into a contract or other form of business cooperation with the authority in which he exercised a public function;
- 6) Use, for the purpose of obtaining a benefit for himself or another, or to harm another, the knowledge and information acquired in the performance of public function, unless the knowledge and information are available to the public.

**Slovakia:** There exist various regimes regulating conflict of interest according to different categories of public officials/civil servants/judges/prosecutor's/police officers.

As to the public officials, cooling-off periods ("revolving-door phenomenon") and conflicts of interest are regulated in the Constitutional Act No. 357/2004 Coll. on Protection of Public Interest in the Performance of Functions of Public Officials (the "Act") as of 26 May 2004.

The Act applies exclusively to public officials who are in the executive functions or members of a collective decision-making body, while advisers and senior civil servants closely associated with top executive functions are not included. The full list of public officials covered by the Act is stipulated in the Article 2, letters a) through zp).

**Tanzania:** The Public Leadership Code of Ethics (Control of Conflict of Interest GN No. 113 of published on 14/02/2020) provides for the rules governing conflict of interest. The regulations are made under section 31(2)(f) of the Public Leadership Code 2 of



Ethics Act Cap 398. Section 3 of the regulations makes a thorough explanation of such framework.

**Ukraine (NABU)**: Restrictions after the termination of activities related to the performance of state functions, local self-government are defined in Part 1 of Article 26 of the Law of Ukraine "On Prevention of Corruption". Pursuant to these provisions, persons authorized to perform the functions of the state or local self-government referred to in paragraph 1 of the first part of Article 3 of this Law who resigned or otherwise terminated activities related to the performance of the functions of the state or local self-government shall be prohibited:

- 1) to enter into employment agreements (contracts) or to enter into transactions in the field of entrepreneurial activity with legal entities of private law or natural persons - entrepreneurs, if the persons specified in the first paragraph of this part the state or local self-government exercised the authority to control, supervise or prepare or make appropriate decisions regarding the activities of these legal entities or natural persons – entrepreneurs ) within one year from the date of termination of the relevant activity;
- 2) to disclose or otherwise use in their interest's information that has become known to them in connection with the performance of official duties, except as provided by law;
- 3) to represent the interests of any person in cases (including those before the courts) in which the other party is the body, enterprise, institution, organization in which (which) they worked at the time of termination of the specified activity within a year from the date of termination of the relevant activity.

In accordance with part 2 of the cited article, the violation of the restriction on the conclusion of an employment agreement (contract) established by paragraph 1 of part one of this article is the basis for termination of the relevant agreement. Transactions in the field of entrepreneurial activity, committed in violation of the requirements of paragraph 1 of part one of this article, may be declared invalid.

**Ukraine (NACP)**: The rules governing "cooling off periods" and the settlement of conflicts of interest are defined by the Law of Ukraine "On Prevention of Corruption" (hereinafter – the Law).

Restrictions after the termination of activities related to the performance of functions of the state or local self-government are defined in Art. 26 of the Law, which include:

1. Prohibition within a year from the date of termination of the relevant activity to enter into employment agreements (contracts) or to commit deed in the field of entrepreneurial activity with legal entities under private law or natural persons-entrepreneurs, if during the year prior to the date of termination of the functions of the state or local self-government, the persons exercised powers with control, supervision or preparation or making relevant decisions regarding the activities of these legal entities or individual entrepreneurs.

2. Prohibition within a year from the date of termination of the relevant activity to represent the interests of any person in cases (including those pending in court) in which the other party is a body, enterprise, institution, organization in which they worked at the time of termination of such activity.

3. Prohibition to indefinitely disclose or use in another way in one's own interests' information that has become known to a person in connection with the performance of one's official powers, except for cases established by the law.

At the same time, according to the Law, a conflict of interest may arise exclusively among persons authorized to perform the functions of the state or local self-government and persons equal to them (during the period of their occupation of the respective positions).

In accordance with Art. 28 of the Law the following persons are obliged to:

- 1) take measures to prevent the occurrence of a real, potential conflict of interest;
- 2) report no later than the next working day from the moment when the person learned or should have learned about the existence of a real or potential conflict of interest of the direct supervisor, and in the case of a person holding a position that does not involve the presence of a direct supervisor, or in a collegial bodies – the National Agency on Corruption Prevention (hereinafter – the NACP) or another body defined by law or a collegial body in which a conflict of interests arose during the performance of its powers, respectively;
- 3) not to take actions and not to make decisions in conditions of a real conflict of interest;
- 4) take measures to resolve a real or potential conflict of interest.

The direct manager of the person or the head of the state body, whose powers include dismissal/initiation of dismissal from the position, within two working days after receiving a notification about the existence of a real or potential conflict of interest in a person subordinate to him, makes a decision on the settlement of the conflict of interest, about which he informs the relevant person.

In addition, such a head is obliged to take the measures prescribed by the Law to prevent and settle the conflict of interest of a person subordinate to him, if he becomes aware of the conflict of interest of such a person.

Measures for external settlement of conflicts of interest and the procedure for their application are defined in Art. 29 - 34 of the Law.

If a person has doubts about the existence of a conflict of interest, he has the right to seek explanation from the NACP. If a person has not received confirmation of the absence of a conflict of interest, he acts in accordance with the requirements provided for in this section of the Law.

If a person has received confirmation of the absence of a conflict of interest, he is released from responsibility if a conflict of interest was later revealed in the actions for which he sought explanation.

Persons authorized to perform the functions of the state or local self-government shall not directly or indirectly induce subordinates in any way to make decisions, perform actions or inaction contrary to the law for the benefit of their private interests or the private interests of third parties.

**Kenya (as submitted by NCPA partner EAAACA):** Generally, former State or public officers are barred from engaging with or acting for a person or entity in a matter in which the officer was originally engaged in as a State or public officer, for at least two years after leaving the State office. There are several provisions which are contained in the following laws:

- i. Articles 73 and 75 of the Constitution of Kenya, 2010; sections 16, 22, 26 and 27 of the Leadership and Integrity Act (LIA) (No. 19 of 2012);
- ii.(iii) sections 11 (2) (c), and 12 of the Public Officer Ethics Act (POEA) (No. 4 of 2003); section 42 of the Anti-Corruption and Economic Crimes Act (ACECA) (No. 3 of 2003);
- iii.sections 59 and 66 of the Public Procurement and Asset Disposal Act, (PPADA) (No. 33 of 2015);  
section 3 of the Official Secrets Act (Cap 187) and the provisions of the Contracts in Restraint of Trade Act (Cap 24).

Q2: Does your authority/or any other authority/agency in the country have a responsibility/ mandate related to conflict of interest and cooling off periods?

**Albania:** The High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) is an independent institution, established by law, under the parliamentary control. It started to function in 2003, upon the law no. 9049, dated 10.04.2003 “On the Declaration and Audit of Assets, Financial Obligations of the Elected Persons and certain Public Officials”. HIDAACI, pursuant to the provisions of article 16 of the law no. 9049/2003, as amended, is a public legal person that, under the responsibility of Inspector General, administers the declaration of assets, financial liabilities and audit of this declaration according to the specifications provided in this law and the law on the prevention of conflict of interest while exercising public functions. HIDAACI is as well the central responsible authority to ensure implementation and enforcement of the law no. 9367, dated 7.4.2005 “On the Prevention of Conflict of Interest in the Exercise of Public Functions” (as amended). More specifically, the High Inspectorate manages and improves the policies and mechanisms of preventing and avoiding conflict of interest; offers technical assistance for advising and supporting legal and sub-statutory initiatives undertaken by the public institutions for the prevention of conflict of interest; monitors, audits and assesses the compatibility with the principles and obligations of this law, of the sub-statutory acts and internal rules approved by the public institutions for conflict of interest etc. (article 41 and 42 of the law).

**Bulgaria:** CACIAF carries out checks to establish the presence or absence of a conflict of interest in relation to the persons under Art. 6, para. 1 of ACCFIAP, based on a report submitted to the CACIAF, by decision of the CACIAF or at the request of the person holding a high public office. In the course of inspections of established proceedings for conflict of interest, the necessary information and documents are requested and received from the commissions under Art. 72, para. 2, items 1 and 3 of the ACCFIAP, respectively by the selection or appointment body, the bodies of state power, the bodies of local self-government, as well as by legal entities and individuals. Inquiries are made through direct access to electronic registers, databases and other information arrays maintained by other state bodies, with the exception of security services. If there is evidence of a committed crime, a proposal is made to the CACIAF to prepare and send the materials immediately to the prosecutor's office.

The prohibitions should be observed by the persons who held a senior public office and by sole traders or legal entities with whom the person under Art. 68 or 69 of ACCFIAP concluded a contract or which is represented or managed by a person under Art. 68 or 69 of ACCFIAP.

**Brazil:** The Federal Executive Branch developed the SeCI – Electronic System for the Prevention of Conflict of Interest, which is as a tool available to public agents to consult on conflict-of-interest situations and request authorization to exercise private activities. This system is managed by the CGU and is available to employees who are under its competence. Public agents who occupy senior positions in the federal executive and are under the competence of the CEP may consult the Commission directly.

**Croatia:** The Commission for the conflict of interest resolution is the only institution responsible for conflict of interest and cooling off periods.

**Ecuador:** In Ecuador, the emission of public policies to prevent and manage conflict of interest is decentralized and therefore, conducted according to the needs of each branch of government. The same goes for measures of cooling off periods, although policies on that area are scarcer.

In May 2022, the Secretariat for Public Anticorruption Policy was created to prevent and fight against corruption. This new body is part of the executive branch of government and has the main function of develop and implement a national policy and strategy on integrity and anticorruption. To that end, this Secretariat has to coordinate with other relevant bodies strategic actions to prevent, detect and sanction corruption. The presentation of the national policy and strategy on integrity and anticorruption was carried out on July 13, 2022 and the final text contemplated among other things, the

prevention of conflicts of interest, thus, the Secretariat will constitute a central figure on that matter.

Aside from that, the Office of the Comptroller General of the State of Ecuador could also play an important role concerning the prevention and management of conflict of interest; since the institution is developing a draft law on that area, which has considered observations from various public institution, including the Secretariat for Public Anticorruption Policy. In that sense, this draft law introduces the request of a declaration of interest for all public officers; which will be conducted electronically through the website of the Office of the Comptroller General of Ecuador. It should be notice that the supreme audit institution already receives and examines declaration of assets.

**Greece:** The Ethics Committee

In accordance with article 74 of Law 4622/2019, an Ethics Committee is established in the National Transparency Authority with the responsibility to (a) address any matter referred to it by the Prime Minister on ethical issues and avoidance of conflicts of interest of the persons appointed to the positions referred to in Article 68 of said Law, namely, members of the Government and Deputy Ministers, General and Special Secretaries, Coordinators of Decentralized Administrations, Presidents or Heads of Independent Authorities and to the Presidents, Vice-Presidents, Directors, Deputy Directors, Deputy Directors, Directors or appointed advisers to legal persons governed by public law and private law; (b) examine the requests submitted in the context of Article 73 (1) and (2) of said Law on obligations after leaving service. In addition, the Ethics Committee may, ex officio, review the implementation of the provisions on ineligibility, incompatibilities and rules for the avoidance of conflicts of interest and propose the imposition of the relevant sanctions; (d) to provide an advisory opinion on draft codes of conduct for persons appointed to the positions referred to in Article 68 or for other civil servants or officials of the public administration, referred to by the Prime Minister and (e) examine, ex-officio or following a report, a possible breach of the obligations referred to temporary staff and political advisers and propose the imposition of the relevant to penalties referred to in Article 75.

**Italy:** Regarding integrity scope, Law No. 190/2012 gave ANAC the responsibility, among others, to:

- draw up a preventive strategy against corruption through the drafting and implementation of the National Anticorruption Plan (PNA);
- supervise and monitoring the adoption of the integrity plans and codes of conduct by public administrations and state-controlled enterprises;
- foster transparency in public administrations;

- guarantee the integrity of civil servants, and to disseminate a culture of integrity and legality;
- sanctioning administrations in the event of failure to adopt the three-year Plans and/or the Codes of Conduct;
- supervise the appointment of the Officers for the Prevention of Corruption and Transparency (RPCT) by each public administration.

**Montenegro:** The Montenegrin Agency for Prevention of Corruption is the central preventive anti-corruption authority that establishes the existence of conflict of interest in the exercise of public function and take measures for its prevention, controls restrictions in the exercise of public functions and restrictions for a period of two years upon termination of public office.

**Slovakia:** Pursuant to the Article 9 (1) of the Act, the procedure on the proposal on matter of protection of public interest and prevention of conflict of interest is carried out by (i) dedicated committee - Committee of the National Council of the Slovak Republic on Incompatibility of Functions (the “Committee”); (ii) municipal council; (iii) council of a higher territorial unit; (iv) academic senate of a public university; depending on the category of the public official concerned.

**Tanzania:** The Ethics Secretariat is the authority charged with the responsibility/mandate related to conflicts of interest and cooling off.

**Ukraine (NABU):** If the National Agency on Corruption Prevention detects violations referred to in Part One of the Article 26 of the Law of Ukraine “On Prevention of Corruption”, it shall appeal to the court for termination of the employment agreement (contract) and to find the transaction null and void.

**Ukraine (NACP):** In accordance with Art. 11 of the Law the NACP is empowered to:

- monitoring and control over the implementation of legislative acts on issues of ethical behavior, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them;
- providing explanations, methodological and consulting assistance on the application of acts of legislation on ethical behavior, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, and persons equated to them, application of other provisions of the Law and regulations adopted for its implementation.

Violation of restrictions after the termination of activities related to the performance of functions of the state or local self-government, defined in Art. 26 of the Law on concluding an employment agreement (contract) is the basis for terminating the relevant agreement. Acts in the field of entrepreneurial activity, committed in violation of the specified requirements, may be declared invalid. If the specified violations are detected, the NACP applies to the court to terminate the employment agreement (contract), to declare the transaction invalid.

**Kenya (as submitted by NCPA partner EAAACA):** EACC is mandated to among other things, develop and promote standards and best practices in integrity and anti-corruption and develop a code of ethics in relation to State officers. The Commission is also required to work with other State and public offices in the development and promotion of standards and best practices in integrity and anti-corruption. The Commission is mandated to oversee and enforce LIA and POEA which have provisions on the conflicts of interest (COI) and to investigate allegations of conflicts of interest which is criminalized by section 42 of the Act.

Q3: Briefly describe the rules and procedures applied for the prior and post appointment of public officials?

**Albania:** Every official and on every superior to avoid, prevent and put an end to conflicts of interest is imposed in Article 6 of the law no. 9367/2005, as amended. In order to comply with this broad principle, every official is obliged to make a self-declaration of the existence of his private interests that may become the cause for the emergence of a conflict of interest (Article 7 Law no. 9367/2005, as amended). He/she must also authorize HIDAACI to collect and check information about him/her.

Pursuant to Article 4, Field of Application

1. The provisions of this law define rules that are obligatory for implementation by:

a) every official, when he takes part in a decision-making for:

i) administrative acts and contracts;

ii) acts of the judicial organs, notarial acts, acts for the execution of executive titles by the execution organs and acts of the prosecutor's office;

iii) normative acts, and only those laws that create legal consequences for individually specified subjects;

b) every official of the state institutions, central or local, and every employee of the subjects defined in letter "d" or representatives of the subjects specified in letter "ç" in the subjects mentioned in letter "d," when he takes part in a decision-making about contracts that create legal civil relations with these subjects as a party;

c) every official or employee who is in positions, has responsibility, performs duties or exercises competencies of concrete types expressly defined in this law in one of the subjects of letter “ç” or “d” of point 1 of this article;

ç) every state institution, central or local;

d) every organ or subject created and/or under the subjects of letter “ç,” including state or local enterprises, commercial companies with a controlling participation of state or local capital, non-profit organizations and other legal persons controlled by the subjects of letter “ç” or by the subjects of this letter themselves;

dh) related persons, to the extent and in the manner defined in this law.

2. For the purposes of this law:

a) decision-making for an act will be considered, in every case, the last moment of the decision-making process during which the final content of the act is decided;

b) decision-making for an act will also be considered those preliminary moments of decision-making according to letter “a” of this point, which are fundamentally important and determinative for the final content of the act;

c) An official has fundamental and definitive competency for any act if his participation in, effect on and position in the decision-making for this act according to letters “a” or “b” of this point determine the content of the act.

**Bulgaria:** Before the appointment to a senior public position, the relevant person, with the exception of persons under the Law on Judicial Power, should submit declarations under Art. 35, para. 1 of ACCFIAP, namely – declaration of incompatibility and declaration of property and interests. Section IV of ACCFIAP (Art. 67 to Art. 70 inclusive) provides for the restrictions after release from a high public office. In brief, the restrictions refer to prohibitions introduced for the exercise of certain activities for a certain period of time, immediately after the release of the person from the senior public office held by him.

**Croatia:** In order to prevent corruption Act on the Prevention of Conflict of Interest provides restrictions on: the use of official powers or their position; receiving gifts; preventing the receipt of illicit benefits or gifts and their treatment; combination with other activities; joint work of persons near in relationship, submission of assets declarations, yearly reports of significant changes in property status, business restrictions, ad hoc conflict of interest disclosure, etc.

**Ecuador:** The Organic Law of Public Service establishes the requirements and the hiring system to entry to public sector. In particular the requirements already, foreseen inabilities and prohibitions to mitigate conflict of interest.

Organic Law of the Public Service:



Art. 5.- Entry requirements. - To enter the public service is required:

- a) Be over 18 years of age and be in full exercise of the rights provided for by the Constitution of the Republic and the Law for the performance of a public function;
- b) Not be in a civil interdiction, not be the debtor who is undergoing bankruptcy proceedings and not be in a state of fraudulent insolvency declared judicially;
- c) Not being included in any of the causes of prohibition to hold public office;
- d) Comply with the requirements of academic preparation; technical, technological or its equivalent and other competencies that, depending on the case, are required and are provided for in this Law and its Regulations;
- e) To have borne, when there is an obligation to do so, except for the causes of excuse provided for in the Law;
- f) Not be in default of the payment of credits established in favor of entities or organizations of the public sector,
- g) Submit the sworn statement of assets in which the following will be included:
  - g.1.- Authorization to remove the secrecy of your bank accounts;
  - g.2.- Declaration of not owing more than two alimony; Y,
  - g.3.- Declaration of not being involved in nepotism, disabilities or prohibitions provided for in the Constitution of the Republic and the current legal system.
  - g.4.- Sworn declaration of not being subject to the constant prohibition in the Organic Law for the Application of the Popular Consultation carried out on February 19, 2017.
- h) To have been declared the winner in the contest of merits and opposition, except in the cases of public servants and public servants of popular election or of free appointment and removal;
- i) The other requirements indicated in the Constitution of the Republic and the Law.

Art. 15.- Of the reinstatement of the dismissed public servant. -The legally dismissed public servant may not re-enter the public sector for a period of two years, counted from the date of her dismissal, but her re-entry may not be given to the State institution, from which she was dismissed.

Art. 16.- Appointment and possession. - To hold a public position, an appointment or contract legally issued by the respective nominating authority is required.

The term to take possession of public office will be fifteen days, counted from the notification and in case of not doing so, they will expire.

Art. 17.- Appointment Classes. - For the exercise of the public function, the appointments may be:

- a) Permanent: Those issued to fill vacancies through the selection system provided for in this Law;

- b) Provisional;
- c) Of free appointment and removal; Y,
- d) Fixed period.

Is your authority/or any other authority/agency in the country responsible for monitoring the mobility of public officials between public and private sector?

At the moment, there is no institution tasked with that function.

**Georgia:** In order to prevent the conflict of interest and incompatibilities, the law determines the responsibility of public official, within one year after dismissal, to complete and submit an official's asset declaration within the respective month of completion of the previous declaration, unless he/she is appointed to any other position. As a result, affecting on the reputation of public officials could also be considered as a mechanism of deterring the conflict of interest and incompatibilities.

Due to avoid the misuse of personal connections of the former position acquired during their tenure and/or impacts on improving property status after leaving office, an official shall, within two months after dismissal, within the calendar year of their dismissal, and within the same, respective month of completing the previous declaration in the year following the dismissal, unless they are appointed to another position, completes and submits an asset declaration (Article 14).

**Greece:**

**Conditions of employment and incompatibilities for the associates and special advisors.**

The appointment of an associate, as well as the assignment of duties to a special advisor, may not be made if the candidate is prevented from performing any of the duties provided for by the law on the appointment of civil servants, as well as in the case where the candidate is a spouse or a partner or a first or second degree relative of a member of the Government or a Deputy Minister.

The holding of the post of an associate and the assignment of duties of a special advisor to the private offices or to the Presidency of the Government shall not entail the suspension of the exercise of the relevant liberal profession or function. Within one (1) month of taking up their duties, associates and special advisors shall submit to the Head of the Directorate-General responsible for Human Resources of the body concerned, if any, or to the Head of the Directorate responsible for Human Resources, a declaration concerning the professional activities which they maintain.

The appointment to the post of Director of the private office of a member of the Government or a Deputy Minister or Minister or Secretary General or to a post as a seconded Head of the Presidency of the Government, shall suspend the exercise of the liberal profession or function of the person appointed.

In any case of non-suspension of the exercise of a liberal profession or function, the restrictions provided by Articles 71 and 72 (par.2 and 3) are also in force. In the performance of their duties, associates and special advisors shall comply with a code of conduct drawn up by the National Transparency Authority. The details for drawing up a code of conduct for associates and special advisors shall be laid down by a decision of the Minister of Interior upon NTA's Governor opinion.

The prohibition of para. 4 of Article 70 shall also apply to associates and special advisors for contracts with the body in which they perform their duties and with the public bodies supervised by that body. For contracts concluded up to the date of publication of the Law shall remain in force and shall be excluded from the application of the first subparagraph until their expiry.

Upon termination of their duties for any reason whatsoever, associates and special advisors shall submit a declaration to the Head of the Directorate-General responsible for the institution concerned, if any, or to the Head of the Directorate General responsible for Human Resources, concerning the professional activity they will pursue. For a period of twelve (12) months from the date of their departure, they shall be authorized, on application to the Ethics Committee referred to in Article 74, to engage in any professional or business activity related to the activity of the body in which they are employed, where such activity may give rise to a conflict of interest. Provisions of Article 73 (Para. 3, 4 and 5) shall also apply.

If it is proven in any way that the above provisions have been infringed, the associate or special advisor shall be immediately dismissed and the penalties envisaged by Article 75 of the said law shall be imposed.

**Italy:** The norms introduced by Law No. 190/2012, find an essential complement in the Legislative Decrees No. 33 and No. 39 of 2013, to which the Law has delegated the implementation of important principles and guidelines with reference, respectively, to the transparency and to the system of ineligibility and incompatibility of positions in public administration, and in the Presidential Decree No. 62/2013 which sets out the rules of conduct which all public employees under contract must abide by.

In particular, the Legislative Decree No. 39/2013 provides the rules concerning the absence of conflicts of interest, both at regional and local level, and the incompatibility between management positions in public administrations, in bodies under public control, political offices and professional assignments. It also defines the role of ANAC in this particular scope of integrity.

The Italian legal framework provides for different rules regarding the conferral of public appointments. There is no general regulation, but each specific regulation provides for cooling-off periods.

Firstly, it is important to clarify that the Italian legislative framework gives individual public administrations the task of resolving cases of conflict of interest of their officials.

In the case of conflicts of interest, therefore, ANAC plays a role of collaboration with public administrations, indicating to the administration checks and rules to follow.

Instead, in the case of public appointments, ANAC verifies compliance with Legislative Decree No. 39/2013 and the prohibition of 'pantouflage'.

Precisely, ANAC, in case of the conferral of appointments, verifies that Legislative Decree No. 39/2013 has not been breached. This legislation provides, before the cooling-off period has elapsed, that certain public offices may not be conferred to persons who pursue their own interests or those of private individuals, or who hold or have held political office.

Moreover, this legislation provides that certain public offices cannot be conferred to persons who have been convicted of crimes against the public administration. The duration of the prohibition on appointing persons convicted of offences against public administration depends on the seriousness of the crime. In some cases the prohibition is temporary, in others it's permanent

**Montenegro:** During the exercise of a public function, a public official shall submit the Report:

- Once a year, by the end of March of the current year for the previous year;
- In the case of changes from the Report that relate to an increase in assets of more than € 5,000, within 30 days of the date of change;
- At the request of the Agency in the case of initiation of proceedings referred to in Article 31, paragraph 1 and 2 of the present Law, within 30 days of receipt of the request, or initiation of proceedings ex officio.

In the case of termination of public function, a public official shall, within 30 days of termination of the function, notify the Agency thereon and submit the Report.

A public official whose function has terminated shall annually, over the next two years after termination of the function, submit the Report to the Agency, according to the state of play on the day of submitting the Report.

When it comes to the performance of managing positions in a company by a public official, Article 11 of the LPC prescribes that the public official may not be president, authorized representative or member of a management body or supervisory board, or the executive director or member of management in a company.

A person who is elected, appointed or assigned to public office in terms of the present Law shall, within 30 days of the election, appointment, or assignment, resign from office or function referred to in paragraph 1 of this Article.

Regarding the restrictions upon termination of public office, Article 15 of the Law on Prevention of Corruption regulates restrictions upon termination of office, which prescribes that a public official cannot, within a period of two years after termination of public office, to:

- 1) Act, before the authority in which he exercised a public function, as a representative or attorney of a legal person, entrepreneur or international or other organization having or establishing a contractual or business relationship with this authority; 2) Establish a working relationship or business cooperation with the legal person, entrepreneur or international or other organization that, based on the decisions of the authority in which a public official has exercised function, acquires gain;
- 3) Represent a natural or legal person before the authority in which he exercised a public function in a case in which he participated, as a public official, in the decision-making;
- 4) Perform management or audit activities in the legal person in which, at least one year prior to the termination of public function, his duties were related to supervisory or control activities;
- 5) Enter into a contract or other form of business cooperation with the authority in which he exercised a public function;
- 6) Use, for the purpose of obtaining a benefit for himself or another, or to harm another, the knowledge and information acquired in the performance of public function, unless the knowledge and information are available to the public.

**Slovakia:** According to the Article 8 (1) of the Act, in principle, public official who, in the period of two years before the end of the performance of public office, decided on providing state aid or on providing or permitting other support, benefits or on remission of obligations arising from generally binding legal regulation or from individual legal acts to natural persons or legal entities, is, within one year from the end of the performance of public office, prohibited

- a) to be employed in an employment relationship or a similar employment relationship with those persons, where his/her monthly remuneration in this employment is 10 times higher than the minimum wage,
- b) to be a member of a management, control or supervisory body of those persons,
- c) to be a partner, member or shareholder of those persons,
- d) to conclude a contract of attorney, mandate contract, commission contract, mediation contract, commercial agency contract, silent partnership contract or donation contract with these persons,
- e) to conclude a contract, the content of which is the authorization to act on behalf of these persons.

The prohibition stated above shall apply also (i) to a public official whose decision or consent was a necessary condition for the decision under the Article 8 (1) of the Act; (ii) to a public official who, within the period of two years before the end of his/her public office, entered into a contract on behalf of a contracting authority with a tenderer in a procurement carried out by the above-limit method or the below-limit

method; or (iii) to a public official who, within the period of two years before the end of his/her public office, exercised a fiduciary responsibility in respect of legal entities.

In this regard, the Act stipulates, in the Article 8 (5), an obligation for the former public official to submit a written declaration with a detailed information stating (i) the persons with whom he/she has been employed in an employment or similar relationship; (ii) in which legal entity he/she has been a member of a management, control or supervisory body; (iii) of which legal persons he/she has become a partner, member or shareholder; (iv) with which persons he/she has concluded contracts pursuant to the abovementioned letters d) and e), within 30 days after the lapse of one year cooling-off period upon the end of the tenure.

**Tanzania:** Not very sure of the rules since they are not written. However, there is a process of vetting which must be done before the appointments are made. The vetting process is however not an open one so not easy to know what the rules and procedures are applied.

**Ukraine (NABU):** In order to prevent corruption and corruption-related offences, the Law of Ukraine “On Prevention of Corruption” provides for restrictions on persons authorized to perform the functions of the state or local self-government regarding: the use of official powers or their position; receiving gifts; preventing the receipt of illicit benefits or gifts and their treatment; combination with other activities; joint work of persons near in relationship. In addition, persons authorized to perform the functions of the state or local self-government are obliged to take measures to prevent conflicts of interest. Civil servants are also required by law to comply with ethical standards of conduct.

Persons applying for or holding positions authorized to perform state or local government functions, as well as terminating state or local government functions are subject to the requirements of the law on financial control regarding the submission of declarations, notification of opening foreign currency accounts in non-resident banks, as well as reports of significant changes in property status.

**Ukraine (NACP):** The rules and procedures used for pre- and post-appointment of persons authorized to perform the functions of the state or local self-government are defined in Art. 27 of the Law.

Persons applying for the respective positions are obliged to inform the head of the body to which they apply for the position, about persons close to them working in this body. Such a notification is made in relation to all close persons who work in the body, regardless of what position they hold, and whether such an appointment will lead to the formation of relations of direct subordination between close persons.

Taking into account the specified requirement, a person cannot be appointed to a position if, as a result of such appointment, a conflict of interest arises for him or for a close person.

**Kenya (as submitted by NCPA partner EAAACA):** State and public officers are to be selected on the basis of their competence, suitability and personal integrity. In order to determine the personal integrity of aspiring State and public Officers they are required to submit to the Ethics and Anti-Corruption Commission a self-declaration form which the Commission uses to conduct integrity verification on the applicant. The results are communicated to the recruiting entity directly. Upon appointment, the State or public officer is obliged to submit a declaration of income, assets and liabilities to the relevant responsible Commission within 30 days.

Q4: Is your authority/or any other authority/agency in the country responsible for monitoring the mobility of public officials between public and private sector?

**Albania:** HIDAACI is not responsible for monitoring the mobility of public officials between public and private sector

**Bulgaria:** CACIAF can be referred to by filing a report and carry out a check for compliance with the provisions Section IV "Restrictions after dismissal from a high public position" of ACCFIAP

**Croatia:** Just our Commission.

**Italy:** In addition, ANAC also verifies the legitimacy of the transfer of employees from the public to the private sector. Specifically, Italian legislation provides for the prohibition of "pantouflage". This prohibition means that employees who have exercised, on behalf of the public administration, certain powers towards private companies during their last three years of service, may not take up professional positions with the same companies during the three years following the end of their employment with the public administration. The regulations just mentioned are particularly important because they serve to prevent conflicts of interest of public servants and provide for cases in which the assignments, from the origin, cannot be conferred or are incompatible.

**Slovakia:** Responsible authorities for receiving written declaration under the Article 8 (5) of the Act are stipulated by this Act in the Article 7 (5) as follows; (i) committee of the municipal/city/city part council; (ii) committee of the council of a higher territorial unit; (iii) academic senate of a public university; (iv) the Committee.

**Tanzania:** I don't know any of the authority/ agency in the country charged with the responsibility of monitoring the mobility of public officials between public and private sector.

**Ukraine NABU:** According to Clause 6 of Article 27 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine", the powers of the Internal Control Department of the National Bureau include conducting special vetting, during which information is checked on: bringing a candidate to criminal or administrative liability and liability for corruption offences; the accuracy of information about income, its sources and financial obligations, in particular abroad, the candidates for the positions in the National Bureau and persons close to them.

**Ukraine NACP:** No.

**Kenya (as submitted by NCPA partner EAAACA):** The Commission does not monitor mobility of former public officials between the public and private sector unless upon a request by a private sector entity to verify the integrity of any person it seeks to appoint. No other agency monitors the mobility of public officials between public and private sector.

Q5: Is your authority/or any other authority/agency in the country responsible for conducting controls with regard to the conflict of interest situation/cooling off periods?

**Bulgaria:** Yes, the CACIAF is the competent authority that can carry out a check for conflicts of interest of persons holding a high public office, as well as for compliance with the restrictions in the ACCFIAP after the release from a high public office of the persons who held a high public office.

Slovakia: The authority carrying out the procedure referred to in the Article 9 (1) of the Act (please see our reply to the question No. 2) shall initiate the procedure (according to the Article 9 (2) of the Act)

a) on its own initiative if its findings indicate that the public official has given incomplete or false information in a written declaration under the Article 7 (related to the declaration on functions, employments, activities and asset declaration) or Article 8 (related to the cooling-off period) of the Act or that the public official has failed to comply with or has breached an obligation or restriction laid down by the Act or by law;  
or



b) on the basis of a duly substantiated complaint which makes it clear who is submitting the complaint, which public official is concerned and what is the subject-matter of the complaint.

HIDAACI is the central responsible authority for the implementation of the law on conflict of interest, with a range of competences that include: the management and improvement of the policies and mechanisms; the offering of technical assistance and advice for the public institutions; the offering of recommendations for the parliament regarding legal initiative related to the conflicts of interest; the strengthening of the capacities for the administration of conflicts of interest in the public institutions; the monitoring, audit and assessment of the compatibility with the principles and obligations of this law of the sublegal acts and internal rules approved by public institutions for conflicts of interest; the monitoring, audit and assessment of the implementation of this law by the public institutions; the periodic registration of the private interests of the officials; the definition of the model of a case by case declaration of interests, as well as the registration of the data that are related to such a conflict; the verification and administrative investigation of the periodic declarations of interest; the verification and administrative investigation of case by case conflicts of interest, as well as the prohibitions and the restrictions of interests at the request of the public institution or on its own initiative; the setting of punitive administrative measures. In practice, HIDAACI's main activity relating to conflicts of interest appears to be the identification of continued conflicts of interest, deriving either from the declaration of asset checks or from requests for interpretation submitted by the official him/herself or the superior manager or superior institution. Regarding case-by-case conflicts of interest, the main responsibility to identify, address and resolve such a conflict lies with the public institutions, in which are established and functioned the responsible authorities.

**Croatia**: Only our Commission – Article 9. Declaring conflicts of interest and non-participation in decision-making

“(1) If a potential conflict of interest arises, the obliged entity shall declare it in an appropriate manner and resolve it in a way that protects the public interest.

(2) Unless otherwise prescribed by law, the obliged entity shall not make decisions, i.e. participate in the adoption of decisions that affect their own business interest or the business interest

a) of persons related to them,

b) of the employer with whom they were employed in the last two years before taking office.”

Regarding the cooling off period we already explained.

**Ecuador**: Although there is no specific authority responsible for conducting controls with regard to the conflict of interest situation/cooling off periods, the aforementioned

Secretariat for Public Anticorruption Policy has as one of its fundamental axes, the evaluation of the results of policies that combat corruption and promote integrity in the government. Thus, it could play an important role in the future assuring the implementation on measures on conflict of interest and cooling off periods.

Moreover, if the draft bill to prevent conflict of interest is approved, there will be an standardized process in charge of the Office of the Comptroller General to request declaration of both assets and conflict of interest. This presentation of this document will be later considered during the exercise of its external audits.

**Italy**: Firstly, it is important to clarify that the Italian legislative framework gives individual public administrations the task of resolving cases of conflict of interest of their officials. In the case of conflicts of interest, therefore, ANAC plays a role of collaboration with public administrations, indicating to the administration checks and rules to follow.

Instead, in the case of public appointments, ANAC verifies compliance with Legislative Decree No. 39/2013 and the prohibition of 'pantouflage'.

Precisely, ANAC, in case of the conferral of appointments, verifies that Legislative Decree No. 39/2013 has not been breached. This legislation provides, before the cooling-off period has elapsed, that certain public offices may not be conferred to persons who pursue their own interests or those of private individuals, or who hold or have held political office.

**Tanzania**: The Ethics Secretariat is the authority charged with the responsibility/mandate for conducting controls with regard to conflicts of interest situation/cooling off periods. Section 10 Of the regulations GN 113 of 20/02/2020 provides for such mechanism.

**Ukraine (NABU)**: According to Clause 2 of Article 27 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" the Internal Control Department of the National Bureau has the duties to control compliance by the National Bureau's employees with the rules of ethical behavior, conflict of interest, declaring of assets, income, expenditures and financial obligations.

In accordance with Clauses 5-3; 7 of the Law of Ukraine "On Prevention of Corruption" the National Agency on Corruption Prevention is authorized to make instructions on violations of the law on ethical conduct, prevention and settlement of conflicts of interest, other requirements and restrictions provided by this Law. If signs of an administrative offence related to corruption are detected, the authorized persons of the National Agency shall draw up a report on such an offence, which shall be sent to the court in accordance with the procedure established by the National Agency.

In accordance with Art. 11 of the Law the powers of the NACP includes the control of the implementation of acts of legislation on ethical behavior, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local self-government, the application of other provisions of the Law and the regulatory legal acts adopted for its implementation, which is carried out including and regarding the restrictions provided for in Art. 26 of the Law after termination of activities related to the performance of functions of the state or local self-government.

As part of such control, in the case of detection of violations as a result of monitoring, officials of the NACP:

- draw up protocols on administrative offenses assigned by law to the competence of the NACP;
- make prescriptions for violation of legal requirements regarding ethical behavior, prevention and settlement of conflicts of interest;
- apply to the court with lawsuits (applications) for the recognition of illegal normative legal acts, individual decisions issued (adopted) in violation of the requirements and restrictions established by the Law, recognition of the invalidity of transactions concluded as a result of the commission of offenses.

**Kenya (as submitted by NCPA partner EAAACA):** EACC has a mandate to oversee and enforce the implementation of various legislations on conflict of interest and in particular, LIA, POEA, ACECA and to an extent, the PPADA by serving State and public officers.

Q6: What are the sanctions envisaged by the legislative framework in cases of violation of the provisions regarding conflicts of interest?

**Albania:** The law no. 9367/2005, as amended provides in Articles 44 and 45 for specific administrative sanctions and disciplinary measures to be implemented. All administrative infringements foreseen by article 44 of the LPCI stipulate fines from 30,000 ALL (approx. 210 €) to 500,000 ALL (approx. 3,500 €). They relate to an official committing the following infringements:

- In the event of failure to self-declare or failure to declare upon request, the official shall be fined;
- In the event of failure to issue the conflict of interest authorization, the official shall be fined;
- In situations in which an administrative act is invalidated due to a conflict of interest the official who was culpably responsible shall be fined.

In addition, the law no. 9367/2005, as amended provides administrative measures with “fines” against the official, persons related to him/her, as well as the trusted person, as follows:

- Violation of prohibitions on contracting with public institutions may lead to fines against officials, related persons, trustees or company managers;
- Failure to resolve conflicts of interest is punishable by fines against the official or the related person.

Furthermore, the LPCI foresees administrative measures such as fines also for the responsible authorities within different state institutions, failing to provide the data required by the High Inspectorate under item 1(1) of article 42 of this law. With regard to other violations of this law, the Inspector General may impose fines of approx. 360–720 €.

**Brazil:** According to Article 12 of Law n. 12,813/2013, public agents who practice acts that may constitute a conflict of interest incur in administrative improbity pursuant to Article 11 of Law n. 8,429, of 2 June 1992. In this case, the public agent is subject to the penalty of removal from office, pursuant to Article 132, item IV, of Law n. 8,112, of 11 December 1990.

In addition to removal from office, the public agent is still subject to the following penalties that may be imposed by a judge after the final decision of a judicial proceeding for administrative improbity:

- I – Full compensation for damage, if any;
- II – Loss of assets or values illicitly acquired;
- III – Removal from office;
- IV – Suspension of political rights;
- V – Payment of civil fine; and
- VI – Debarment from contracting with the government or receiving tax or credit benefits or incentives.

**Bulgaria:** Articles from 171 to 172 from Act on counteracting corruption and on seizure of illegally acquired property envisage the sanctions regarding conflicts of interest as follows:

Art. 171. (1) Any person holding a senior public position who violates a provision of Section II of Chapter Eight shall be punished by a fine in the amount of BGN 5 000 to 10 000.

(2) For the violation under Para. 1, the persons under § 2, Para. 1 shall be punished by a fine in the amount of BGN 1000 to 5000.

(3) Where the violation has been repeated, the fine shall be in the amount of BGN 10 000 to 20 000, and for the persons under § 2, Para. 1, the fine shall be from BGN 2000 to 10 000.

Art. 172. (1) Any person, having held a senior public position, who, after his dismissal violates a restriction, provided by Section IV of Chapter Eight, shall be punished by a fine of BGN 5000 to 15000.

(2) For the violation under Para. 1, the persons under § 2, Para. 1 shall be punished by a fine of BGN 2500 to 7500.

(3) Any sole trader or legal person, with whom the person under Art. 68, or 69 has signed contract, or who is represented or managed by a person under Art. 68, or 69, shall be punished by a property sanction in the amount of BGN 10 000 to 20 000.

(4) Where the violation has been repeated, the punishment shall be:

1. in the cases under Para. 1 – a fine of BGN 10 000 to 30 000;
2. in the cases under Para. 2 – a fine of BGN 7500 to 15 000;
3. in the cases under Para. 3 – a property sanction in the amount of BGN 20 000 to 50 000.

**Croatia:** A fine can be from 550 – 5.500 EUR but also when the breach is not really important – warning.

**Ecuador:** By virtue of the duties of public servants, stipulated in the Organic Law of Public Service, the servants to whom this law applies are prohibited from carrying out management acts for interests other than institutional or state ones.

An example of that is:

Art. 6.- Of Nepotism. - Any nominating authority is prohibited from appointing, naming, possessing and/or contracting in the same entity, institution, body or legal person, of those indicated in article 3 of this Law, its relatives included up to the fourth degree of consanguinity and second degree of affinity, to their spouse or with whom they have a de facto union, members of collegiate bodies or directories of the respective institution. It also extends to the relatives of the authorities of the super intendencies with respect to the public institutions that are regulated by them.

In the event of non-compliance with what is stated in this article, the Office General Comptroller of the State will be notified of the matter, so that it may proceed to exercise the corresponding actions to recover the unduly paid, as well as for the establishment of the presumed administrative responsibilities, corresponding civil and/or criminal.

Art. 134.- Failure to comply with the resolutions of the Ministry of Work. - The appointing authorities of the entities of the Executive Function that commit resources of an economic nature related to personnel expenses, regardless of the policies and

resolutions issued by the Ministry of Labor, will be dismissed and personally and financially responsible, without prejudice to the responsibilities administrative, civil and penal to which there is place. Any decree, agreement or resolution that violates this rule will be null.

**Greece:** In cases of violation of the provisions regarding ineligibility, incompatibilities and rules for the avoidance of conflicts of interest, the Ethics Committee shall in accordance with article 75 para. 1 of Law 4622/2019 draw up a finding on the matter with proposed sanctions and shall send it to the Governor of the National Transparency Authority in order for him/her to adopt an administrative act concerning: (a) the imposition of a fine of up to twice the total remuneration and all the allowances received by the person referred to in Article 68 during his/her term of office, which is certified and is directly collected as public revenue, in accordance with the provisions of the Public Revenue Collection Code; (b) the prohibition of appointment, to the positions mentioned in Article 68 of this Law, for a period of up to five (5) years from the finding of the infringement. The above penalties shall be imposed cumulatively or alternatively. In the event of failure to pay the fine referred to in point (a), the period referred to in point (b) shall be extended for as long as the fine is not paid. All the decisions shall be posted on the website of the National Transparency Authority (para. 2), in addition to the publicity obligations, as set forth. Nullity of the contracts entered into is also provided as an additional consequence.

Similar provisions regarding incompatibilities with the status of a civil servant are envisaged in Articles 31-34 of the Civil Service Code (Law 3528/2007) with regard to working in the private sector, participating in businesses and boards of directors, being a member of a parliament or lawyer or possessing a second post in the public sector.

Heretofore, there has not been identified any violation of the provisions of the Law 4622/2019 (Chapter D), which would lead the Ethics Committee of the Article 74 of the aforementioned Law to address to the Governor of the NTA any proposal about the imposition of sanctions in accordance with the provision of Article 75 (of Law 4622/2019).

**Italy:** In the case of a breach of the legislative framework, ANAC declares the appointments null and void. Therefore, those who received them are obliged to return the sums of money received. Moreover, those who have conferred the appointments cannot confer others for a period provided by the law.

**Slovakia:** In addition to the obligation to leave the conflicted function without due delay (Article 9 (7) of the Act), the public official may be deprived of the function of the public office (Article 9 (8) of the Act) or may be fined up to a fine of twelve-month salaries.

**Ukraine (NABU):** According to Art. 172-7 of the Code of Ukraine on Administrative Offences, failure to notify a person in cases established by law and the procedure for the existence of a real conflict of interest - entails a fine of one hundred to two hundred non-taxable minimum incomes. Taking action or making decisions in a real conflict of interest - entails the imposition of a fine of two hundred to four hundred non-taxable minimum incomes. Actions provided for in part one or two, committed by a person who during the year was subject to administrative penalties for the same violations - entail the imposition of a fine of four hundred to eight hundred non-taxable minimum incomes of citizens deprived of the right to hold certain positions or engage in certain activities for one year.

For violation of the requirements of the Law on the prevention and settlement of conflicts of interest and other restrictions on the prevention of corruption, a person may be brought, in particular, to administrative and disciplinary responsibility.

In some cases, taking actions and/or making decisions in the conditions of a conflict of interest may contain signs of one of the corruption criminal offenses, the list of which is given in the footnote to Art. 45 of the Criminal Code of Ukraine (abuse of power or official authority, receipt of illegal benefits by an official, etc.).

Administrative liability is provided for the violation of certain requirements for the prevention and settlement of conflicts of interest:

- for non-notification by a person in the cases and procedure established by the law about the presence of a real conflict of interest, - a fine from 1700 UAH (45 EUR) to 3400 UAH (90 EUR) (part 1 of Article 1727 of the Code of Ukraine on Administrative Offenses);
- committing actions or making decisions in conditions of a real conflict of interest - a fine of 3,400 UAH (90 EUR) to 6800 UAH (180 EUR) (part 2 of Article 1727 of the Code of Ukraine on Administrative Offenses);
- any of the above-mentioned actions, committed by a person who was subject to an administrative penalty for the same violations during the year, - a fine from 6,800 UAH (180 EUR) to 13,600 UAH (360 EUR) with deprivation of the right to hold certain positions or engage in certain activities for a period of one year (part 3 of Article 1727 the Code of Ukraine on Administrative Offenses).

Disciplinary responsibility is provided for:

- non-notification by a person of a direct head about the existence of a potential conflict of interest;
- the head's failure to take measures to resolve the subordinate's conflict of interest;
- failure to transfer to the head of corporate rights or violation by a person of the terms of such transfer, non-notification or violation of the deadline for notifying the NACP of such transfer to the management of enterprises and corporate rights, failure to provide the NACP with a notarized copy of the contract on such transfer.

**Tanzania:** The Public Leadership Code of Ethics (Control of Conflict of Interest GN No. 113 of published on 14/02/2020) does not provide any sanctions. However section 11 of those regulations requires all public leaders to comply.

**KENYA (as submitted by NCPA partner EAAACA):** Kenyan law does not envisage any sanctions for former state and public officials who engage in conduct that could be deemed to be conflict of interest. However, the law envisages criminal, civil and administrative sanctions for serving State and public officers who engage in COI.

Q7: Does your Authority/ or any other authority/agency in the country have any relevant decisions on the topic? Are these decisions made public?

**Albania:** Fines are issued by HIDAACI, either directly if it has itself determined a violation, or at the proposal of the official's superior manager or superior institution. The authority for establishing all administrative measures in accordance with the LPCI is the Inspector General of the HIDAACI. All procedures for the implementation of administrative measures and appeals against them are regulated by the Code of Administrative Procedure. In addition, the law no. 9367/2005, as amended, in Article 45 provides for disciplinary measures, which are to be implemented by the institution where the official committing the infringement is working. The HIDAACI notifies the responsible institution every time an infringement of the LPCI has been committed, asking for the respective institution to take disciplinary measures against the official working under its area of responsibility.

**Brazil:** CGU publishes, in an open format, a summary of all its decisions, which can be accessed through the following link:

<https://www.gov.br/cgu/pt-br/aceso-a-informacao/dados-abertos/arquivos/seci>

**Bulgaria:** All decisions on conflicts of interest and on restrictions after dismissal from a high public position are published on the official web site of the Commission for counteracting corruption and for seizure of illegally acquired property.

**Croatia:** We have several hundreds of decisions, and they are all public. Also, the session when we render a decision is also public.

**Ecuador:** The National Anticorruption Secretariat, belonging to the executive function, has presented the National Anticorruption Strategy 2022. Below is an explanatory table of the alternatives and expected results for the objective of strengthening the accompaniment and qualification of public officials, so that they act with probity and dedication to service.



## MEANS/ALTERNATIVES

a) Implement the obligation to declare conflicts of interest and process the themselves. This implies making a better evaluation of the type of conflict of interest that is being faced (real, potential or apparent), that the institution has procedures to process and challenge them, and that senior management follows up on these declarations.

b)- Establish a conflict-of-interest processing mechanism.

- Institutionalize the traceability of the assets of officials and the declaration of assets.

- Rigorous application to the regime of disabilities and incompatibilities.

- Promote spaces for discussion on issues of ethics and public integrity within the institutional framework.

c) - Promote the participatory construction of integrity codes, which identify the common values and principles that represent the entity and that allow reinforcing, in each server, the ideal behaviors in a pedagogical and purposeful manner, fostering a personal reflection on what it means provide a service to the country and belong to a public entity.

- Provide collective mechanisms, which generate the possibility of having a support group in situations of ethical risk.

d) Establish follow-up mechanisms for the revolving door phenomenon, especially in those cases where the transfer of a person from the public to the private sector and vice versa, could put the interests of the institutional framework at risk. It is recommended to establish restrictive measures not on individuals but in relation to positions that, due to their characteristics and responsibilities, may expose the institution to a risk of corruption.

e) Educate officials in the care of the public and make them facilitators and/or social replicators of this culture.

### **Expected Results:**

a) Officials who are motivated, ethical, responsible and aware of the importance of the public service they provide and who are capable of acting as guarantors of the public interest.

b) High ethical standards incorporated within the institutions and offering high-quality goods and services.

c) An organizational culture built within the institutions, which is based on principles such as probity and transparency, and promoted from the top management of the organization.

d) Practices such as nepotism, clientelism, favoritism, revolving door, business lobby are controlled and reduced in state institutions.

e) Public officials responsible for the care of the public replicate these practices in their institutional environment.

**Italy**: Since the adoption of the legislative framework, ANAC has adopted numerous acts concerning the legitimacy of public appointments. ANAC, however, not only verifies the legitimacy of appointments that have already been conferred, but also provides legal opinions to administrations wishing to confer appointments. ANAC's decisions are published on its website and also on those of public administrations involved.

**Slovakia**: Decisions taken by the Committee must be, pursuant to the Article 10 (1) of the Act, adopted by the Decree of the National Council of the Slovak Republic by a majority of at least three-fifths of all Members. The National Council of the Slovak Republic shall publish the approved decision and deliver it, along with the resolution in writing, to the Committee, which shall ensure their delivery to the public official.

**Tanzania**: Not sure if there are any decisions made by my authority/or any other agency because I have never heard of such decisions being made public.

**Ukraine (NABU)**: The National Bureau has no cases of prosecuting employees for violating the rules of prevention and settlement of conflicts of interest. All information on relevant court decisions is published on the website of the Unified State Register of Court Decisions (<https://reyestr.court.gov.ua/>).

**Ukraine (NACP)**: As part of the implementation of monitoring and control (referred to in the answers to questions 4 and 5 of this questionnaire), in case of detection of violations, the officials of the NACP draw up protocols on administrative offenses, make prescriptions and apply to the court in appropriate cases.

The NACP does not publish the specified protocols on administrative offenses and prescriptions on its website.

At the same time, before the beginning of the full-scale military aggression of the Russian Federation against Ukraine, the official website of the NACP published brief information about the protocols on administrative offenses drawn up and sent to the court.

**Kenya (as submitted by NCPA partner EAAACA)**: The Commission has been unable to establish whether there is any jurisprudence emanating from the courts that directly addresses the question of cooling off periods by State and public officers. However, there is jurisprudence on COI and on restrictive covenants upon which guides on cooling off can be based.

Q8: How many cases of Conflicts of Interest have been reported in the last 3 years?

**Albania:** The High Inspectorate, pursuant to Article 44 of Law no. 9367, dated 7.4.2005 "On the Prevention of Conflict of Interest ...", as amended, and Article 40 of Law no. 9049, dated 10.4.2003 "On the declaration and audit of assets ...", as amended, has applied administrative measures by "fine", in cases of refusals to declare, as well as in cases of non-declaration and/or in cases of conflict of interest. The administrative measures, "fine", for the period up to 31.12.2020 for public officials are in total 33 administrative measures. HIDAACI for the timeframe 2014 - 2020 has imposed administrative measures "fine" in total for about 1.759 officials and applied 140 administrative measures "fine" under Law no. 60/2016 "On Whistleblowing and Whistleblowers Protection". In total, 1,899 administrative measures with "fine" have been applied for the period 2014-2020. For the period January- December 2021, 130 administrative measures with "fine" were applied.

**Brazil:** As the central body of the Disciplinary System of the Federal Executive Branch, CGU has the competence to apply administrative sanctions to public agents who commit administrative improbity. From 2019 to 23 June 2022, 396 cases were filed, registered in the category "Conflict of Interest between public service and acts of private life". Of these, 207 are completed, with 62 sanctions imposed. Regarding the sanctions applied from 2019 to 23 June 2022, regardless of the date of initiation of the process, 375 procedures were completed. Of these, 61 were investigative procedures and 314 were accusatory procedures. Of these 314 accusatory proceedings concluded, 160 sanctions and 227 acquittals were applied.

**Bulgaria:** In 2021, the CACIAF adopted a total of 340 decisions, including: - 212 decisions in the admissibility phase, of which 90 decisions on the initiation of conflict of interest proceedings, respectively 122 decisions - on the lack of grounds for the initiation of conflict proceedings of interests; - 104 substantive decisions, of which 22 decisions, with which a conflict of interest is established and 82 decisions - with which no conflict of interest is established; - 3 decisions terminating the proceedings; - 8 decisions to carry out an inspection under Art. 13 of ACCFIAP; - 13 decisions to initiate proceedings for forfeiture of illegally acquired property.

In 2019, the CACIAF adopted a total of 162 decisions on the issue, of which: 14 decisions establishing a conflict of interest; 87 decisions not establishing a conflict of interest and 61 decisions terminating the proceedings.

In 2020, the CACIAF adopted a total of 122 decisions on the matter, of which: 30 decisions establishing a conflict of interest; 92 decisions that did not establish a conflict of interest and 9 decisions that terminated the proceedings.

**Croatia**: We have between 300 -400 open cases a year. That includes all violations under our Act.

**Ecuador**: There is no information on specific cases of conflicts of interest at the country level. This, considering that each sector has its own regulation on this subject.

For example, the Judicial Function provides for excuse and recusal; and the legislative function through RESOLUTION CAL 2019-2021-475, issued the form for the registration of information on conflicts of interest (but not until 2021).

In order to demonstrate the actions implemented by the National Assembly regarding the presentation and publication of declarations of interests, Fundación Ciudadanía y Desarrollo presented an analysis in 2021. In which it was shown only 3 out of 137 Assembly members disclosed their declarations of interest.

**Slovakia**: Statistical data shall be available by the authorities issuing decisions in the respective area.

**Ukraine (NACP)**: The Law does not provide for keeping a single register (record) of cases of conflict of interest. At the same time, such records may be kept by each relevant body where persons subject to the requirements for the prevention and resolution of conflicts of interest work, in particular, the journal of records of conflict of interest's notifications.

Statistical information on violations for which the NACP has taken appropriate measures is given in the answer to question 9 of this questionnaire.

**Kenya (as submitted by NCPA partner EAAACA)**: The Commission has received 254 reports of alleged COI in the last three years as follows:

FY 2021/2022 - 81

FY 2020/2021 - 85

FY 2019/2020 - 88

The numbers include all forms of COI under ACECA, LIA, POEA and PPADA.

Q9: Does your Authority/ or any other authority/agency in the country have any relevant statistical data on the topic?

**Albania**: See above question 8.

**Brazil**: The SeCI data, therefore, deal with guidance provided by the Federal Executive Branch to public servants and employees and authorizations to exercise private activities, and not records of proven conflict-of-interest situations.

In this sense, in the period between 1 January 2019 and 31 December 2021, 6,616 requests for authorization to exercise private activities and consultations on conflict of interest were entered in the SeCI, by public agents themselves. This year, from 1 January to 19 June 2022,

1,415 authorization requests and consultations have already been entered. Since the beginning of the system, until June 20, 2022, 13,513 authorization requests and consultations have been registered.

Based on the data from the system, CGU created the conflict-of-interest panel, which can be accessed through the following link:

[http://paineis.cgu.gov.br/QvAJAXZfc/opendoc.htm?document=IAS%2FPROJETOIAS.qvw&host=QVS%40idc-qlik-ias-p&anonymous=true&sheet=CI\\_INTRO](http://paineis.cgu.gov.br/QvAJAXZfc/opendoc.htm?document=IAS%2FPROJETOIAS.qvw&host=QVS%40idc-qlik-ias-p&anonymous=true&sheet=CI_INTRO)

**Bulgaria**: The CACIAF presents yearly by 31 March to the National Assembly a report on its activity.

Within the same term the report is presented to the President of the Republic and to the Council of Ministers and is published on the Commission Website.

**Croatia**: Yes, we have data because we need to give statistics every year in our Report to the Parliament. It is also public data.

**Ecuador**: At the moment, there are not statistics on the matter, nonetheless, it is expected that once the draft bill is approved, a mechanism to gather information on the cases of conflict of interest is developed.

**Montenegro**: All relevant statistical data are published in the quarterly and annual reports on the work of the Agency, which can be found on the website of the APC. <https://www.antikorupcija.me/en/>

**Slovakia**: Statistical data shall be available by the authorities issuing decisions in the respective area.

**Tanzania**: The Ethics Secretariat may have statistical data.

**Ukraine (NABU)**: As part of ensuring control over compliance by employees of the National Bureau of rules of ethical conduct, conflict of interest, declaration of property, income, expenses and liabilities of a financial nature (paragraph 2, part 2 of Article 27 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine") 8 reports on a possible conflict of interest in 2019 were processed by the Internal control Department; 9 - in 2020 and 5 - in 2021 accordingly.

**Ukraine (NACP):** During 2020-2021, in the NACP:

- 1078 protocols on administrative offenses under Art. 1727 "Violation of the requirements for the prevention and settlement of conflicts of interest" of the Code of Ukraine on Administrative Offenses were drawn up;
- 108 prescriptions for violation of legal requirements regarding ethical behavior, prevention and settlement of conflicts of interest were made;
- 3 prescriptions for violation of the restrictions provided for by Art. 26 of the Law were made;
- 1 lawsuit was prepared and sent to the court regarding termination of the employment agreement (contract), recognition of the deed as invalid;
- 2,301 requests for clarification on the application of legislative acts on the prevention and settlement of conflicts of interest, including on the presence/absence of a conflict of interest, were considered;
- 435 reports on the transfer to the management of enterprises and corporate rights were considered.

Q10: Describe good practices identified and lessons learnt by your Authority with regard to conflict of interest/cooling off periods' situations.

**Albania:** HIDAACI as the central responsible authority for the implementation of the law on conflict of interest, with a range of competences that include among others: the offering of technical assistance and advice for the public institutions; the offering of recommendations for the parliament regarding legal initiative related to the conflicts of interest; the strengthening of the capacities for the administration of conflicts of interest in the public institutions.

Within these competences, HIDAACI has organized and implemented several trainings for responsible authorities and for public officials, and also awareness raising campaigns for the implementation of the law no. 9367, dated 7.4.2005 "On the Prevention of Conflict of Interest ...", as amended. The capacities raising activities and the advises given based upon the requests addressed by the responsible authorities or the public officials have been good practices in order to ensure the implementation of the legislation in practice. In addition, there have been important means in order to consolidate the indication that the legislation on conflict of interest need to be revised, in order to address the difficulties that have in been in place while its implementation. As regards the new draft law "On the Prevention of Conflict of Interest ((hereinafter the CoI law), HIDAACI has worked closely with its partners such as the EU & CoE through the Horizontal Facility Program-Phase II and the OSCE presence in Albania, which has provided technical assistance in drafting of amendments to the "Law on prevention of the Conflict of Interest in the exercise of the Public Functions".

**Brazil**: The SeCI can be considered a good practice, as it allows federal public servants and employees to request, at any time, guidance on concrete, individualized situations that concern them and that may raise doubts as to the occurrence of a conflict of interest.

**Bulgaria**: Individual departments/ministries, agencies, etc. state and local government bodies/, within their powers, have the possibility to apply good practices to prevent conflicts of interest.

CACIAF has powers to carry out checks regarding the presence or absence of a conflict of interest, as well as to impose sanctions.

CACIAF assists the participants in the process by providing opinions to the interested parties on submitted inquiries in order to comply with the law and avoid conflicts of interest.

**Croatia**: Croatia has pretty long periods of cooling off and very general restrictions so we can say that it is good example for the countries who wants to strengthen their conflict-of-interest framework. Also, introducing ad hoc conflict of interest institute is new and good practice that can be recommended to other members.

**Ecuador**: Ecuadorian regulations concerning conflicts of interest are dispersed. This prevents the implementation and controls on the rules established in the Constitution, as well as the fulfillment of international commitments.

Therefore, it is necessary that the National Assembly approves a Law that prevents, regulates and punishes conflicts of interest in dignitaries and officials at all levels of Government and unifies the already existing provisions by the Constitution and other legislation. The effective social control to identify and alert potential conflicts of interest depends on a favorable legal framework in terms of transparency and access to public information of the declarations of interest of dignitaries and officials.

Despite the existence of regulations that seek to make transparent and prevent conflicts of interest in the National Assembly, it has been shown that they are not fully complied with. This is a contributor to corruption and the loss of citizen confidence in the institution.

Having said that, within the framework of the commitments of the Ecuadorian State in the Platform of South America and Mexico to Accelerate the implementation of the United Nations Convention against Corruption, the Office of the Comptroller General of the State leads the development of a digital tool to allow citizens and public servers to enhance their knowledge on the conflict-of-interest regulation. This project is executed with the support of the technical team of the United Nations Office on Drugs and Crime (UNODC).

The Conflict-of-Interest Simulator has been designed as a consultative, exploratory, and didactic tool to review prohibitions, incompatibilities and disabilities related to conflict of interest, that are provided in the different regulations of the Ecuadorian legal system.

**Montenegro:** When it comes to practices or examples related to situations of restrictions upon termination of public office, we will give an example where a high-lever public official addressed us with a request for an opinion immediately upon termination of public office, who expressed doubt as to whether he could establish business cooperation, i.e. conclude certain contracts with a certain legal entity, i.e. a privately owned company. After obtaining the necessary documentation and evidence by the APC, it was determined that the mentioned company, based on the decisions of the authorities in which the public official performs office, acquires gain, so a negative opinion was given in relation to the above because the public official cannot in the period from two years upon termination of public office to, among other things, establish business cooperation with a legal entity, entrepreneur or international or other organization that, based on the decisions of the authority in which the public official performs office, acquires gain, and in accordance with Article 15 paragraph 2 of the LPC.

**Tanzania:** I don't have the good practices and lessons learnt with regard to conflict of interest/cooling off periods' situations.

**Ukraine (NACP):** Regarding the conflict of interest

In 2020, the NACP together with the NGO "Anti-Corruption Headquarters" initiated the development of an automated system for the "Hidden Interests" portal to detect conflicts of interest in the activities of deputies of all levels, which allows for the detection of conflicts of interest during decision-making by analyzing the transcripts of plenary meetings.

The improvement of this software product made it possible to extend information search algorithms to a larger number of subjects and to search for other violations of the Law.

Thus, in 2021, the NGO "Anti-Corruption Headquarters" was given developed algorithms for automated detection of violations of the requirements of the Law, which are currently implemented in the "Hidden Interests" portal created by this NGO.

One of the algorithms implemented in the work of the portal is an algorithm for finding possible facts of violation of the requirements of the Law on the prevention and settlement of conflicts of interest during public procurement.

The system separates the range of monitoring subjects of the required category of positions, determines the place of work of the monitoring subjects and their family



members, separates the range of private interests of such subjects (the presence of the subject or a member of his family of corporate rights, contractual relations with subjects of entrepreneurial activity, etc.), finds information about undeclared corporate rights.

When searching for a possible conflict of interest in public procurement, information from the Unified State Register of Declarations, the Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Organizations is compared with the PROZORRO electronic public procurement system.

The result of applying the algorithm is information about:

- procurements, the participant of which is a person, possibly connected by non-official relations with the monitoring subject (declaring subject), acting on behalf of the procurement customer;

- contracts concluded as a result of sub-threshold procurement with a person who may be related to the subject of monitoring acting on behalf of the procurement customer.

This information makes it possible to establish whether the subject of monitoring, by virtue of the powers available to him, participated in the selection of suppliers of goods, works or services, as well as whether he concluded relevant contracts on behalf of the customer with legal entities, the founder, manager or ultimate beneficial owner of which there is the subject himself, members of his family, or other persons who are related to the subject of monitoring by non-professional relations.

Based on the results of processing information from the "Hidden Interests" portal during its testing, the NACP sent 4 substantiated conclusions to the authorities of the National Police of Ukraine regarding possible violations of the Law by officials of state-owned enterprises.

Information was also found that could indicate a possible violation by the judge of restrictions on receiving gifts, on the basis of which a protocol on an administrative offense was drawn up, which was sent to the court to resolve the issue of bringing the judge to administrative responsibility.

Regarding "cooling off periods"

The NACP found that the former Acting Minister of Energy of Ukraine participated in the preparation of decisions regarding the activities of Naftogaz of Ukraine. After his release, he was appointed head of Naftogaz of Ukraine and signed a one-year contract to manage this company.

The provisions of the Law in the specified situation are applied in case of at least one time, during the year before the termination of powers, the exercise of supervisory control functions or preparation or decision-making regarding the activities of legal entities.

In the described situation, the NACP issued an order to the persons authorized to resolve the issue of termination of the contract with the head of Naftogaz of Ukraine

with a demand to eliminate the violation of the requirements of the Law, and a corresponding lawsuit was sent to the court.

**Kenya (as submitted by NCPA partner EAAACA):**

Regarding good practices:

- i. Establishing code of conducts for public officials that are clear concise in situations or relationship that can lead to conflict of interest.
- ii. Proactive approach in identifying conflict of interest or potential conflict of interest and investigating the same as criminal offences and preferring criminal charges. This serves as deterrence measure.
- iii. Developing jurisdiction on conflict of interest by moving to court and obtaining favorable judgment.
- iv. Identifying the need for additional laws on conflict of interest, the commission was instrumental in drafting the Conflict-of-Interest Bill 2019 after identifying the inadequate rules to effectively deal with conflict-of-interest post-public employment that were generally unenforceable. As a result, the bill provides for post-public employment rules that are implementable and enforceable.
- v. According to the bill public officials cooling off period is two years and official are prevented from working for or providing services.

The challenges so far observed are:

- (i) There is a lacuna in the Kenyan law with regard to addressing the revolving glass door. Attempts have been made to develop the COI Bill
- (ii) Whereas there is commendable jurisprudence emanating from the Courts with regard to COI, this is countered by the general reluctance of the courts to enforce restrictive covenants.

The Commission, the Office of the Attorney General and Department of Justice and the Kenya Law Reform Commission, alongside other stakeholders, have developed a draft Conflict of Interest Bill. The Bill if passed by Parliament, would contain provisions under clause 28 and 29 which make more specific prohibitions covering former state and public officers.