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Toolkit for managing conflict of interest in the public service

*This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

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ABBREVIATIONS

Agency	Kosovo Anti-corruption Agency
Col	Conflict of interest
PECK II	EU/Council of Europe Joint Project against Economic Crime in Kosovo
OECD	Organisation for Economic Co-operation and Development

1 EXECUTIVE SUMMARY

This publication represents a toolkit for managing conflict of interest in the public service on the basis and in support to the implementation of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function in Kosovo (hereafter Law on Prevention of Conflict of Interest) The toolkit aims to facilitate compliance with corruption prevention legislation and help officials safeguard the public trust in the service that they provide.

The toolkit explains relevant terms such as an actual, potential and apparent conflict of interest, a pecuniary and non-pecuniary private interest, a person related to an official. A key part of the toolkit is guidance to public officials for the recognition of a conflict of interest. Test questions help officials determine whether a conflict of interest exists. Hypothetical situations with clarifications whether they represent conflict of interest complement the general explanation. Several examples reflect situations where the presence of a conflict of interest is not unequivocally obvious at first sight or where the resolution of the conflict is complicated. Key steps, procedures and responsibilities for the resolution of conflict of interest are presented as check lists and a flowchart. Moreover, the existing forms to be utilised by the officials have been revised or new ones added when necessary. The toolkit is both a guiding material and a reminder regarding selected key provisions of the law.

Checklists and examples of hypothetical situations are also meant to guide officials regarding permitted and prohibited outside activities in addition to the official positions. The examples mainly present situations where officials could misinterpret the requirements of the law and reach erroneous conclusions about the permissibility of certain outside activities. They show common situations encountered in the international practice as well as problematic cases brought up by stakeholders of the public sector in Kosovo.

The toolkit also reviews the obligations of officials regarding gifts, when facing attempted or realised influence on the officials' volition, requirements for senior officials to transfer the administration or managing rights of enterprises, and restrictions in the period after the termination of public function.

This toolkit provides auxiliary guidance to what is already provided by the Law itself. Therefore, officials are strongly encouraged to consult the law whenever they shall act regarding a possible conflict of interest or when they encounter any other situation where legal acts determine conduct. It is advisable to update this toolkit on a regular basis in order to keep it relevant for the changing real-life circumstances. The Anti-corruption Agency and other authorities should consider possibilities to complement this written guidance with in-class and on-line training opportunities for officials on conflict of interest matters.

2 INTRODUCTION

This toolkit is designed to assist officials and all public institutions in complying with requirements of the Law on Prevention of Conflict of Interest. According to the Law, each public official and his/her employing institution have the primary responsibility for managing conflict of interest. The Anti-corruption Agency engages in resolving a conflict of interest only when resolution within an institution or by a leading institution is impossible. Institutions also shall define rules on conflict of interest in internal regulations, for which parts of this toolkit could be used.

The recognition and correct resolution of conflict of interest require an official to assess merits and make sound judgments regarding situations, which at first sight may appear ambiguous. The ability to correctly assess various aspects of equivocal situations is also necessary to correctly decide whether an official may engage in certain activity in addition to his/her public function and outside his/her institution. The explanations and guidance of this toolkit are meant primarily for officials whose primary field of professional competence is not related to anti-corruption and conflict of interest legislation. It represents an easily accessible and simple source for reference.

Flowcharts reflect the main procedures for the resolution of conflict of interest and correct reaction against influence on an official's volition. On these and other topics, the document serves as a reminder of the main obligations of officials according to the Law on Prevention of Conflict of Interest.

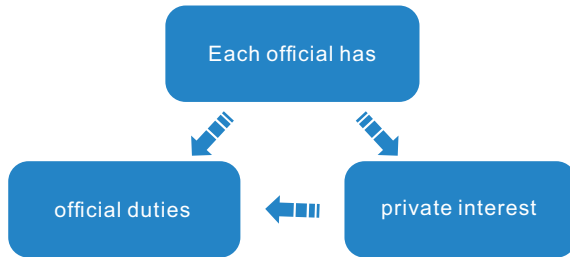
The Law on Prevention of Conflict of Interest is the basis for most of the guidance in this toolkit. However, other laws and internal regulations of institutions also govern conduct in this area. Where appropriate, the toolkit refers to other laws. The toolkit reflects primarily the general framework and does not aim to cover comprehensively specific rules, which apply to particular categories of officials. Therefore, officials are encouraged to use the toolkit as a first source of reference while always checking if specific rules apply to them by virtue of the type of their function or institution.

The toolkit clarifies issues and contains examples mentioned by stakeholders at the workshop held in Pristina on 1 and 2 November 2018. The draft of the toolkit was further discussed with the stakeholders on 6 and 7 December 2018. The guidance also draws upon challenging situations encountered in other countries, which have introduced new conflict of interest regulations. The toolkit refers in some parts to the Guidance on the Conflict of Interest for Managers of Public Organisations prepared for the Council of Europe project "Controlling corruption through law enforcement and prevention (CLEP)" in the Republic of Moldova in 2017.

3 KEY TERMS¹

3.1 Conflict of interest

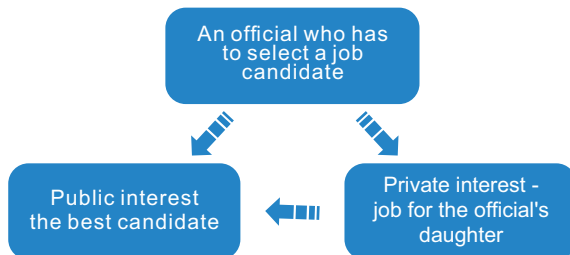
A conflict of interest occurs when a person has a private interest that influences, might influence or appears to influence the impartial and objective performance of official duties (Article 6 of the Law on Prevention of Conflict of Interest).



A conflict of interest is not a conflict between individuals, roles or duties.

When the private interest may affect how a person fulfils his/her duties, there is a conflict of interest. It is a conflict between the private and public interests.

Below you see an example of a conflict of interest.



The official's task is to select a candidate for a certain job. If his/her daughter has applied, the official must declare the private interest and withdraw from the decision-making.

Withdrawal is necessary even if the daughter is the best candidate. The reason is that doubts about the impartiality and objectivity of the official in this situation may arise.

¹This Chapter is adapted from the Guidance on the Conflict of Interest for Managers of Public Organisations prepared for the Council of Europe project "Controlling corruption through law enforcement and prevention (CLEP)" in the Republic of Moldova in 2017.

3.2 Actual conflict of interest

When a private interest actually influences or may at present influence the performance of official duties in serving the public interest, an actual conflict of interest has occurred. The example where the daughter has applied for the job represents an actual conflict of interest.

3.3 Potential conflict of interest

A potential conflict of interest represents a situation in which the private interests of the official could result in the occurrence of an actual conflict of interest. In other words, the private interest does not influence the performance of official duties but it is likely that, in foreseeable future, it will.

Example of a potential
conflict of interest

- The chief architect of a municipality has a wife who manages a major property development company in the city.
- Since the architect's duties include issuing opinions about new development projects, the potential conflict of interest will turn into an actual conflict of interest when he shall opine on a project developed by his wife's company.

3.4 Apparent conflict of interest

An apparent conflict of interest occurs when the private interest does not or may not improperly influence the performance of official duties. However, a person from aside would have the impression that it does.

The appearance of the conflict of interest must be based on specific facts, which represent a grounded reason why a conflict of interest could take place. An apparent conflict of interest does not exist when the grounds are vague and the suspicions rooted in general mistrust or scepticism about public institutions.

Example of an apparent
conflict of interest

- A person sold all his/her shares in a company, became an official and half a year later has to examine an application submitted by the company.

3.5 Private interest

A private interest is any advantage of the official, his/her family, relatives, friends and persons or organisations with which he had or has business relations (see Article 3, Paragraph 1, Subparagraph 1.2 of the Law on Prevention of Conflict of Interest). Private interests can be pecuniary (whether financial or other material gain or loss) and non-pecuniary (such as personal or family or other relationships or involvement).

Examples of pecuniary private interests

- Any kind of income such as salary or profit from a business or an outside activity.
- Profit resulting from the award of a public procurement contract.
- Release from a liability such as a debt.

Examples of nonpecuniary private interests

- Avoiding a prosecution.
- Access to a health service.
- Political interests, for example, securing a donation for a political party where the official is a member.
- Being awarded a decoration.

3.6 Person related to an official

The following are persons related to an official:

- ✓ The spouse or live-in partner;
- ✓ Relatives in a direct blood line with no limitations;
- ✓ Relatives in an indirect line up to the fourth level;
- ✓ The adoptive;
- ✓ The adopted;
- ✓ Relatives on the spouse's side up to the second level;
- ✓ Every natural or legal person who has had or has a joint pecuniary or non-pecuniary interest with the official.

Private interests of a related person cause a conflict of interest for an official similar to private interests of the official him/herself.

A legal person is considered related when the official or a member of the family has a current or future financial relationship with it, including contractual or employment relations or financial benefits of any nature (Article 3, Paragraph 1, Subparagraph 1.6 of the Law on Prevention of Conflict of Interest and Article 417 of the Criminal Code No. 06/L-074²).

² The new Criminal Code No. 06/L-074 is expected to enter into force in mid-April 2019 (three months after its publication in the Official Gazette on 14 January 2019). See also Article 424 of the existing Criminal Code No. 04/L-082 which shall cease to have effect after the entry into force of the new Criminal Code.

Examples of natural persons who have joint interests with an official

- A person with whom the official co-owns a company.
- A recent classmate of the official or a former classmate with whom the official maintains regular contact.
- A friend with whom the official maintains regular contact.
- The official's private lawyer or doctor.
- A superior to the official in his/her outside employment.
- A former private-sector employer of the official for a certain time since the termination of that employment.
- A person with whom the official has common underage children.
- A divorced spouse at least for a certain time.

An official could wonder how long since leaving school, terminating employment, or divorce the former pals or partners remain related persons. One can take five years as guidance. The term of five years is found in the prohibition for an official to take actions which shall suit to the interest of persons in earlier business relationship (Article 9, Subparagraph 1.8 of the Law on Prevention of Conflict of Interest).

An adversary of an official, for example, a person against whom an official has a civil court case does not have joint interests with the official. The interests of these two persons are opposite. However, in deciding regarding an adversary, an official is likely to have a private interest against the person. This interest influences, might influence or seems to influence the impartial and objective performance of official duties.

4 RECOGNITION OF A CONFLICT OF INTEREST³

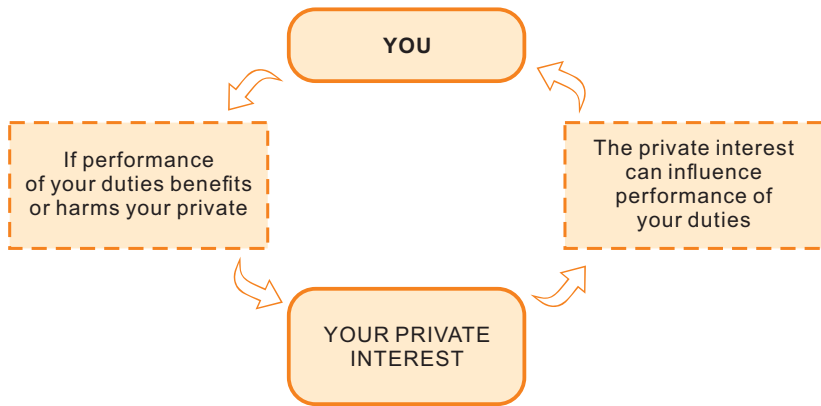
If you start suspecting that a conflict of interest could occur or could have occurred, you must answer two questions:

- ✓ Do you have a private interest (whether pecuniary or non-pecuniary) in this situation?
- ✓ Does the private interest influence, might influence or appears to influence the impartial and objective performance of your official duties?

There is a two-way relationship between the public and private interests. If performing your duties can benefit or harm the private interest, the private interest can influence the performance of duties. performance of your official duties?

There is a two-way relationship between the public and private interests. If performing your duties can benefit or harm the private interest, the private interest can influence the performance of duties.

³ The introduction of this Chapter, Subchapters 3.1 and 3.2 are adapted from the Guidance on the Conflict of Interest for Managers of Public Organisations prepared for the Council of Europe Project "Controlling corruption through law enforcement and prevention (CLEP)" in the Republic of Moldova in 2017.



4.1 Obvious conflict of interest

Some influences of the private interest and respective conflict of interest are obvious. This is so, for example, when the actions of the official may benefit financially the official him/herself, his/her spouse, relative or other related person.

Examples of obvious conflict of interest

- Official actions regarding procurement contracts, lease of property, etc. with a legal entity where the official's spouse or other related person is a founder, manager or has other financial relationships.
- Supervision or control of a company where a family member is employed.
- Deciding on hiring of a relative, determining a relative's salary, award or leave; supervising a relative.
- All of the above regarding the official him/herself.

When you see an obvious private interest and an obvious way how performing the duties can benefit or harm the private interest, you must treat the situation as a conflict of interest.

4.2 Equivocal situations

Different kinds of private interests can influence the performance of duties in different ways. The real life can bring such a variety of situations that no exhaustive list of conflicts of interest will cover all of them. Sooner or later, you may encounter a situation where you are not sure whether a conflict of interest exists.

Examples where the influence of the private interest is equivocal

- An inspector shall carry out an inspection in a supermarket where his son's friend works.
- A deputy director has received for signature a draft decision to extend the contract or lease of premises for the private practice of her children's doctor.
- A member of a procurement evaluation commission owns money to one of the bidders.

In order to assess an equivocal situation in which you shall fulfil your public duties, use your common sense and answer the following questions:

TEST QUESTIONS REGARDING A CONFLICT OF INTEREST

- Do you think that an average person with fair understanding of the work of public institutions would doubt your ability to review the matters of the involved persons with impartiality and objectivity?
- Could you or a person related to you gain a benefit that could cast doubt on your impartiality in this case?
- Could you or a person related to you suffer a loss?
- Do you feel that you are somehow dependent on someone who is involved in the case?
- Do you feel that a person related to you is dependent on someone involved in the case?
- Do you have a strong emotional bond or animosity with someone who is involved in the case?

If your answer to any of these questions is “yes”, treat the situation as a conflict of interest. Even if all the answers are “no”, you could answer a few additional questions (listed below) to see if there is an apparent or potential conflict of interest.

In order to identify an apparent conflict of interest, again use your common sense and answer the following questions:

TEST QUESTIONS REGARDING AN APPARENT CONFLICT OF INTEREST

- Do you think that, based on publicly available information only, an average person with fair understanding of the work of public institutions would doubt your ability to perform your duties with impartiality and objectivity?
- Do you think that, based on publicly available information only, such a person would believe that you can affect a case, which benefits or harms your private interest or that of a person related to you?
- Would you prefer to conceal this situation about you and your institution if a representative of respectable media asked about it?
- Would you be worried if the situation were disclosed in public?

If the answer is “yes” to any of the questions, consider the situation an apparent conflict of interest.

Meanwhile note that an apparent conflict of interest also must be specific. Just general mistrust or suspicion based on incidental circumstances is not an apparent conflict of interest. For example, a mere coincidence of the same family name of a member of a procurement evaluation commission and a bidder does not represent any kind of conflict of interest unless the persons are otherwise related.

In order to identify a potential conflict of interest, answer the following question:

A TEST QUESTION REGARDING A POTENTIAL CONFLICT OF INTEREST

- Do you believe that there is no actual conflict of interest but, in foreseeable future, it will happen?

If the answer is “yes”, consider the situation a potential conflict of interest.

Additional test questions can be used regarding specific areas of high corruption risk. Since procurement is considered to be one of the most well-known risk zones, below are suggested additional questions for this area. They can be applied when an institution wants to adhere to an even stricter standard against conflict of interest than normally in other kinds of proceedings.

ADDITIONAL TEST QUESTIONS REGARDING A CONFLICT OF INTEREST IN PUBLIC PROCUREMENT

- Could the exclusion or other act, which would be disadvantageous to any of the procurement participants, benefit you or a person related to you?
- Do you or a person related to you profit from a business, which supplies goods or services of the kind to be procured in the current procedure?
- Have you recently communicated separately with any of the procurement participants so extensively, amicably (or inimicably) that an average person with fair understanding of the work of public institutions would doubt your ability to treat the participant equally with the others?
- Have you consulted separately with any of the procurement participants on how to prepare or run this procurement procedure?
- Have you recently discussed future employment possibilities for yourself or a person related to you with any of the procurement participants?
- Is any of the procurement participants a sponsor of a political party or candidate with which you are or recently have been engaged politically as a holder of a political position, a member or otherwise?

If the answer is “yes” to any of the questions above, consider the situation an actual or apparent conflict of interest.

4.3 Self-test⁴

For the detection of any conflict of interest, you could fill the following self-test. In order to obtain an objective result, you should answer the questions as openly as possible, avoiding self-deception. For the sake of convenience, it is expedient to create a simple electronic file with the below form in Word, Excel or another suitable format.

Template for a self-test

List of your official duties as set in laws, regulations, employment contract, job description, etc.	List of private interests in any way related to the sphere of your official duties.	The impact of a private interest	The impact of a private interest as perceived by the public	The expected impact of a private interest in the future
		Actual conflict of interest	Apparent conflict of interest	Potential conflict of interest
1.	1.			
2.	2.			
3.	3.			
<i>... add lines as needed</i>	<i>... add lines as needed</i>			

4.4 Examples of possible conflict of interest⁵

4.4.1 Situation 1

A young person has obtained her degree in law. Her father is the manager of a regional department of an administrative institution. The department lacks a junior legal specialist. The young person is willing to return to her native town and work at the department. She applies for the job, but her father is the official who makes hiring decisions at the department. Is there an acceptable way for both relatives to work at the department?

This is a **conflict of interest situation**.

The manager is unequivocally prohibited from performing official duties, which affect his daughter. At the stage of recruitment, a superior official or a leading institution (central unit of the institution) could resolve this conflict of interest by deciding in this recruitment case.

After the appointment of the manager's daughter, a potential conflict of interest arises especially if the department is small with only two levels of hierarchy (the manager and all the subordinates). It is certain that, in near future, an actual conflict of interest will happen.

⁴ The self-test is based on the idea of a similar tool in the Methodological Recommendations for Prevention and Settlement of a Conflict of Interest of the National Agency for Prevention of Corruption of Ukraine (approved on 29 September 2017).

⁵ A few of the examples are adapted from the Guidance on the Conflict of Interest for Managers of Public Organisations prepared for the Council of Europe project "Controlling corruption through law enforcement and prevention (CLEP)" in the Republic of Moldova in 2017.

To avoid the conflict, at the very least, it is necessary to have one intermediate level in hierarchy between two relatives. Note that institutions can have their own internal rules regarding the work of relatives. For example, some institutions prohibit two relatives to work within a single department.

4.4.2 Situation 2

A manager of a large institution shall appoint his deputy. He finds that the best-qualified candidate for the position is someone who also is a co-founder of the manager's private company. Is there a legal way to appoint this person without violating rules on conflict of interest?

This is a **conflict of interest situation**.

Such an appointment is legally impossible. Co-founders of a company clearly have a joint interest in developing the business and maximising their profit. Therefore, the manager of the institution shall not perform his public duty regarding the co-founder.

The conflict of interest in the act of appointment could be managed by involving a superior official or, if there is no direct superior, the Anti-corruption Agency. However, any manager and his/her deputy have a relationship of direct subordination, which is impossible under conflict of interest regulations. It would be possible to appoint the person as a deputy and resolve the conflict of interest by having the resignation of the manager and/or transferring him to another position. However, usually releasing a manager in order to be able to appoint a particular person as a deputy manager would not be practical.

4.4.3 Situation 3

A person applied in a job competition for a position at the planning department of a ministry. The applicant's grandfather is the head of the supplies department of the same ministry. The grandfather is not involved in the selection commission and decision-making regarding the candidates. If hired, the applicant would not be subordinate to his grandfather. However, the chair of the selection commission worries that some people would believe the head of the supplies department has influenced the selection and the recruitment would be considered an apparent conflict of interest.

This is **not a conflict of interest situation**.

The relative (grandfather) does not have and is not expected to have any decision-making powers over the new employee. Even for an apparent conflict of interest, a more specific seeming way of the influence of the private interest is necessary.

4.4.4 Situation 4

A member of a procurement evaluation commission finds out that her cousin has submitted a bid.

This is a **conflict of interest situation**.

An official's cousin is a person related to the official. In addition to procedures for the resolution of a conflict of interest established in the law, the official should take into account the Rules and Operational Guidelines for Public Procurement (in force since 16 April 2018), which stipulate: "In the event that a member of the Procurement Evaluation Committee determines that he/she has a conflict of interest in the evaluation of the tender, he/she shall declare his/her interest in the tender and leave the meeting, and shall not participate further in the evaluation process in relation to the said activity. The individual, who no longer takes part in the evaluation, remains under the oath of confidentiality."⁶

4.4.5 Situation 5

A person applied for an official position at an environment protection institution. Shortly before assuming the official position, the candidate sold his shares of a car hire company to a person whom he personally does not know. A few months later, the institution launched procurement of car hire services. Since the mentioned official has knowledge about such services, he was included in the procurement evaluation commission. Later it turned out that his former company also submitted a bid.

This is an **apparent conflict of interest**.

An outside person could suspect that the official has personal ties with the new owner even if no such ties exist. There could even be a perception that the price for the sale of the business was inflated with a view on the future business with the public institution. Moreover, an official may not take actions which shall suit to the interest of persons in earlier business relationships in the last five years (Article 9, Subparagraph 1.8 of the Law on Prevention of Conflict of Interest).

The official shall declare his/her interest as stipulated in the Rules and Operational Guide for Public Procurement and shall not participate in the further evaluation process.

4.4.6 Situation 6

A family has a private business, which provides travel services. One of the spouses wanted to start a civil servant's career and got admitted as the head of a unit in a ministry. The ministry occasionally procures travel agency services. Would the family company be eligible to bid in tenders announced by the ministry?

Yes, a company may apply in a tender even when its co-owner serves in the purchasing institution as a non-senior official. According to the Law No. 04/L-04 on Public Procurement a conflict of interest would arise if this civil servant were involved in performing the procurement procedure or were able to influence the outcome of the procedure. If this were the case, the civil servant would have to declare his/her conflict of interest as prescribed in the law and the rules.

⁶ See Rules and Operational Guidelines for Public Procurement ('Rregullat dhe Udhëzuesi Operativ për Prokurimin Publik'), item 40.15. Available in Albanian at: <https://krpp.rks-gov.net/>

However, this situation could be regarded as an apparent conflict of interest even if the civil servant with this private interest is not involved in the procedure. An apparent conflict of interest could be present if, for example, the civil servant is involved in other similar procurement procedures or is able to influence the procedure seemingly and potentially by having a close relationship with the civil servants who are involved in the procedure. It is advisable that the ministry defines the kinds of situations that will be deemed as apparent conflict of interest in the internal regulations that it shall adopt.

4.4.7 Situation 7

The architect of a municipality receives for signature an act for the modification of the detailed plan of a lot owned by a partner in his former architects' bureau. The architect sold his part of the bureau to the partner about a year ago. However, even after that, he still participated as a consultant in the preparation of two projects of the bureau.

This is at least an **apparent conflict of interest**.

The sale of the share certainly limited the architect's private interest in the bureau. However, it appears that certain social and business ties remain. The two partners had a relationship while owning a common bureau and the continued involvement of the municipal architect in projects makes it plausible that the relationship continues. Moreover, involvement in projects creates opportunities of earning extra income also in the future. The architect shall make a case-by-case declaration of private interests.

4.4.8 Situation 8

The head of the urban planning department of a municipality is married to the executive officer of a major property development company. The head of department routinely signs spatial plans of the city and their changes. Until now, she has not had to sign any plans based on applications of her husband's company or plans affecting projects developed by the company.

This is a **potential conflict of interest**.

The head of the department shall take steps to avoid the conflict of interest. She should notify the superior or managing/supervising institution. The head of the department and the superior should discuss the situation and steps that shall be taken when an approval of a plan would actually affect a project developed by the company.

The municipality should adopt internal regulations and specify rules on conflict of interest forms. If a potential conflict of interest turns frequently into an actual conflict of interest, the private interests or the public duties of the official should be rearranged (Article 19 of the Law on Prevention of Conflict of Interest).

4.4.9 Situation 9

The wife of the head of a food safety authority is the vice-president of the Association of Producers of Dairy Products. The public institution inspects enterprises, which are members of the association. Representatives of the association often meet with officials of the food safety authority and the overseeing ministry to discuss the practice of inspections and policy on food safety.

This is a potential conflict of interest.

The official's related persons are his wife and the Association of Producers of Dairy Products because his wife has a financial relationship there. As long as the head of the authority does not perform official duties, which influence his wife's or the association's interests, there is no actual conflict of interest.

However, the head sets priorities and determines the directions of work of the authority, reviews administrative appeals against results of inspections, and participates in developing policies in the area of food safety. Therefore, his actions can influence the business interests of some members of the association and through this also the success of his wife in furthering the interests of the association members. The head of the authority thus has a potential conflict of interest.

He shall declare this interest to the superior or managing/supervising institution. Since he is the head of the authority, the supervising institution will probably be unable to review or change the duties and powers of the official so as to eliminate the potential conflict of interest. In order to avoid the necessity to resolve actual conflict of interest frequently, his transfer to another position should be considered. Alternatively, his wife could give up work at the association.

4.4.10 Situation 10

An institution distributes subsidies and grants. May an official of the institution apply for a subsidy or a grant?

There is no general prohibition for an official of an institution to apply for a subsidy or a grant distributed by his/her own institution. In a concrete case, the answer would depend first on the character of the subsidy or grant. If it is a subsidy, which is guaranteed by law to any entity (for example, a farm), which corresponds to criteria, the official cannot be denied the right to apply for it.

If it is a grant, which is provided only to selected applicants, for example, in a competition, the institution can exclude its officials as ineligible based on its own regulations in order to prevent conflict of interest. In case of a senior official, there is a prohibition for his/her enterprise to gain assistance from an institution where the official works (Article 13, Paragraph 3 of the Law on Prevention of Conflict of Interest).

When the official is permitted to apply, the onus lies on the other officials of the institution to prevent, avoid and resolve the conflict of interest. The decision-makers should not depend on the applicant. If they are not dependent on the applicant, i.e. are not his/her subordinates, the likelihood of a conflict of interest is substantially reduced. Decisions should be made by officials who are not subordinate to the applicant, who work in other units and do not have special personal relations with him/her.

If no such decision-makers are available, for example, when the applicant is the manager of the institution, the decision-makers should make case-by-case declarations of private interests. If those declarations are received by the applicant him/herself in his/her capacity as the manager, the matter shall be referred to the Anti-corruption Agency.

The institution can limit the perception of an apparent conflict of interest by strengthening the clarity and transparency of proceedings regarding the allocation of subsidies or grants as well as adopting other internal regulations.

4.4.11 Situation 11

A working group of experts (both officials and non-officials) was established at a high-level executive body to develop standards for the kinds of software that public institutions should use. The standards are necessary to ensure that software of different institutions is mutually compatible. Meanwhile an effect of the standards can be that some producers and sellers of software will be able to supply public institutions while other will not. Some of the experts or persons related to them could have business interests in some of the companies or profit from them as service providers.

The body, which established the working group, should ask the experts to declare their interests and the interests of persons related to them, which could be affected by the standards developed by the working group.

If they have such interests, members of the working group who are officials shall submit case-by-case declarations of private interests according to the law since the activity of the working group is likely to affect subsequent decisions on the standards.

The internal regulations should envisage resolving all conflicts of interests by excluding a member from the working group or from certain parts of the work.

In a similar manner, institutions should manage all conflicts of interests, which arise in the processes of developing and making policies.

5 RESOLUTION OF A CONFLICT OF INTEREST

5.1. Resolving a conflict of interest on a case-by-case basis

(Article 17 of the Law on Prevention of Conflict of Interest)

If you know that you or your related person has a private interest regarding particular decision-making:

- Make a case-by-case interest declaration (Article 17 of the Law on Prevention of Conflict of Interest); Withdraw from the decision-making

The case-by-case declaration shall be made:

- ✓ as soon as possible,
- ✓ prior to a decision-making, and
- ✓ in written or using a prescribed form.

You also must submit a case-by-case interest declaration whenever requested by your superior or managing/supervising institution. When requested, the declaration must be submitted even if no private interest may cause a conflict of interest in the given situation.

Case-by-case interest declaration involves a formal act to inform others and report to the superior about the existence of a private interest that may affect the performance of official duties in a decision-making process for a particular issue involving the official.

Case-by-case interest declaration is mandatory for any official. It is often used in situations regarding recruitment or tender evaluation panels, inspections or audits, investigations, discussion or voting in collegial bodies and decision-making in particular official decision, process or activity.

The submission of the case-by-case declaration is only the first step in resolving the conflict of interest. It is the responsibility of yourself and of your superior to resolve the conflict of interest effectively. The law provides measures that an official and his/her superior or a leading institution can take depending on the case and circumstances. In addition, other measures can be taken as necessary.

Possible measures
by an official

- *Transfer* the private interest and rights in the management of an enterprise;
- *Exclude* yourself from decision-making, discussion or voting;
- *Resign* from activities, which are in conflict or incompatible with your public function;
- *Resign* from your public function.

Possible measures
by an official

- *Limit* information to the official;
- *Avoid assigning* specific duties or obligations to the official;
- *Exclude* the official from decision-making;
- *Review* or change the official's duties and powers;
- *Transfer* the official to another position;
- *Avoid appointing or electing* the official to a certain function;
- *Revoke* or *cancel* an act made in a conflict of interest.

5.2 Resolving a conflict of interest upon assuming a new duty

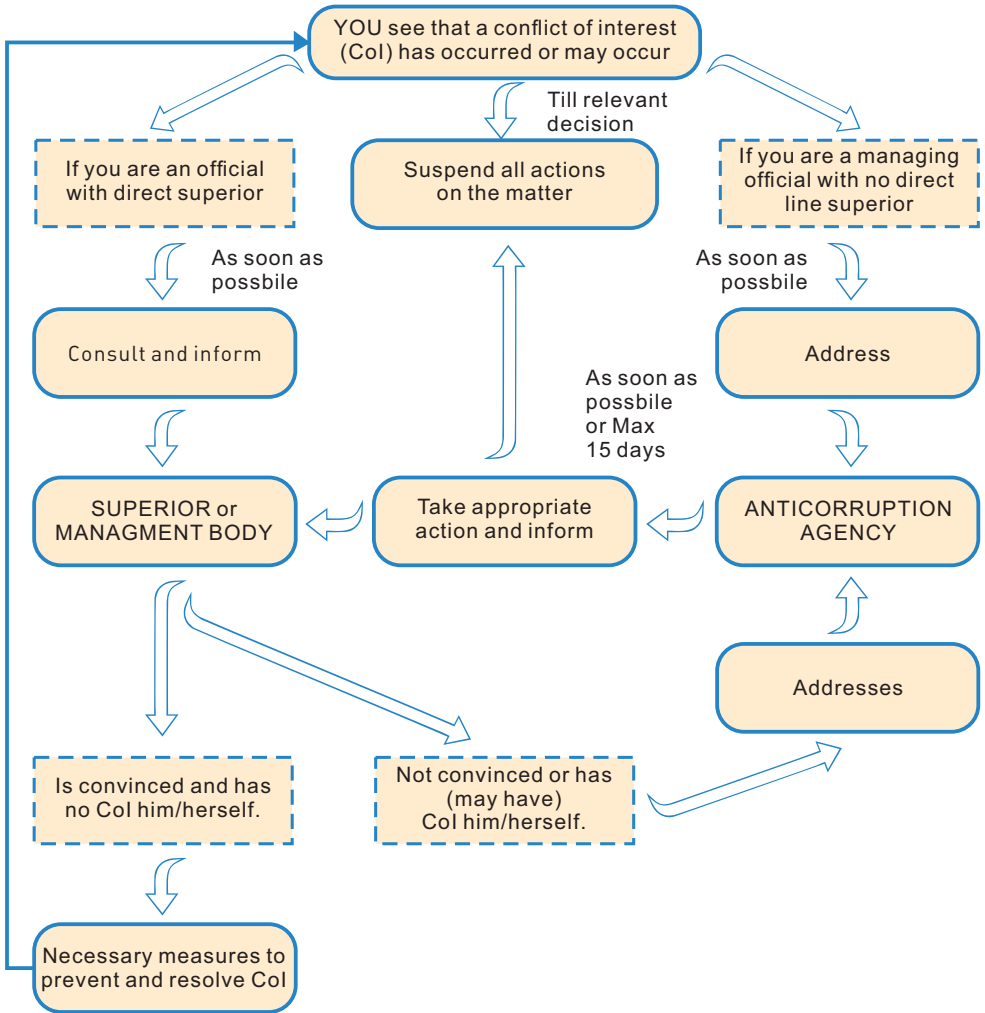
(Article 8 of the Law on Prevention of Conflict of Interest)

If you suspect or determine that a conflict of interest has occurred or may occur:

- *Suspend* all actions related to the issue;
- *Consult* and inform your superior or management body as soon as possible;
- If you are a managing official and have no direct line superior, *address the issue* to the managing/supervisory institution and consult the Anti-corruption Agency.

As in the case-by-case resolution of a conflict of interest, suspension of actions and informing the superior are only the first steps in resolving the conflict of interest. The official or the institution shall take all steps within 30 days and they are depicted in the below graph.

Prevention and resolution of conflict of interest



6 RESPONSIBILITIES OF MANAGERS AND EMPLOYING INSTITUTIONS

According to the new Law on Prevention of Conflict of Interest, conflict of interest initially and generally must be resolved within each institution. The Anti-corruption Agency becomes involved in specific circumstances only when all the required steps within an institution or by a leading institution have been undertaken and resolution is not possible.

6.1 Responsibilities of a manager

If you are a manager, you have specific responsibilities regarding conflict of interest:

- ✓ **Request a case-by-case declaration of private interests;** to a subordinate whether consulted or informed by the concerned official or ex officio (Article 8, Paragraph 2; Article 17, Paragraph 2 and 3 of the Law on Prevention of Conflict of Interest);
- ✓ **Prevent or resolve a conflict of interest,** when you know about an actual or potential conflict of interest of a subordinate (Article 8, Paragraph 3; Article 19, Paragraph 2; of the Law on Prevention of Conflict of Interest);
- ✓ **Turn to the Anti-corruption Agency,** if you are not sure how to resolve a conflict of interest of a subordinate or feel that you yourself would have a conflict of interest in the case (Article 8, Paragraph 4 and 5);
- ✓ **Notify the Agency** on the measures taken to prevent and resolve conflict of interest or incompatibilities (Article 19, Paragraph 4);
- ✓ **File a criminal charge** with a public prosecutor against an official who has committed a criminal offence (Article 24, Paragraph 3).

Either as an official or his/her manager, you remain liable when the measures taken are not effective to prevent and resolve conflict of interest or incompatibilities.

6.2 Main duties of an institution

If you are a manager of an institution, keep also in mind the main duties of the institution:

- ✓ **Prescribe rules on conflict of interest** in internal regulations with assistance of the Anti-corruption Agency if necessary and ensure their implementation (Article 20, Paragraph 3);
- ✓ **Keep proper record and register the conflict of interest** which occurred within the institution and the details and outcomes of each case (Article 17, Paragraph 4, Article 20, Paragraph 5);
- ✓ **Gather and verify information** on the private interests of officials (Article 20, Paragraph 4, Subparagraphs 4.1 and 4.2);
- ✓ **Prevent and resolve conflict of interest** in a proportionate way and inform the Anti-corruption Agency on measures taken regarding conflict of interest or incompatibilities (Article 19, Paragraph 2 and 4);
- ✓ **Refrain from business with former senior officials** of the institution in circumstances set by law (Article 18, Paragraph 2);
- ✓ **Notify the Anti-corruption Agency about violations** of post-employment restrictions that apply to the institution's former senior officials (Article 18, Paragraph 3);
- ✓ **Make available and/or provide** access to necessary information and resources in favour of the Anti-corruption Agency no later than 15 days for verification and investigation of conflict of interest and incompatibilities (Article 21, Paragraph 4);

- ✓ **Initiate the procedure for dismissal** of an official under incompatibility situation upon request of the Agency and notify the Agency of the action undertaken within 15 days (Article 22, Paragraphs 9 and 11);
- ✓ **Initiate the procedure for misdemeanours** (Article 23, Paragraph 3);
- ✓ **Initiate disciplinary proceedings** (Article 24, Paragraph 1);
- ✓ **File a criminal charge** with a public prosecutor against an official who has committed a criminal offence (Article 24, Paragraph 3);
- ✓ **Initiate or follow legal actions** regarding review, revocation and/or annulment of acts or contracts issued under conflict of interest as well as needed action related to the evaluation of damage and settlement of consequences (Article 22, paragraph 13 and 14);
- ✓ **Submit an annual activity report** to the Agency with information on how the institution handled conflict of interest (Article 20, Paragraph 6).

Rules on conflict of interest in internal regulations can determine various matters such as:

- ✓ Provide detailed instructions how to avoid apparent and potential conflict of interest, which could frequently occur within the institution;
- ✓ Procedures for the management of apparent and potential conflict of interest;
- ✓ Specified criteria of restricted or prohibited outside work for officials;
- ✓ Forms and procedures for regular internal registration of private interests of officials (see the Appendix 3).

Note that the Anti-corruption Agency provides advice to officials and managers and issues opinions on how to resolve conflict of interest rather than acting itself to resolve them.

However, in its overall role to supervise the implementation of the Law on Prevention of Conflict of Interest, the Agency is empowered to take legal measures and to initiate legal actions in the responsible institutions in accordance with the law, including legal proceedings against acts and contracts issued under conflict of interest situations.

7 OUTSIDE ACTIVITIES

7.1 General rules

By default, officials are permitted to work in addition to their public positions. Participation in outside activities should occur outside normal working hours. However, restrictions and conditions apply to outside activities that are incompatible with the performance of public duties.

Permitted (unless otherwise in the law)	Prohibited
<ul style="list-style-type: none">• Functions within a political party (for an official elected as a representative of a party).• Activities in the area of science, sport, education, culture and humanitarian activities.• Profit based on copyright, patents, intellectual and industrial property and other similar rights.	<ul style="list-style-type: none">• Other work when there is a possibility to abuse official information.• Other work which affects impartiality in performing the public duty and undermines compliance with the principles of competition.• Engagements which may damage the reputation of the institution.• Engagements related to selection, appointment or assignment in subordinate institutions (unless provided in law).• Engagements associated with gains from private legal persons which are awarded public contracts, credits or other public funds, privatisation of public property, relief from customs or tax obligations or which exercise activities in free zones in cases when the official was involved during the discharge of the function and has directly or indirectly influenced the gaining of the right to their benefit.

- ✓ The abuse of official information would happen, for example, if an official provided privileged information to his/her private employer.
- ✓ Outside work should not lead to conflict of interest. If a conflict of interest arises, it shall be managed according to the law and internal regulations. For example, an official shall not participate in awarding a contract to a non-governmental entity where he/she or a related person works. If such an official does not participate in the award but has a possibility to influence it, the situation shall be managed as an apparent conflict of interest.
- ✓ Principles of competition would be undermined, for example, if a procurement officer provided privileged information to his/her private employer and thus provided a competitive advantage to such economic operator.
- ✓ Public institutions should specify the restrictions in their internal regulations, for example, define the kinds of other work that would be damaging to the reputation of the institution. Depending on the judgment of the institution, such work could be handling of alcohol, working for an entity, which has been involved in illegal activity, providing paid services, which are similar to those provided by the institution, etc.

Institutions can establish further rules regarding additional work, for example, a prohibition to engage in outside activities during normal working hours, a limit on the salary in the other work in comparison to the official's salary, a requirement to provide detailed information on the outside activity to the direct superior. In some institutions, engagement in outside work is allowed only after a manager has provided due authorisation.

Whenever you consider undertaking an extra work, you should consult not only the law but also the regulations, which have been adopted in your institution.

Moreover, according to the Civil Servant Code of Conduct of Kosovo, a civil servant:

- ✓ shall not be engaged in outside activity that impedes performance of official duties and that affects in any way the realisation of objectives of the institution;
- ✓ should notify in advance the manager and the personnel unit regarding outside engagement;
- ✓ may engage in the trade-union activities or the representation of a civil servant, or teaching, research and training activities only if they do not interfere in performance of duty and are not in contradiction with the nature of duty.

There are also other incompatibilities, for example, between political appointments and the status of a civil servant (Article 17, Paragraph 1 of the Law No. 03/L-149 on Civil Service).

7.2 Additional rules for senior officials

Permitted	Prohibited
<ul style="list-style-type: none"> • Non-remunerated membership in a steering body (with the exception of the steering function) of a non-governmental organization in the field of science, sport, culture, humanitarian and similar activities. Position in a political party. • One non-remunerated membership in a steering body of a publicly owned enterprise or shareholding company, or in a body of other public institution (unless more positions permitted explicitly by law). 	<ul style="list-style-type: none"> • Professional activities of advocacy, notary, private bailiff, insolvency administrator, licensed expert, consultant or agent of legal persons if these activities require a license. Other full time job. • Being a manager, an authorised representative or a member of managing or supervising body of private legal profit-making and non-governmental organisations unless such a position is dictated because of the public function.

7.3 Examples of outside activities

7.3.1 Situation 1

A senior official's function includes the evaluation of funding requests submitted by state universities. May he/she work as a professor at one of the state universities?

Officials are generally permitted to engage in outside activities in the area of education. Therefore, the official may work as a professor if he/she complies with other rules, which apply to outside work.

However, with this outside employment, the university becomes a legal entity related to the official. The interests of the university could affect the performance of the official's duties in evaluating the funding requests of this same university or other universities in case there is a competition for scarce funds. Hence the situation leads to a potential conflict of interest. Occurring conflict of interest could be resolved on a case-by-case basis but a permanent revision of the duties (ceasing the engagement in the evaluation of the budget requests) would be advisable if the official wants to retain the professor's position.

Importantly, the senior official shall make sure that he/she does not hold a remunerated managing position (rector, dean, etc.) at the university as such outside positions are not allowed for senior officials even in public institutions.

7.3.2 Situation 2

May an official work as an accountant if his/her official function is an auditor at the tax administration?

Such a combination of activities is not permissible. Since an accountant is responsible for ensuring compliance with tax legislation, an auditor of the tax administration could abuse official information and assist the entity in circumventing control of the tax administration. This additional activity could also undermine the principles of competition by providing unfair advantage to the entity and damage the reputation of the tax administration by creating an impression that tax officials privately help some economic operators.

The same approach would apply in any situation when, on the one hand, an official's duties include control or inspection and, on the other hand, the would-be private activity includes ensuring compliance of a private entity in the same area. See also the next question.

7.3.3 Situation 3

May an official work as customs broker if his/her place of service is the customs?

Such a combination of activities is not permissible. Since a customs broker is responsible for ensuring compliance with customs regulations, a customs official could abuse official information and assist the entity in circumventing customs control. This additional activity could also undermine the principles of competition by providing unfair advantage to the entity and damage the reputation of the customs by creating an impression that customs officials privately help some economic operators.

7.3.4 Situation 4

May a civil servant of the Ministry of Agriculture practice as an advisor to farmers after working hours?

From the point of view of the conflict of interest legislation, such practice is permitted subject to conditions. Similar to the situations 2 and 3 above, a civil servant who works in a unit with control and inspection functions shall not work for a private employer to ensure compliance with the applicable rules.

Moreover, the private work should not overlap with the public function or be a continuation or extension of the latter. For example, if providing advice to farmers is part of the official duties, advising them also privately for payment could create the impression that the advice provided in the capacity of a civil servant is deliberately incomplete in order to stimulate demand for private consultations. This situation could affect impartiality in performing the public duty (quality of official advice) and potentially damage the reputation of the institution (through creating impression that a civil servant expects a payment in the form of remuneration for a private service). The resulting situation would be at least an apparent conflict of interest.

7.3.5 Situation 5

May an official engage as a court expert in addition to his/her official position?

The Law on Prevention of Conflict of Interest generally does not prohibit an official to act as a court expert. However, the functions of the public institution, the responsibilities of the official and the field of expertise need to be considered. The official should not be a court expert in a case where his/her public institution is involved as this would compromise both the impartiality of the expertise and the reputation of the institution, which could be perceived as attempting to influence the court case in its favour by compromising the court expertise.

If the person is a senior official, he/she may not be an expert if, for this purpose, a license is required.

7.3.6 Situation 6

May an official work as a private security guard during the time, which is free from the public service?

Yes, upon condition that provision of protection is not part of the official's duties. If this were the case, it could create an impression that the public institution provides priority protection to those who hire an official of the institution privately. This could damage the reputation of the institution. There would also be the risk that symbols (insignia, etc.) and equipment of the institution are used in the provision of the private service.

7.3.7 Situation 7

May a senior official become a member of the board of an anti-corruption NGO if he/she would receive no salary for the membership?

Yes, such membership is permitted. A senior official may be a non-remunerated member in a steering body of a non-governmental organisation in the field of science, sport, culture, humanitarian and similar activities (Article 14, Paragraph 1 of the Law on Prevention of Conflict of Interest). For guidance regarding similar activities, you can consider also Article 17 of the Law on Freedom of Association in Non-governmental Organisations, which defines activities of NGOs eligible to the public beneficiary status. These activities include the promotion of human rights, democratic practices and civil society. By interpreting the law in a systemic manner, one can conclude that anti-corruption activities belong to the said public benefit activities and, with that, are similar to the activities defined in the Law on Prevention of Conflict of Interest.

7.3.8 Situation 8

May an official work as a consultant of a company whose chief executive officials are under investigation for suspected bribery?

An official may not engage in additional work, which may damage the reputation of the institution. Working for an employer, which is known to engage in illegal activity currently or recently, or suspected for such engagement, can damage the reputation of the institution. Such a situation can create an impression that the institution tolerates illegality or that its officials even participate in illegal actions themselves. Before assuming an additional employment, an official should pay attention to public information about the potential employer and, when necessary, ask the employer to explain its operation. In other words, the official should undertake reasonable effort to make sure that the employer does not represent a potential reputation damage.

7.3.9 Situation 9

May a person assume the position of the director of a state theatre while being a civil servant of the Ministry of Culture?

No, such an appointment would violate the prohibition to engage in other work, which is related to selection, appointment or assignment in subordinate institutions of the employer institution, unless permitted by a specific law. Subject to other applicable rules, it could be permissible to assume an artistic (non-managerial) engagement at the theatre.

7.3.10 Situation 10

May members of a municipal assembly simultaneously hold such positions as an assistant to the mayor, the head of a municipal administration unit, a director of a municipal enterprise or other entity, a deputy school director, etc.? May the chairperson of the assembly work as a teacher at a municipal school within the same municipality?

Members of municipal assemblies are generally permitted to engage in other work. However, the Law No. 03/L-040 on Local Self-government (Article 65.2) explicitly prohibits municipal directors, directors of institutions and enterprises under the authority of the municipality and the civil servants of the administration of the municipality to be members of the respective municipal assembly. Therefore, insofar as the positions, which are mentioned in the above situation, correspond to one of the categories mentioned in Article 65.2 of this Law, the combination of the positions is not allowed.

Moreover, municipal assemblies have powers to make decisions regarding managers of subordinate municipal entities. In order to avoid a potential conflict of interest, a member of assembly must not hold a position over which the assembly has direct decision-making powers even if such additional work is not explicitly prohibited. Regarding positions over which the powers of the assembly are rather indirect (the positions can be affected through adopting regulations or allocating funds), a municipality may specify rules within the boundaries set by law.

Chairpersons of municipal assemblies are senior officials. The Law on Prevention of Conflict of Interest prohibits them to assume another full-time job. Hence, the chairperson of the assembly could work as a teacher at a municipal school only part time and insofar as his/her powers within the assembly do not affect the teacher's position in a way that causes a conflict of interest.

8 GIFTS

If a person provides a gift to a public official, a personal link between the two individuals is created. Such link can distort the proper fulfilment of your duties and create a conflict of interest. Therefore, laws envisage strict rules regarding gifts.

The figure below summarises the rules found in the Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of All Public Officials and the Law on Prevention of Conflict of Interest.

May you as a public official accept a gift?⁷

YES

- Protocol gifts.
- Casual gifts - value no more than EUR 25.

NO

Gifts, which influence or may influence the exercise of official duties.
Compensation for your determination in decision making.
Casual gifts with total value within a year above EUR 500.
More than one casual gift from the same person within a year.
Money, securities, precious metals of any value.
Gifts from public enterprises and from suppliers or clients of these enterprises (see conditions in the law).
Gifts from private legal persons who are awarded public contracts, funds, etc. if you were involved and influenced the provision of the right (see conditions in the law).

As a public official, never request a gift!

Make sure that you present all gifts for registration in your institution. Inform your supervisor in written if you have been offered or given any gift. Inform the Anti-corruption Agency if you are a head of an institution.

All gifts become property of the institution where you exercise your duties except casual gifts of a personal character.

Regarding a casual gift, you may find it difficult to determine its value exactly. If you suspect that the value might be above EUR 25, politely decline the gift. Be better safe than sorry!

You may also have your doubts whether people would believe that a certain casual gift could influence the exercise of your duties. You can decide whether to accept such a gift by thinking along the lines of the below checklist.

⁷ There is inconsistency and conflicting provisions in Law No. 03/L-149 on Civil Service (Article 33) and Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials (Article 11) which set different minimum and maximum thresholds for allowed gifts, respectively EUR 50 up to EUR 100 in the former and EUR 25 up to EUR 500 in the later. Given Law No. 04/L-050 contains later provisions and its scope covers all public officials, reference is made to its provisions.

8.1 Gifts and Gratuities Checklist⁸

G	Genuine	Is this gift genuine, in appreciation for my general effort rather than a compensation for a decision, and not requested or encouraged by me?
I	Independent	If I accept this gift, would a reasonable person have any doubt that I could be independent in doing my job in the future? Be especially cautious if the person responsible for this gift is involved or affected by a decision I might make.
F	Free	If I accept this gift, would I feel free of any obligation to do something in return for the person responsible for the gift, or for his/her family or friends/associates?
T	Transparent	Am I prepared to declare this gift and its source transparently, to my organisation and its clients, to my professional colleagues, and to the media and the public generally?

⁸ This table is adapted from OECD (2005), *Managing Conflict of Interest in the Public Sector, A Toolkit* to align it with Kosovo legislation. OECD Publishing www.oecd.org/

9 ACTION AGAINST INFLUENCE ON AN OFFICIAL'S VOLITION

The Law on Prevention of Conflict of Interest obliges you to take steps if someone attempts to influence your volition or you become subject to influence.

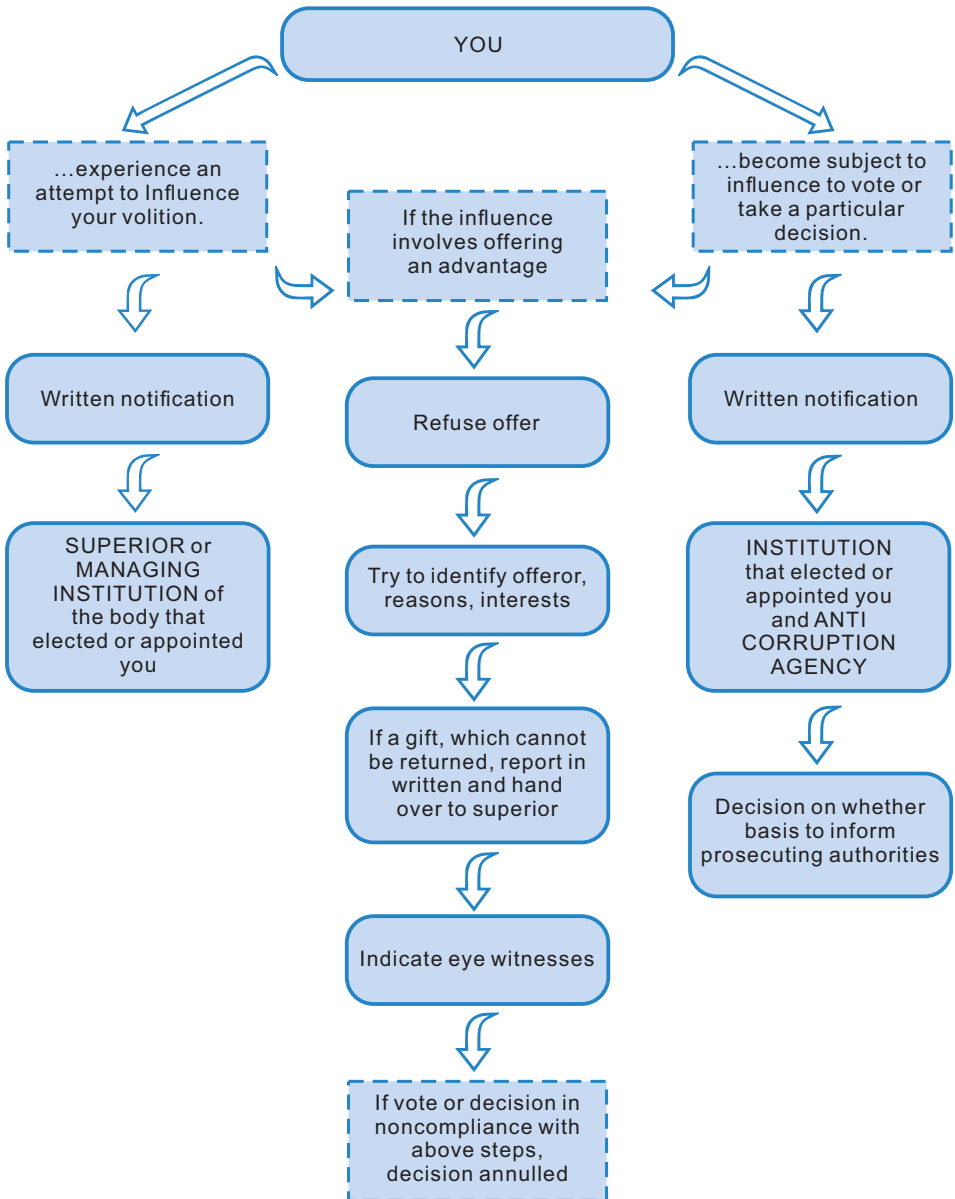
Example of an
attempt to influence
your volition

- You are a member of a procurement evaluation commission. A businessperson meets you and tells that in general you could have new excellent career opportunities if you supported a certain supplier.

Example of
exerted influence
on your volition

- You are a member of a procurement evaluation commission. The director of your institution tells you to support a certain supplier without legal grounds or else you will be transferred to a lower-level position.

Actions against influence on your volition



10 OTHER OBLIGATIONS AND SANCTIONS

The Law on Prevention of Conflict of Interest contains several further prohibitions, obligations and restrictions.

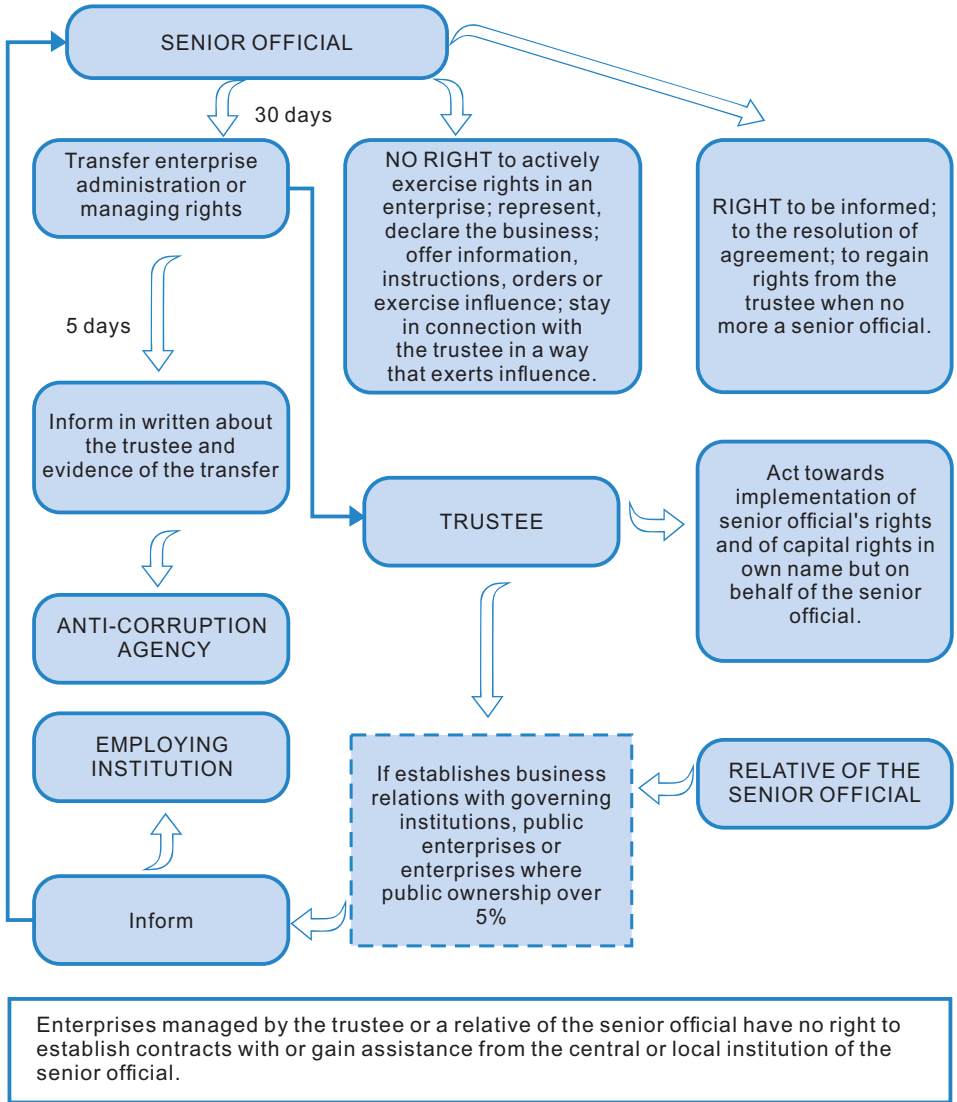
10.1 Forbidden actions

Forbidden actions for officials are listed in Article 9 of the Law on Prevention of Conflict of Interest and include prohibitions related to gifts and undue advantages as well as certain other actions.

10.2 Transferring of enterprise administration or managing rights

Transferring of enterprise administration or managing rights to a trustee is one of the obligations of senior officials who own shares or parts of capital of an enterprise during the discharge of public functions (Article 15 of the Law on Prevention of Conflict of Interest).

Transfer of administration or managing rights



The trustee must be able to exercise its rights in an independent manner. Specifically, a trustee cannot be the spouse, children, another official or person with ties of dependency, even indirect, due to the public function with the official in question and an enterprise or non-profit organisation where the official owns parts of capital or shares or has had or has a relation of interest of any kind. (Article 3, Paragraph 1, Subparagraph 1.7 of the Law on Prevention of Conflict of Interest)

Trusts concluded before the coming into force of the present law must be terminated unless compliant with these limitations. In such case, a new trust must be established.

10.3 Post-employment restrictions

For two years after the termination of a public function, restrictions apply for a senior official (Article 18).

FOR TWO YEARS SINCE THE TERMINATION OF A PUBLIC FUNCTION, A SENIOR OFFICIAL MAY NOT:

- Take a leadership or management position, or be involved in the control or audit of an entity:
- which has a business relationship with the institution where the official worked,
- if the official's duties during the two-year period prior to the termination of the public function were directly related to the supervision, control or sanctioning of the entity;
- Get involved in a contractual relationship with the institution in which the official exercised public function;
- Represent, assist or advise any person in a conflict or business relationship with the institution regarding the job he/she has performed (or performs);
- Use privileged or confidential information obtained during the exercise of the public function to his/her private interest or that of a relative or trustee.

Example of
postemployment
restriction

- You just left a position in the board of a state-owned enterprise. As a board member you supervised construction works, which were carried out by a private company for the state-owned enterprise. If the private company offers you a management position, you must decline the offer until two years have passed since you left the board.

For one year after the termination of a public function, the institution in which the senior official has exercised public function cannot do business with an entity in which the former official, a relative or a trustee have a share of no less than five percent.

10.4 Sanctions

- ✓ Acting in a situation of unresolved conflict of interest can be a criminal offence (Article 417 of the Criminal Code);
- ✓ Other violations of the Law on Prevention of Conflict of Interest are misdemeanours punishable by fines (Article 23, Paragraph 1);
- ✓ Any violation of the Law shall also be considered a disciplinary offence (Article 24, Paragraph 1);
- ✓ If you are a senior official, a manager or a leader of a managing institution, a court may also impose a prohibition to exercise a public function (Article 23, Paragraph 2).

11 CONCLUSIONS AND RECOMMENDATIONS FOR THE USE OF THE TOOLKIT

The adoption of the Law on Prevention of Conflict of Interest in Discharge of a Public Function in 2018 constitutes a major step towards further development of the integrity system in Kosovo. The law strengthened the conflict of interest framework for lower- and middle-level officials, introduced detailed procedures for the resolution of conflict of interest and brought several other key improvements. Consultations with stakeholders before the preparation of this toolkit attested to the already very good understanding about conflict of interest management among Kosovo officials.

Effective management of conflict of interest requires disseminating relevant skills throughout the public sector. Moreover, this is an area where officials often encounter new kinds of situations, which do not resemble past experiences. Therefore, providing guidance and counselling is a continuous process, to which this toolkit is but one contribution.

1. The toolkit represents guidance to assist in complying with the law. Using the toolkit does in no way relieve from the obligation to strictly comply with the legal provisions. When you need to decide how to act, you should always consult the law.
2. Whenever in doubt about a possible conflict of interest, consult with your superior official or managing/supervising body.
3. If you are a special senior official or a manager, you may turn to the Anti-corruption Agency for advice and counselling in specific cases of conflict of interest (including after the exhaustion of internal remedies within your institution) and regarding initiatives to prevent conflict of interest.
4. Managers should encourage internal staff discussions on conflict of interest and other integrity matters in order to spread knowledge among employees, reduce uncertainties and build commitment for upholding high standards.
5. By providing easily accessible internal counselling, institutions should create working environment, which is supportive to officials who in good faith search for answers regarding correct implementation of conflict of interest rules.
6. Institutions shall adopt internal regulations for the management of conflict of interest. The rules should specify how to handle recurrent and challenging kinds of actual, apparent, and potential conflict of interest. An institution should require all applicants for jobs to disclose to recruiting officials if they have relatives working in the institution.
7. An institution should ensure that it has full and up-to-date information on outside work by its officials.
8. Authorities, which are responsible for the implementation of the Law on Prevention of Conflict of Interest, should seek opportunities to ensure regular in-class and on-line trainings on conflict of interest management. The authorities could remind public officials about the main obligations and prompt them to consult the law by requiring that they fill a simple on-line test about conflict of interest matters annually.
9. The Anti-corruption Agency should update this toolkit in the future by adding new important types of cases from practice and adjusting it in line with eventual changes of the law.

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13. LIST OF APPENDICES

Appendix 1: Form for informing about a conflict of interest that has occurred or may occur;

Appendix 2: Form of conflict of interest declaration;

Appendix 3: Sample form of the statement of private interests for the internal register of an institution;

Appendix 4: Form for informing about the transfer of enterprise rights;

Appendix 5: Form of a notification about an attempt to influence or exerted influence on official's volition.

Appendix 1: Form for informing about a conflict of interest that has occurred or may occur

*Logo of the institution
Name of the institution
Address of the institution*

INFORMATION ABOUT A CONFLICT OF INTEREST

Official Mr/Ms: _____

Official position: _____

Employer/institution: _____

Pursuant to Article 8 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, I hereby inform that a conflict between my official duty and my private interest has occurred/may occur (underline as relevant).

Description of my official duties that are/might be influenced:

Description of my private interest that influences/ may influence my official duties:

Measures that I have already taken for managing the conflict of interest:

If necessary, use additional sheets to describe the official duties, the private interest and the measures taken. Sign each sheet.

___ (number) sheet(s) added as appendix(ces) to this notification.

Signature: _____

Date: _____

Appendix 2: Form of conflict of interest declaration

Logo of the institution
Name of the institution
Address of the institution

CONFLICT OF INTEREST DECLARATION

Official Mr/Ms: _____

Official position: _____

Employer/institution: _____

Pursuant to Article 17 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, I hereby declare that my private interest / a private interest of a person related to me (underline as relevant) may cause a conflict of interest in decision making.

Official decision that may be influenced by the private interest:

My official duties in the decision-making matter:

The private interest that may influence the decision (*in case of an interest of a related person, the name/ title of the person and my relationship with the person*):

Measures that I have taken for managing the conflict of interest:

If necessary, use additional sheets to describe the decision-making matter, your official duties, the private interest and the measures taken. Sign each sheet.

___ (number) sheet(s) added as appendix(ces) to this notification.

Signature: _____

Date: _____

Appendix 3: Sample form of the statement of private interests for the internal register of an institution

Logo of the institution
Name of the institution
Address of the institution

STATEMENT OF PRIVATE INTERESTS

Official Mr/Ms: _____

Official position: _____

Employer/institution: _____

I hereby provide information on my private interests to be used pursuant to Article 19, Paragraph 2 and Article 20, Paragraphs 4 and 5 of the Law No 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function.

Physical persons related to me according to Article 3, Subparagraph 1.6 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function

No.	Name and family name	ID number	Address	Relation to me
1				
2				
3				
4				
...				

Legal entities related to me according to Article 3, Subparagraph 1.6 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function and Article 417, Paragraph 5 of the Criminal Code No. 06/074.

No.	Title	Registration no.	Address	Relation to me or a member of my family
1				
2				
3				
4				
...				

Persons other than those listed above from whom I or a member of my family has received any kind of income during previous 12 months or expects to receive any kind of income during the next 12 months.

(Expectation includes but is not limited to agreements and contracts concluded, ownership rights, which can result in income.)

No.	Name and family name / title	ID registration number	Address	Amount received	Type of income*	Amount expected (estimate)	Type of income*
1							
2							
3							
...							

* Salary, proceeds from lease or sale, capital gains, etc.

Other private interests as defined in Article 3, Subparagraph 1.2 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, which I wish to state and should be taken into account in order to avoid a conflict of interest.

No.	Name of interest	If applicable, person(s) with whom the private interest is associated and my relationship with the person(s)
1		
2		
3		
....		

If necessary, use additional sheets to provide the required information. Sign each sheet.

___ (number) sheet(s) added as appendix(ces) to this notification.

I declare in good faith that the information presented above is truthful and complete to the best of my knowledge.

Signature: _____

Date: _____

Appendix 4: Form for informing about the transfer of enterprise rights

Logo of the institution
Name of the institution
Address of the institution

INFORMATION ABOUT THE TRANSFER OF ENTERPRISE GOVERNING RIGHTS

Use a separate form for each enterprise, whose governing rights have been transferred.

Official Mr/Ms: _____

Official position: _____

Employer/institution: _____

Pursuant to Article 15, Paragraph 3 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, I hereby inform the Anti-corruption Agency about the transfer of governing rights in an enterprise where I own shares/parts of capital.

Information about the enterprise	
Title:	
Legal form:	
Registration number:	
Legal address:	
Actual address (if different):	
Information about shares/ parts of capital owned	
Number of shares/ percentage of parts of capital owned by me:	
Information about the trustee	
Name:	

ID registration number:	
Legal address:	
Actual address (<i>if different</i>):	
Telephone:	
e-mail:	
Document/s appended as evidence of the transfer	
Title(s) of document(s)	

___ (number) of document(s) added as appendix (ces) to this notification.

I hereby declare that the trustee is compliant with requirements set in Article 3, Paragraph 1, Subparagraph 1.7 of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function.

Signature: _____

Date: _____

Appendix 5: Form of a notification about an attempt to influence or exerted influence on an official's volition

*Logo of the institution
Name of the institution
Address of the institution*

NOTIFICATION ABOUT AN ATTEMPT TO INFLUENCE AN OFFICIAL'S VOLITION / BEING SUBJECT TO INFLUENCE (*underline as relevant*)

Official Mr/Ms: _____

Official position: _____

Employer/institution: _____

Pursuant to Article 16, Paragraph 1/Paragraph 2 (*underline as relevant*) of the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, I hereby inform that:

() An attempt to influence my volition has taken place.

() I have become subject to influence to vote or take a decision.

Insert (X) as relevant above.

Details of the identity of the person(s) who attempted/ exerted influence:

Description of the way the attempt/ exertion of influence was carried out and the circumstances, in which it was done:

Description of the undue advantage/gift that was involved (*if any*) and its value (*if you do not know exactly, provide the presumed value*):

Details of witnesses (*if any*):

Measures that you took in reaction to the attempted/ exerted/ influence:

If necessary, use additional sheets to provide the requested information. Sign each sheet.

___ (number) sheet(s) added as appendix(ces) to this notification.

Signature: _____

Date: _____

This toolkit is designed to assist officials and all public institutions in complying with requirements of the Law on Prevention of Conflict of Interest in Discharge of a Public Function.

It contains steps, procedures and responsibilities for the resolution of conflict of interest situations in institutions.

The explanations and guidance of this toolkit are meant primarily for officials whose primary field of professional competence is not related to anti-corruption and conflict of interest legislation. It represents an easily accessible and simple source for reference.

The toolkit explains relevant terms such as an actual, potential and apparent conflict of interest, a pecuniary and non-pecuniary private interest, a person related to an official.

The toolkit also reviews the obligations of officials regarding gifts, when facing attempted or realised influence on the officials' volition, requirements for senior officials to transfer the administration or managing rights of enterprises, and restrictions in the period after the termination of public function.

www.coe.int/peck2

ENG

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

www.coe.int

The European Union is a unique economic and political partnership between 28 democratic European countries. Its aims are peace, prosperity and freedom for its 500 million citizens – in a fairer, safer world. To make things happen, EU countries set up bodies to run the EU and adopt its legislation. The main ones are the European Parliament (representing the people of Europe), the Council of the European Union (representing national governments) and the European Commission (representing the common EU interest).

<http://europa.eu>

