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CONFLICT OF INTEREST

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AN ANALYSIS OF THE REGULATORY
FRAMEWORK IN SELECTED
WESTERN BALKAN COUNTRIES

INSTITUTE OF COMPARATIVE LAW



Belgrade 2023

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Mirjana Glintić
Miroslav Đorđević

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PREFACE

Although the theory of social contract may not be able to (fully) explain the ways how the first states and societies emerged in the history of human civilisation, it most probably captures the essence of the modern, democratic state. Based on the premise that the state as an entity corresponds to the will of the people who are governed by its laws, modern state faces a list of specific challenges in order to strive towards the ideal of “rule of the people, by the people, for the people” (*Abraham Lincoln*). Since the state apparatus consists of the very people who are at the same time subjugated to its laws, there is a vast number of issues regarding potential conflicts of interest, and consequently various (more or less effective) mechanisms to prevent and fight it. The practice of the state authorities should be impartial and effective, as well as justly (*iustitia regnorum fundamentum – fiat iustitia ne pereat mundus*).¹

Adequate legal measures for prevention and fighting conflict of interest are prerequisites for the creation and strengthening of the integrity of a democratic state system. Countries that have belonged to the socialist, non-democratic legal tradition face serious issues in this sense, during and after the transition to democratic, liberal democratic systems. This book focuses on four such countries (Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia) offering in depth analysis of respective legal frameworks’ key features, as well as their compliance to fundamental international standards in this domain.

First relevant international standards are explained and set as benchmarks; numerous indicators extracted for the analyzed countries’ legal systems to be subjugated to; relevant conclusions drawn for the sake of some future normative intervention. Special attention was given to the relevant issues in the defense sector as well, in all the aforementioned countries.

¹ The pendulum that dances between justice and efficiency must never be allowed to wander off towards efficiency at the cost of justice (*fiat iustitia ne pereat mundus*). Many contemporary legal tendencies go in this direction, which may seem seductive, but presents serious risks since the totalitarian societies prove themselves to be very efficient. Miroslav Đorđević, “Zamke prenaplašene težnje ka efikasnosti u ustavnom pravu“ in: *Preispitivanje klasičnih ustavnopravnih shvatanja u uslovima savremen države i politike*, Beograd 2021, 85 – 99.

1. CONFLICT OF INTEREST - INTRODUCTORY REMARKS

Since tasked with exercising public office public officials are expected to perform their duties with the undivided loyalty to the public interest. They are demanded to respect certain values set in laws and constitution with a purpose of working in public interest. Due to the fact that each and every one of the public officials has his own life and private interests² which can stand on the opposite side of the public interest, the emergence of some sort of conflict of interest (hereinafter referred to as CoI) is inevitable.³ Also, more and more mobility between private and public sector and blurring of boundaries between private and public life due to different forms of public – private partnerships and complex inter – agency relationships certainly contribute to the possibility of CoI emerging. One is definite and that is that the concept of conflict of interest in later years expands since “people are taking on even more conflicting roles, identities, and changing loyalties.”⁴ Also, till the 1960s the concept of CoI was based on largely objective and pecuniary understanding of CoI.⁵ However through several last decades CoI gained certain subjective and ideological issues, which led to embracing a huge range of “subjectivity and psychological traits.”⁶ Nowadays every emotion, concern, loyalty are perceived as a threat to reliability to a public official’s decision and acting.⁷ That is how numerous situations may arise in which CoI distorts the “the socially

² The term “private interests” includes not only the personal, professional or business interests that each of us has, but also the personal, professional or business interests of the individuals or groups public official associates with. Independent Commission Against Corruption, Crime and Misconduct Commission, *Managing Conflict of Interest in the Public Sector*, Sydney 2004, 8.

³ Mirjana Glintić, “Conflict of Interest” in: *Integrity and Good Governance in Western the Balkans* (eds. Aleksandra Rabrenović, Ana Knežević Bojović), Respa, Danilovgrad 2018, 71.

⁴ Susan Rose-Ackerman, “Corruption and conflicts of interest” in: *Corruption and Conflicts of Interest, Studies in Comparative Law and Legal Culture* (eds. Jean Bernard Auby, Emmanuel Breen, Thomas Perroud), Edward Elgar Publishing, Cheltenham 2016, 3.

⁵ Congress of Local and Regional Authorities of the Council of Europe, *Conflicts of Interest at local and regional levels*, 2018, 15.

⁶ Andrew Stark, *Conflict of Interest in American Public Life*, Harvard, Cambridge 2000, 203.

⁷ Non-pecuniary interest includes any tendency toward favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. may concern a personal or family relationship of professional affiliations and other relevant outside activities. Independent Commission Against Corruption, Crime and Misconduct Commission, *Managing Conflict of Interest in the Public Sector*, Sydney 2004, 8.

acceptable balance between the personal interest of the public sector employees and the public interest.”⁸

The concept of CoI is one of the results of the needs of a modern society. In the 17th century, for example, society would not perceive as problematic the fact that public office has been used as a source and instrument of personal gain.⁹ However, society development and of democratic values led to the bigger acceptance of the idea of acting in public interest.¹⁰

The situations in which the impartiality and objectivity of public official's actions and decision is or might be perceived as being endangered and compromised by his or her personal interest represent the conflict of interest. Council of Europe has defined conflict of interest as “a public official has a private or other interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.”¹¹ The mobility between private and public sector and blurring of boundaries between private and public life certainly contribute to importance of the discussion on the proper regulation the matter of CoI (situation of the so-called pantouflage – the French term used to describe “a special form of conflict of interest in which, in conditions of disagreement between the general, public interest and the interests of the “business world”, a person who leaves public office for employment in the private sector, by his actions during the exercise of public office, benefited his new employer in various ways or hands over/ “sells” to him information and knowledge acquired while performing a public function, which most often represent a state, official or business secret, thus acting to the detriment of the public interest”¹²).

That is how numerous situations may arise in which CoI distorts the “the socially acceptable balance between the personal interest of the public sector employees and the public interest.”¹³

⁸ Florin Marius Popa, “Conflict of Interest and Integrity in Public Administration in CEE Countries. Comparative Analysis”, *Journal of Public Administration, Finance and Law* 4/2013, 58.

⁹ Joseph Mooney, Connor Bildfell, “Public Officials and Conflict of Interest” in: *Global Corruption: Law, Theory & Practice* (ed. Gerry Ferguson), Victoria 2018, 861.

¹⁰ Different periods of the development of human civilization have inherited certain values as “something that is normal” or “something that just goes without saying”. Some rights are to be considered as „natural rights“ by their very nature (like the right to life), while others (like suppressing CoI) demand legal evolution. – Đorđe Đorđević, Miroslav Đorđević, „Ljudski život kao najviša vrednost i njegova ustavnopravna i krivičnopravna zaštita“ in: *Constitutio Lex Superior: sećanje na profesora Pavla Nikolića* (eds. Oliver Nikolić, Vladimir Čolović), Beograd 2021, 75 – 78.

¹¹ Council of Europe, *Recommendation (2000)10 of the Committee of Ministers to member States on codes of conducts for public officials*, text available at <http://www.coe.int/t/dghl/monitoring/greco/documents/Rec%282000%2C27.04.2021>. Similar definition can be found in OECD (2003), *Recommendation of the Council on guidelines for managing conflict of interest in the public service*, June 2003, 4.

¹² Dejan Milić, „Pantofraža kao poseban oblik sukoba interesa javnih funkcionera u pravnom sistemu Republike Srbije“, *Sveske za javno pravo* 34/2018, 55.

¹³ Florin Marius Popa, “Conflict of Interest and Integrity in Public Administration in CEE Countries. Comparative Analysis”, *Journal of Public Administration, Finance and Law* 4/2013, 58.

CoI situation does not necessarily involve wrongdoing or misconduct, unless an official enters a CoI situation deliberately and/or – crucially – resolves the conflict of interest to the detriment of the public interest in order either to avoid personal losses or to ensure personal gain by (mis)using his duty to discharge public office. However, CoI may also be the consequence of objectives and external circumstances that are in no way result of the actions of public official. Yet, one has to bear in mind that the pure existence of private interest means that CoI will occur, or to be precise that public official will be interested since having his private interest.

Even if it turns out to be unsubstantiated, the mere appearance of conflict of interest since it can endanger the perception of the public official's and public office's integrity and reputation. It can lead to questioning the fairness and impartiality of reached decisions. The importance of the public perception of the integrity and ethical behaviour of the public officers may not be neglected, since its non-existence will result in the erosion of public confidence.¹⁴

Relevant personal interest may have the form not only of a pecuniary but also of a non-pecuniary interest of a public official and it may concern a personal or family relationship of professional affiliations and other relevant outside activities.

The higher the position the public official occupies, the stricter are the rules public official has to cope with.

Defining and resolving a CoI and to make a difference between actual, apparent, real and potential CoI requires fundamental understanding of many issues.

Most of the regulation dedicated to conflict of interest pursue these broad approaches to address conflict of interest: incompatibility provisions, the establishment of duties of public officials to declare interests they have and exclusion or self-exclusion of public officials from participation in decision-making process and other issues where they are subject to a conflict of interest.

In the area of CoI regulation, in the past decade a numerous internationally binding obligations have emerged.

Apart from prevention and resolving CoI, the relevant regulation should also contribute to increase of public confidence into public institutions, demonstration of the highest level of integrity of public officials, deterring potential candidates from entering public duties whose personal interests in the first place would not bear up against public scrutiny. Finally, regulation CoI should represent a powerful weapon in the hands of public for the judgment of the performance of the public official.

¹⁴ Madam Justice Denise Bellamy, *Toronto Computer Leasing Inquiry and Toronto External Contracts Inquiry*, vol 2 (*Good Government*), City of Toronto 2005, 38-40.

Conflicts of interest policies reflect a growing lack of trust in public authorities and public officials. “The level of public trust in government (...) impact the choice of legislation,”¹⁵ since the lower trust level, stricter is the CoI legislation. Maintaining public trust in the work of public institutions is a key task that can be achieved by promoting and preserving the personal integrity of public officials. That in turn promotes further development, institutional and social integrity.

However, the mere suspicion that public officials have acted in their private interest and not in the public interest will cause a loss of trust in the integrity of a public institution. In order to preserve the citizens’ trust in institutional integrity, public officials must ensure that a **perceived conflict of interest** does not exist and that the institutional integrity has been well protected. Therefore, the mere existence of a **potential conflict of interest** requires a public official to eliminate the possibility of any such conflict, in order to prevent the perception of any wrongdoing. **In situations in which there is a real conflict of interest**, there is an obligation to take the necessary steps to resolve the conflict situation, and to ensure that the decision-making process is in line with the public interest. Poorly-managed *perceived* or *apparent* conflict of interest can be just as damaging as a poorly-managed *actual* conflict of interest.

One of the situations in which the impartiality and objectivity of public official’s actions and decision is or might be perceived as being endangered and compromised by his or her personal interest represent the conflict of interest. The main concern from the perspective of the citizens is “that bias and lack of impartial judgment will lead a decision – maker in public service to prefer his or her own personal interest over the public good.”¹⁶

The mere existence of a potential conflict of interest requires a public official to eliminate the possibility of any such conflict, in order to prevent the perception of any wrongdoing. In situations in which there is a real conflict of interest, there is an obligation to take the necessary steps to resolve the conflict situation, and to ensure that the decision-making process is in line with the public interest.¹⁷

Separately from making difference between forms of CoI, it is also important to bear in mind that CoI should not be mixed with corruption despite certain similarities. CoI can be perceived as a prelude to corruption, since it includes the whole range of activities, from avoiding personal disadvantages to personal profit

¹⁵ Jean-Bernard Auby, Emmanuel Breen, Thomas Perroud, “Introduction“ in: *Corruption and Conflicts of Interest, Studies in Comparative Law and Legal Culture* (eds. Jean Bernard Auby, Emmanuel Breen, Thomas Perroud), Edward Elgar Publishing, Cheltenham 2016, XIX.

¹⁶ Madam Justice Denise Bellamy, 38-40.

¹⁷ F. M. Popa, 59. Also, Londa Esadze, *Guidelines for the Prevention of Conflict of Interest*, Belgrade 2013, 8.

seeking.¹⁸ This means that corruption must be preceded by a situation in which the decision-maker, under the influence of some private interest he has, makes a biased decision. On the other hand, conflicts of interest do not necessarily develop into corruption. It will be the case only then when a public official has indeed given an edge to his private interest over the public one.

Management of CoI has to be performed in a transparent and accountable manner. If that would not be the case, confidence in the integrity of public officials would be sincerely undermined. But this requirement represents paradox itself since the CoI policies reflect a growing lack of trust in public authorities and public officials. “The level of public trust in government (...) impact the choice of legislation,”¹⁹ since the lower trust level, stricter is the CoI legislation.

The need for certain depth of CoI regulation, same as in many other aspects of regulation with imperative constitutional and legislative norms, derives from the achieved level of political and democratic culture as well. High level of political and democratic culture in a modern society implies the perception of the state as a common good (*res publica*), awareness of the existence of a social contract, government as a public service to citizens and finally - awareness of the need to respect human rights and other democratic values. In countries with the long tradition of democracy, the unwritten rules - constitutional customs (which political factors follow despite the apparent absence of their exact foundation in a written constitution and laws), have been formed over decades and even centuries in some cases.²⁰ According to the Encyclopedia Britannica: „Political culture, in political science, a set of shared views and normative judgments held by a population regarding its political system (...) the building blocks of political culture are the beliefs, opinions, and emotions of the citizens toward their form of government.”²¹ Countries that bear the burden of being post socialist states especially face challenges in this sense. The political and social systems of these countries were based on the ideological premise of a conflict-free society, i.e. a system in which there is no conflict between the “public” and “private” levels.²² Such a background did not enable the development of corruption prevention (including CoI) mechanisms and comprehensive integrity building frameworks.²³

¹⁸ Congress of Local and Regional Authorities of the Council of Europe, *Conflicts of Interest at local and regional levels*, 2018, 17.

¹⁹ J. B. Auby, E. Breen, T. Perroud, XIX.

²⁰ Miroslav Đorđević, „Constitutional Boundaries of Presidential Power and General Level of Political Culture – the Case of Serbia“, *Revistă Științifică Internațională „Supremația Dreptului”* 2/2021, 9-10.

²¹ <https://www.britannica.com/topic/political-culture>, 19. 07. 2023.

²² Stevan Lilić, „Državni službenici i sukob interesa“ in: *Sukob interesa kod javnih funkcionera i javnih službenika u Srbiji – regulative i nadzor nad njenom primenom*, Beograd 2003, 23.

²³ More on historically based challenges in establishing effective legal frameworks for fighting corruption: Mirjana Glintić, Miroslav Đorđević *et al.*, „Historical Development of Corruption Prevention Mechanisms in Southeast European Countries“, *Legal Mechanisms for Prevention of Corruption in Southeast Europe*, Belgrade 2013, 13 – 36.

Apart from prevention and resolving CoI, the relevant regulation should also contribute to demonstration of the highest level of integrity of public officials, while deterring potential candidates from entering public duties whose personal interests in the first place would not bear up against public scrutiny. The most important idea is to develop an effective mechanism of control and managing CoI, that on the other hand would not be too rigorous so that it deters citizens from entering public service. One of the main challenges represent finding a right balance between different mechanisms of prevention and managing conflict of interest and different levels of seniority. Rules on resolving CoI should not serve to complete elimination of private interest of public officials, but rather to help maintain public trust into the integrity of public services. It is clear that public sector employees have a crucial responsibility for maintaining the public trust in public institutions, since “individual responsibility is both a starting and an end point on the integrity route in public service.”²⁴ But the whole burden cannot be placed on the back of the individuals. Certain responsibility lies with public institutions, whose duty is to provide clear rules and mechanisms on resolving and managing CoI. Furthermore, they are under the obligation to inform the employees of the CoI rules, and to sanction failure to comply with them. Otherwise, the sense of responsible personal behaviour will be lost, and all efforts to achieve the institutionalization of integrity will remain unsuccessful. In addition, that creates fertile ground for unethical behaviour to become acceptable.

In certain cases, where the influence of private interest is not of great deal, severe sanctions are not required or necessary. In those situations, required level of transparency can be achieved through different forms of disclosure requirements.

Finally, CoI regulation should represent a powerful weapon in the hands of public for the judgment of the performance of the public official.

²⁴ Carol W. Lewis, Stuart C. Gilman, *The Ethics Challenge in Public Service*, San Francisco 2005, 16–17.

2. CONFLICT OF INTEREST - MAIN SOURCES OF INTERNATIONAL STANDARDS

The proof that CoI can have an impact beyond local and national boundaries can be found in actions of international organizations aimed at providing guidance on the issue of successfully managing CoI, that is reflected in discharging functions and duties in a professional manner and in the public interest.²⁵ First ones to present guidance on this matter were OECD and United nations, whose example was then followed by numerous other international organizations.

There is a tendency both in regulations and practice to pay more attention to measures aimed at preventing CoI rather than to resolving the existing CoI. There are far less rules on how the public official should behave in a contentious situation, to whose appearance he has not contributed on purpose or which was unavoidable. But their main purpose is to resolve these problematic situations even before decisions and further actions have been made.

In the 1980s, Transparency International was the first body to promote the concept of ethics infrastructures and ethics regimes. Afterwards, International organizations such as the OECD, Council of Europe and the EU started to adopt useful toolboxes, guidelines and practical CoI manuals for decision-makers and public officials. Even though many of these sources represent soft law, the importance of the role they serve in providing standards of conduct must not be neglected.²⁶

OECD in 2003 developed the first international benchmarking tool for reviewing member states' public conflict of interest regimes.²⁷ In addition to the OECD's benchmarking tool, there are a myriad of legal instruments that exist at the international and regional level with the purpose of preventing and dealing with, among other things, conflicts of interest. The main international legal acts governing this field are the following: "Twenty Guiding Principles for the Fight

²⁵ Mirjana Glintić, Jelena Vukadinović, "Conflict of Interest" in: *Legal Mechanisms for Prevention of Corruption in Southeast Europe – with Special Focus on the Defence Sector* (ed. Aleksandra Rabrenović), Institute of Comparative Law, Belgrade 2013, 95-96.

²⁶ Ana Knežević Bojović, Milica Matijević, Mirjana Glintić, "International Standards on Judicial Ethics and the Pitfalls of Cursory Legal Transplantation", *Balkan Yearbook of European and International Law*, 2021, 164.

²⁷ OECD, *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences* (OECD, 2003).

against Corruption of the Council of Europe” especially the principles under ordinary numbers;²⁸ The Council of Europe Recommendation of the Committee of Ministers to Member States on “Codes of Conduct for Public Officials“;²⁹ UN Convention Against Corruption;³⁰ OECD’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;³¹ United Nations Code of Conduct for Civil Servants,³² as well as the Anti-Corruption Initiative of the South-East Europe Stability Pact. Some of these legal acts prescribe only the general obligation of the signatory states to establish measures for the prevention of conflicts of interest in accordance with their internal legislation, while others include concrete recommendations on the appropriate behaviour of public officials.³³

2.1. UN Convention against Corruption (UNCAC)

The dangers posed by corruption have been recognized by the international community, which reacted with the adoption of several regional and global anticorruption legal instruments. The United Nations Convention against Corruption (UNCAC) is the universal legal instrument, addressing the prevention and criminalization of corruption as well as international cooperation in anticorruption matters and asset recovery. UNCAC was adopted by the General Assembly of the UN on 31st of October 2003, while entering in force in 2005. After the ratification, UNCAC becomes the part of the national legal order and the Conference has the possibility to establish, if necessary, “any appropriate mechanism or body to assist in the effective implementation of the Convention.”³⁴

A number of its provisions refer directly to CoI, while prescribing the duty of each State Party to, in accordance with basic principles of domestic law, adopt, maintain and strengthen systems that promote transparency and prevention of conflict of interest. Article 7(4) of UNCAC calls upon the States’ parties to endeavour to adopt,

²⁸ The Council of Europe Resolution on the “Twenty Guiding Principles for the Fight against Corruption”, No. 97/24. Even though conflicts of interest are not mentioned explicitly, it can be concluded that certain principles also apply to policies related to conflict of interest resolution. These are principles number 1, 3, 7, 9, 10 and 20.

²⁹ The Council of Europe, *Recommendation No. R (2000) 10 of the Committee of Ministers to Member States on “Codes of Conduct for Public Officials”*, adopted by the Committee of Ministers at its 106th Session on 11 May 2000

³⁰ United Nations Convention against Corruption, General Assembly Resolution, No. 55/61 of 31st October 2003.

³¹ *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, Adopted by the Negotiating Conference on 21 November 1997.

³² United Nations Code of Conduct for Civil Servants, available at <http://icsc.un.org/resources/pdfs/general/standardsE.pdf>, 28. 4. 2021.

³³ For instance, the Code of Conduct for Public Officials, adopted by the Council of Europe, provides recommendations on the appropriate conduct of public officials.

³⁴ Art. 63, par. 7 of UNCAC.

maintain, and strengthen systems that promote transparency and prevent conflicts of interest.³⁵ Article 8, entitled “Codes of Conduct for Public Officials,” encourages the promotion of ethical behaviour and the implementation of codes of conduct, as well as the establishment of disclosure requirements, complaints processes, and disciplinary measures for breaches of codes of conduct. Also, minimum disclosure requirement regarding additional employment, assets, and gifts is defined in Art. 8, sec. 5 of the UNCAC. Apart from the provisions of UNCAC, Legislative Guide to UNCAC also contains certain suggestions concerning the code of conduct.³⁶

2.2. OECD Conflict of Interest Guidelines

The fact that countries analysed within this study have adopted the Stability Pact Anti – Corruption Initiative, by which they have committed to apply the OECD CoI Recommendation, makes it important to acquaint oneself with its provisions.

While tailoring the CoI policies, OECD did not hesitate to take political and legal context of the countries that would apply them. For that reason, OECD Guidelines should be observed as generalized minimum standards to be observed. OECD guidelines highlight the importance of drafting legislation, setting clear definitions while giving specific examples of CoI. Managing CoI requires the consistency of national law and adopted policies since it is the only way to provide “effective measures to deter, prevent and combat” various forms of international bribery.

One of the milestones of the OECD is setting the duty for the public official to declare their private interests upon their appointment or employment and afterwards regularly on yearly basis and each time a change occurs. However, OECD Guidelines note that this disclosure of private interest does not have to be made publicly available, since internal and limited – access disclosure may satisfy policy objectives.³⁷ This especially applies to public officials that are not directly elected or civil servants that do not take senior managerial positions. Enforcement of the duty to disclose private interest requires the institutional to gather and process all the gathered information.³⁸

OECD Guidelines also contain different forms of tools for the successful management of CoI. Some of the thesis provided in the Guidelines are recusal,

³⁵ Opened for signature in Mérida, Mexico, from 9–11 December 2003, in force since December 14, 2005. As of June 2020, UNCAC has 187 parties.

³⁶ Some of the suggestions are consultation with public officials in order to gain broader perspective on the matter. See, United Nations Office on Drugs and Crime, Legislative Guide for the Implementation of the United Nations Convention against Corruption, 2nd revised ed (United Nations, 2012) at 32, para 91.

³⁷ OECD Guidelines, 29.

³⁸ OECD Guidelines, 29.

divestment of interest, placing investment into blind trusts, limited access to confidential information and resignation of public official.³⁹ Transparency in the process of managing CoI can be granted through the establishment of complaint-handling mechanisms. Some of the necessary parts of the effective mechanisms in managing CoI are wide publication of CoI policies and rules, assistance with identifying CoI and provision of guidance with respect of managing them.⁴⁰

2.3. Council of Europe – Code of Conduct for Public Officials

Legal acts whose subject refers to the matter of CoI is Code of Conduct for Public Officials that was adopted by the Committee of Ministers of the Council of Europe on 11th of May 2000, and the Resolution (97) 24 on Twenty Guiding Principles for the Fights Against Corruption adopted by the Committee of Ministers on 6th of November 1997,⁴¹ which stipulates the need for the rules relating to the rights and duties of public officials to “promote further specification of the behaviour expected from public officials by appropriate means, such as codes of conduct”.⁴²

The Code of Conduct for Public Officials contains recommendations on codes of conduct for public officials and the Model Code of Conduct for Public Officials. Provisions of the Model Code of Conduct for Public Officials are dedicated to suggesting how to deal with real CoI situations, including accepting gift and privileges, declaration of interest, use of public sources, post-employment limitation, etc.⁴³

Article 8 of the Model Code of Conduct for Public Officials requires that the public official should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.

Article 13 of the Model Code provides for its own definition of conflict of interest and formulates the obligations of the public officials related to conflict of interest management. Article 15 requires that a public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official and should seek prior approval for any external activities.

³⁹ OECD Guidelines, 30.

⁴⁰ OECD Guidelines, 32, 35.

⁴¹ Monitoring of the implementation of both the Code of Conduct of Public Officials and the Resolution on Twenty Guiding Principles for the Fight Against Corruption is placed in the hands of GRECO.

⁴² Guiding Principle 10 of the Council of Europe’s Twenty Guiding Principles for the Fight Against Corruption.

⁴³ Art. 12.2e, 13, 14, 15 of the Model Code of the Conduct for Public Officials.

According to the recommendation of the Committee of Ministers adoption of the codes of conduct of public officials should be subject to national law and to national principles of public administration, while meeting the circumstances of particular public office.

2.4. G20 Anticorruption Group – High Level Principles on the Prevention of Conflicts of Interest

The G20 Anticorruption Working Group has adopted High-Level Principles on the Prevention of Conflicts of Interest, which consists of 10 principles, respectively recommendations for G20 countries on how they should regulate certain areas which are to be considered as a source of corruption. These build upon existing policy standards and good practices, in particular those from the United Nations and the OECD. They identify a set of key concrete actions that governments could commit to undertake in accordance to their needs and country context. The High-Level Principles focus on three core pillars: 1) developing standards and a system to prevent and manage ‘conflict of interest’, 2) fostering a culture of integrity and 3) enabling effective accountability,

Contributing to the implementation of the UNCAC and the OECD Anti-Bribery Convention and complementing it, the G20 has adopted a number of Principles that can support countries’ efforts to ensure integrity and transparency throughout the entire infrastructure cycle when applied to this sector: G20 High-Level Principles for Preventing and Managing ‘Conflict of Interest’ in the Public Sector from 2018.⁴⁴

In that manner, G20 countries should establish specific, coherent and operational standards of conduct for public officials. These standards should provide a clear and realistic description of what circumstances and relationships can lead to a conflict-of-interest situation. These standards should further advance public officials’ understanding and commitment to the public interest, and preventing any undue influence of private interests that could compromise, or appear to compromise, official decisions in which they officially participate.⁴⁵ High-risk areas in the terms of higher exposure CoI may require additional standards. These principles also recognize the need for the institutional response to CoI in the form of specialized bodies.⁴⁶

Apart from the recommendations on interest and asset declaration, effective CoI management policies in public decision making, pre – and postemployment

⁴⁴ Text available at http://www.g20.utoronto.ca/2018/adopted_hlps_on_coi.pdf, 29. 04. 2021.

⁴⁵ Principle 1 G20 High-Level Principles for Preventing and Managing ‘Conflict of Interest’ in the Public Sector.

⁴⁶ Principle 4 of G20 High-Level Principles for Preventing and Managing ‘Conflict of Interest’ in the Public Sector.

restrictions and systems of control and sanctioning mechanisms,⁴⁷ G20 Principles insist on the importance of the promotion and raising awareness of pro-active identification and avoidance of potential conflict-of-interest situations by public officials. This also includes developing mechanisms for counseling of public official in CoI matters. Since the Preventing and managing conflicts of interest is a shared responsibility of the public and private sectors, raising awareness on it should not be limited to public sector, but should also take place within private sector as well.⁴⁸

⁴⁷ Principle 11, 12, 16, 17 of G20 High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector.

⁴⁸ Principle 9 of G20 High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector.

3. KEY INTERNATIONAL STANDARDS IN THE AREA OF CONFLICT OF INTEREST

1. Incompatibility between public service and concurrent employments and occupations: In order to maintain the impartiality, public officials should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the impartial performance of his duties.⁴⁹ Also, additional engagements could distract the public official from giving undivided attention to discharge of his duties, because public servants are expected to fully devote their efforts to public service only. Apart from the incompatibility between public service and private sector, one has to take into account also the incompatibility between occupations in public sector itself. By prescribing incompatibilities within public sector, on one hand, gaining “monopoly” over public employment is prohibited. The sake of fairness of public employment demands “open to all” approach. Also, accumulation of responsibilities and liabilities in public sector can affect the impartiality of public officials and their possibility to devote themselves accordingly.

On the other hand, compliance with the rules on incompatibilities between private and public sector guarantees impartiality of public officers while discharging public office. An aspect that has to be strictly regulated is banning public officials from working for companies and NGOs that they oversight due to their adjudicative responsibilities as public officials. Regarding possible additional employment in private sector (that does not fall into previously mentioned category) a certain number of exceptions could be however established and left to discretionary assessment of the superior authority of the public official. Since the public officials acquire a great deal of information while discharging public office, certain limitations for their post-employment in the terms of their employment and professional activities in private sector should be set. The reasons for such limitations lie in the fact that internal information linked to their former public work, programs and policies could in this manner be potentially disclosed and hence lead to conflict of interest with their new occupation.

2. Gifts and gratuities: Receiving gifts, gratuities and other kinds of material privileges or services in relation to the exercise of public duty is to be considered as

⁴⁹ Art. 12.2.e of the United Nations Convention against Corruption; Art. 15 of the Council of Europe Model Code of Conduct for Public Officials.

a potential first step towards bribery and is therefore threatening to impartiality and hence should be strictly regulated.⁵⁰ The higher the position the stricter the policy and regulations should be imposed and more transparency also is required. However, rules on receiving gifts and different kinds of privileges also have to be considered within the context of social tradition since it can sometimes be socially acceptable or even customary to receive gifts or similar benefits in particular situation.⁵¹ Gifts, privileges and other benefits acquired by persons who perform public office do not by definition constitute a conflict of interest, as long as they do not present the source of potential influence on the public official concerned. If the gifts are of small value and infrequent, if they are a part of courtesy or regular protocol, they will not affect neither the impartiality and integrity of public officials' discharge of office, nor the citizens' perception of their impartiality and their integrity. However, even that kind of gifts have to be declared and publicly disclosed.⁵² Consequently, any kind of suspicion regarding independence and impartiality in decision making process is to be excluded or prevented.

On the other hand, all the other gifts or services (either of higher value or the ones that by nature can not be presented to the public) given for the activity which falls under the job description of the public official, must be prohibited, since they may cause suspicion about the independence and impartiality of the public official.

Public officials must not solicit any gifts or economic gain or privilege from the private sector that cooperates with the government in the same area or sector where the public official works. For example, when the public sector cooperates with the private sector, gifts and other advantages may be seen, by definition, as bribe, which casts doubts on the willingness of public officials to perform their duties impartially and independently. The only exemption to the ban of requesting economic gain may relate to fundraising.

3. Identification and reporting of situations that may result in conflict of interest: Public officials who occupy a position in which his personal or private interests are likely to conflict with his official duties should report these circumstances upon appointment, at regular intervals thereafter and whenever any circumstances that could change the nature and extent of those interests occur.⁵³ By reporting any circumstances that represent conflict of interest or that could potentially result in conflict of interest, public officials demonstrate their willingness to avoid and resolve disputable situations. In this manner public officials that find themselves in the situation of potential or actual conflict of interest can be excluded from the

⁵⁰ Art. 2.1. of the International Code of Conduct for Public Officials.

⁵¹ OECD, Managing Conflict of Interest in the Public Service, OECD Guidelines and Overview, 2003, 38.

⁵² Art. 8(5) of the United Nations Convention Against Corruption.

⁵³ Art. 13.3, 14 of the Council of Europe Model Code of Conduct for Public Officials; Art. 8.5. of the United Nations Convention against Corruption; Art. 2. 2 of the International Code of Conduct for Public Officials.

decision - making process, since their impartiality is endangered. But one has to bear in mind that declaring the interest does not have to mean that a conflict of interest really exists and that it disqualifies the public official from performing duties.

In order to report situation which is or can result in conflict of interest, it must be insured that public officials understand what the conflict of interest represents and what relevance it has for his or her profession. Additionally, they should be able to recognize the situations which may lead to conflict of interest. Also, a clear procedure that enables public official to be proactive and to foresee and prevent consequences of conflict of interest has to be timely introduced to the public official.

Apart from declaring potential conflict of interest, public officials should be required to declare their personal assets in order to prove that they have not earned illicit wealth while in office or acted impartially, as well as that they have not used their authority for the advancement of their personal financial interest.⁵⁴ The main difference between declaring of potential conflict of interest and public officials' assets and income is the time point in which this information is to be provided. While the declaration of potential conflict of interest happens on *ad hoc* basis, declaration of assets and incomes is submitted at the moment of taking the office and is periodically resubmitted due to changes.

Declaration of public official's assets and incomes contribute significantly to their control. This duty would increase transparency and the trust of citizens in public administration, promote integrity within public institutions by preventing conflict of interest and control sources of wealth of public officials. In this way the illicit enrichment can be easily traced and proved if perceived.

On the other hand, there are two questions concerning regulation of the asset declaration that have to be discussed. The first one is determining the categories of public officials that are required to submit asset and income declaration. Setting the obligation for all the categories of public officials would require excessive costs and significant mechanisms for processing of the submitted declarations. Centrally and locally elected office holders, senior civil servants and civil servants in certain sectors should definitely have the duty to submit their asset and income declaration.⁵⁵

The second one is the issue of transfer of company shares and submitting related reports. Public officials cannot be owners of private companies on whose operation they decide in the course of their public office, or which conclude contracts with the state, as such circumstances would present an ideal environment

⁵⁴ Art. 2 par. 2 of the International Code of Conduct for Public Officials. Also, Art. 8 par. 2 of UN Convention Against Corruption.

⁵⁵ SIGMA, Conflict-of-interest Policies and Practice in Nine EU Member States: A Comparative Review, SIGMA, Paper No. 36, SIGMA/OECD, 2007.

for a conflict of public and private interest. While owning a small stake or shares could be tolerated, all cases must be examined on individual basis before it can be concluded that there is no conflict of interest.

4. Impartiality in administrative decision making and contracting:

Discharge of public office which may include contract negotiations, preparation or execution; decision-making on cash benefits or fines and similar duties and responsibilities must be objective and impartial. In cases when administrative procedure has consequences on the personal matter of the public official or the related or closely associated persons or legal entities in the terms of their placing in the privileged position or granting them access to benefits, public interest may be jeopardized. Whenever there is a possible private interest of the person acting on behalf of the administration, the person in question must be excluded from participating in the making of an administrative decision. Exclusion from decision making process may include having an independent third party to make the decision, by abstaining from voting on decision, or withdrawal from discussion on relevant topics and information.⁵⁶

A conflict of interest is also often raised in a situation when a public official, acting as the authorized person, awards contracts to individuals, as in such situations there is a possibility of giving privileges to legal entities or persons with whom the public official has a special, friendly or business relationship. Public officials should not award contracts on behalf of the state if they stand as interested parties (including also the situations when contracts are awarded to companies whose owners or co-owners are their family members or friends).

⁵⁶ Centre for Integrity in the Defense Sector, *Professionalism and Integrity in the Public Service*, 2015, 20.

4. METHODOLOGICAL APPROACH TO STANDARDS AND INDICATORS

The approach taken in the study is to analyse the applicable regulatory frameworks of the four countries in selected aspects related to conflict of interest based on tailor-made standards. A conscious choice was made to focus on issues that regulate preventive measures that have to be taken in account by both public officials and public authorities in order to recognize and avoid conflict of interest, respectively rules on incompatibility between public service and concurrent employments and occupations; rules on receiving gifts and gratuities; rules on identification and reporting of situations that may result in conflict of interest and impartiality in decision making and contracting. As this study analyses the regulatory framework governing conflict of interest, the methodology that we are going to use in this study shall be based on assessment of the level of alignment of the regulatory framework of each country with the international standards. Therefore, the standards are developed to capture the normative, legal aspect of handling improper superior orders in the public sector, without going into the actual practices.

In order to provide a benchmark for the assessment, the study identifies key international standards and indicators in the given area. Indicators were developed for each standard in order to facilitate and guide the assessment.⁵⁷ The outlined standards and indicators drew considerable inspiration from the international soft-law instruments that describe the relevant standards, but were also informed by the best practices of national legislations, international jurisprudence and international hard law instruments.⁵⁸

The standards examined in the study are the following: 1. It is ensured that rules on incompatibility between public service and additional employments are clearly set in the statute. 2. The set of obligations to be taken by a public official, when he/she is offered a gift and gratuity in relation to the exercise of public duty is precisely defined by the law. 3. The safe and confidential mechanism is determined by a statute in order to guide a public official how to react in case when he/she

⁵⁷ Ana Knežević Bojović, Mario Reljanović, *Free Access to Information Belgrade*, Institute of Comparative Law, Belgrade 2022, 24.

⁵⁸ Vesna Ćorić, *Improper Superior Order*, Institute of Comparative Law, Belgrade 2022, 22.

believes that situation he/she finds himself/herself represent conflict of interest. 4. Options for the exclusion of a public official from decision-making process or concluding of private contract when his/her private interest is involved are determined by a statute.

The level of alignment of the selected legal frameworks with the outlined standards and indicators was assessed within three distinct areas of employment: general civil service regime; the police and the defence sector. Firstly, assessment of the general civil service regime in the analysed countries will be provided, which will be followed by the analysis in the security sectors: the police and the defence sectors.

The core of the study consists of a detailed qualitative assessment of the level of alignment of the national regulatory frameworks of the four countries with the relevant international standards, based on the defined indicators. The assessment takes into account the provisions of national constitutions, and primary and secondary legislation. The study goes one step further, as the qualitative assessment is also quantified for each indicator and standard.⁵⁹ The quantification of the assessment is based on the approach used by SIGMA. Consequently, the methodology consists of two layers of quantified assessment. The first layer includes assessment per indicator within each standard. Each standard includes one or more indicators. Within this assessment, points are awarded to each indicator on a 0-3 scale, as per the Table 1. The 0-3 scale was chosen given that the indicators are, for the most part, defined in rather straightforward terms, often not allowing for a nuanced approach to the assessment of compliance with the relevant standard. A four-point scale was, therefore, deemed optimal.⁶⁰

Table 1: Points awarded per indicator

Point	Point description
0	Not in line with standards
1	Mostly not in line with standards
2	Mostly in line with standards
3	Fully in line with standards

The second layer of assessment is done, once all the indicators within one standard are awarded their respective points. Then, the average point is calculated per standard. The average point per standard is calculated by dividing the sum of all

⁵⁹ A. Knežević, M. Reljanović, 25.

⁶⁰ *Ibidem*.

points awarded with the number of indicators for the given standard. The average point for the standard is then translated to a quantified standard value on a 0-5 scale, as per Table 2. Since standards, as a rule, comprise two or more indicators (with some exceptions), and were purposefully defined to be more complex, the selected six-tier scale allows for nuances to be assessed and identified when it comes to compliance with or departures from the standard.⁶¹

Table 2: Standard values

Average point	Standard value	Description of standard value
0-0.5	0	Not in line with standard
0.51-1.00	1	Mostly not in line with standard
1.01-1.50	2	Significant departures from standard
1.51-2.00	3	Some departures from standard
2.01-2.50	4	Mostly in line with standard
2.51-3.00	5	In line with standard

The quantification is presented in tables at the level of each standard. The intention of the quantification is not to “name and shame”, but rather to provide a simplified, yet informative outlook on the state of play with regard to each of the relevant regulatory frameworks, and to pinpoint the respective strengths and weaknesses. The study does not offer a definitive quantitative assessment, but rather offers a qualitative interpretation of the data collected in the conclusion.⁶² When it comes to the police and defence sector, the specific rules applicable to the defence and police sector only were singled out and described, but were not quantified.

⁶¹ *Ibid.*, 24.

⁶² *Ibid.*, 26.

5. GENERAL REMARKS, CATEGORIES OF PUBLIC OFFICIALS, DEFINITIONS OF CONFLICT OF INTEREST AND APPLICABLE LAWS

SERBIA: In the Republic of Serbia, prohibition of the conflict of interest in execution of public office is a constitutional category. In accordance with the article 6 of the **Constitution of the Republic of Serbia**, public officials may not perform a state or public function in conflict with their own functions, occupation or private interests. This way the constitutional principles of the rule of law and separation of powers are ensured.⁶³ This indicates that conflict of interest is a constitutional category⁶⁴ and Agency for Prevention of Corruption is the only one competent to decide on the conflict of interest and incompatibility of public functions.

Different regulations regulate the matter of conflict of interest regarding **public officials and civil servants on appointed positions - Law on Prevention of Corruption**⁶⁵ and civil servants - **Law on Civil Servants**,⁶⁶ but some provisions refer to the Law on Prevention of Corruption in respect of the duties of the **senior civil servants**. Both of these laws prescribe that both office holders and civil servants are obliged to act in accordance with the regulations and professional rules, impartiality and political neutrality, while being accountable for legality, professionalism and efficiency of provided work.⁶⁷

⁶³ More on the concept of the rule of law in the European Union, see Jelena Čeranić, Mirjana Glintić, "Vladavina prava u Evropskoj uniji – Preispitivanje koncepta u kontekstu proširenja EU", *Pravni život* 12/2016, 295-307.

⁶⁴ In the period of the maturation of democratic and constitutional culture in a country which bears the burden of an authoritarian, communist past, the constitution maker and the legislators are faced with the difficult task of finding the right measure between the necessary normative measures and leaving enough space for our society to grow democratically and culturally (avoiding re-normation). If the particular situation requires it, the highest legal protection – the one of the constitutional level is provided, like in case of fighting CoI. – Jovan Čirić, Miroslav Đorđević, „Jedan pogled na ustavne promene u oblasti pravosuđa u Srbiji“ in: *Vaninstitucionalne mere, pojednostavljene forme postupanja i drugi krivičnopravni instrumenti reakcije na kriminalitet i pozitivno kazneno zakonodavstvo (ispunjena očekivanja ili ne?)*, Beograd 2022, 73 – 74.

⁶⁵ Law on Prevention of Corruption, *Official Gazette of the Republic of Serbia*, No. 35/2019, 88/2019, 11/2021, 94/2021.

⁶⁶ Law on Civil Servants, *Official Gazette of the Republic of Serbia*, No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018 and 157/2020.

⁶⁷ Art. 40 sec. 1 of the Law on Prevention of Corruption; Art. 5 of the Law on Civil Servants.

MONTENEGRO: Unlike in some other countries (e.g. Serbia) in the Constitution of Montenegro (2007) there is no explicit norm that prohibits the conflict of interest. Therefore, this issue does not present the constitutional category but the one that is being regulated solely by laws and bylaws.

The Law on Prevention of Corruption⁶⁸ and the **Law on Civil Servants and State Employees**⁶⁹ regulate the matters of preventing and resolving the conflict of interest in Montenegro. The Law on Prevention of Corruption is applicable to **office holders** (public functionaries),⁷⁰ while the Law on Civil Servants and State Employees deals, as the name itself suggests, with **civil servants** (persons who entered employment in a state authority to perform the tasks for the purpose of exercising competency of that authority prescribed by the law, as well as persons who performs in a state authority information technology, financial, accounting and other tasks of administrative nature⁷¹) and **state employees** (persons who entered employment in a state authority to perform administrative-technical and ancillary tasks⁷²). These laws also set the boundaries and rules for the related persons of office holders, civil servants and state employees, and procedures that are to take place in order to avoid indirect conflict of interest when these persons are involved in ways determined by the laws.

The definition of conflict of interest is provided by the Law on Prevention of Corruption, stating that “the conflict of interest in the exercise of public function exists when a private interest of a public official affects or may affect the impartiality of the public official in the exercise of public function.”⁷³ An **office holder** is required to perform his function without causing the conflict of interest, in a manner that the public interest is never subordinated to the private one. The establishing of the existence of conflict of interest and the implementation of preventive measures present a task of the Agency for Prevention of Corruption.

In performing their tasks **civil servants and state employees** in Montenegro are obliged to avoid conflict of interest by placing their private interest before

⁶⁸ Law on Prevention of Corruption, *The Official Gazette of the Republic of Montenegro*, No. 53/2014 and 42/2017 – the decision of the Constitutional Court of Montenegro, *The Official Gazette of the Republic of Montenegro*, No. 2/2018, 34/2019 and 8/2021.

⁶⁹ Law on Civil Servants and State Employees, *The Official Gazette of the Republic of Montenegro*, No. 2/2018, 34/2019 and 8/2021.

⁷⁰ This group of public officials consists of: persons elected, appointed or assigned to a post in a state authority, state administration body, judicial authority, local self-government body, local government body, independent body, regulatory body, public institution, public company, or other business or legal person exercising public authority, as well as persons whose election, appointment or assignment to a post is subject to consent by an authority. – Art. 3, Law on Prevention of Corruption.

⁷¹ Art. 2 sec. 1 and 2 of the Law on Civil Servants and State Employees.

⁷² Art. 2 sec. 3 of the Law on Civil Servants and State Employees.

⁷³ Art. 7 sec. 2 of the Law on the Prevention of Corruption.

the public one or by performing their duties for acquiring monetary and non-monetary gains.⁷⁴

BOSNIA AND HERZEGOVINA: In Bosnia and Herzegovina conflict of interest does not find its place within the Constitution of this country (Annex IV of the “Dayton Peace Agreement”) and hence does not constitute a constitutional category. The issues of prevention and avoiding on conflict of interest are regulated by the legislation on the state level (the level of the Bosnia and Herzegovina) and on the levels of the two entities that this country consists of: Republic of Srpska and Federation of Bosnia and Herzegovina.

On the state level, the **Law on Prevention of Corruption in the Institutions of Bosnia and Herzegovina**⁷⁵ deals with the issues of conflict of interest concerning office holders. This Law regulates the special obligations of **elected officials, executive office holders and advisors** in BiH government institutions in the performance of their duties. This Law defines conflict of interest as a situation when office holders “have a private interest that affects or may affect legality, openness, objectivity and impartiality in the performance of public office”.⁷⁶

The Law on Civil Service in the Institutions of Bosnia and Herzegovina⁷⁷ is the primary source when it comes to the regulation of conflict of interest regarding **civil servants and state employees**. This Law regulates the legal status of civil servants in ministries, independent administrative organizations and administrative organizations within ministries, as well as other institutions of Bosnia and Herzegovina established by a special law or entrusted with the performance of administrative tasks by a special law.⁷⁸ Additionally, the **Code of Ethics of State Servants** is also to be taken into consideration.⁷⁹

The legislation in the Federation of Bosnia and Herzegovina is almost identical to the one of the state (BiH) level, with minor differences that have been highlighted in this report. The relevant legislation includes **the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH**,⁸⁰ **the Law on**

⁷⁴ Art. 8 of the Law on Civil Servants and State Employees.

⁷⁵ Law on Prevention of Corruption in the Institutions of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 13/2002.

⁷⁶ Art. 1 par. 2 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina.

⁷⁷ The Law on Civil Service in the Institutions of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 12/2012, 19/2002, 8/2003, 35/2003, 4/2004, 17/2004, 26/2004, 37/2004, 48/2005, 2/2006, 50/2008, 43/2009, 8/2010, 40/2012 and 93/2017.

⁷⁸ Art. 1 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina.

⁷⁹ Code of Ethics of State Servants, *Official Gazette of BiH*, No. 49/2013.

⁸⁰ Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH, *Official Gazette of the Federation of BiH*, No. 70/08.

Civil Service in the Federation of Bosnia and Herzegovina⁸¹ as well as Code of Ethics for Civil Servants of the Federation of BiH.⁸²

Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska regulates the special obligations of elected representatives, holders of executive functions and advisors in the authorities of the Republika Srpska (and local self-government units) in performing public functions, in order to prevent conflicts of interest.

NORTH MACEDONIA: Conflict of interest is not a constitutional category in North Macedonia. In the Constitution itself only certain provisions on the incompatibility of public functions are provided.

In 2019, the Parliament adopted the new **Law on Prevention of Corruption and Conflict of Interest**, which for the first time officially introduces the notion of integrity as an element in the performance of the public service. Under the term integrity the Law on Prevention of Corruption and Conflict of Interest stipulates lawful, independent, impartial, ethical, responsible and transparent performance of duties by which **official** maintain their reputation and the reputation of the institution in which they are responsible, that is, they eliminate risks and remove doubts about the possibility of corruption occurring and develop and thereby provide citizens with confidence in the performance of public functions and in the work of public institutions.⁸³

Under the term conflict of interest Law on Prevention of Corruption and Conflict of Interest understands a situation in which an official person has a private interest that affects or may affect the impartial performance of public authorizations or official duties.⁸⁴ The official person in the execution of the public powers and duties is obliged to respect the head of legality, the principle of equality, the principle to the public, ethical norms and professional standards, without discrimination or preference either with full respect for the public interest. The official person in the performance of his/her function is obliged to pay attention to a possible conflict of interests and in the performance of the public authorizations and duties must not be governed by personal, family, religious, partisan and ethnic interests, nor from pressure and promises from a superior or other face.⁸⁵

⁸¹ The Law on Civil Service in the Federation of Bosnia and Herzegovina, *Official Gazette of the Federation of BiH*, No. 29/2003, 23/2004, 39/2004, 54/2004, 67/2005, 8/2006, 77/2006 – CC decision, 34/2010 – CC decision, 45/2010, 4/2012, 99/2015, 9/2017 – CC decision.

⁸² Code of Ethics for Civil Servants of the Federation of BiH, *Official Gazette of the Federation of BiH*, No. 63/2020.

⁸³ Art. 8 of the Law on Prevention of Corruption and Conflict of Interest, *Official Gazette of the Republic of Macedonia*, no. 12/2019.

⁸⁴ Art. 2 par. 3 of Law on Prevention of Corruption and Conflict of Interest.

⁸⁵ Art. 4 par. 3-4 of the Law on Prevention of Corruption and Conflict of Interest.

Pursuant to the Law on Prevention of Corruption and Conflict of Interest, **official persons** are all elected and appointed persons and employees in the public sector.⁸⁶ The term “close persons” means persons in a marital or extramarital union with an official, blood relatives in a straight line and in a lateral line up to the fourth degree, relatives by marriage up to the second degree, as well as any natural person or legal entity with whom the official has a financial interest (father, mother, brother, sister, uncle, aunt, first cousins, son-in-law/mother-in-law – father-in-law, daughter-in-law/mother-in-law – father-in-law, stepfather / stepmother / stepchildren, grandfather, grandmother and grandchildren of a spouse, brothers and sisters of a spouse). Persons who are close to the official, who are justifiably considered to have an interest related to the official, may not exercise supervisory or control over his work.⁸⁷

Law on Public Sector Employees regulates the general principles, general rights, duties and responsibilities, mobility, and other general issues for public sector employees. Public sector employees are persons that established employment relationship with any the following employers: state and local government bodies and other state bodies established in accordance with the Constitution and the law and institutions that perform activities in the field of education, science, health, culture, labor, social protection and child protection, sports, as well as in other activities of public interest determined by law, a organized as agencies, funds, public institutions and public enterprises established by the Republic of Macedonia or by the municipalities, by the city of Skopje, as well as by the municipalities in the city of Skopje.⁸⁸ Public sector employees do not bring their personal tangible and intangible interests into conflict with the public interest and their status which may cause a conflict of interest, in accordance with the provisions of this or another law.⁸⁹

Law on Administrative officials does not contain any provisions on conflict of interest. It is only prescribed that it represents a disciplinary offence accepting gifts and misuse of their status of administrative official.⁹⁰ Administrative official is a person who has established an employment relationship for the purpose of performing administrative work in one of the following institutions:

⁸⁶ Art. 8 par. 2,3 of the Law on Prevention of Corruption and Conflict of Interest.

⁸⁷ Art. 46 of the Law on Prevention of Corruption and Conflict of Interest.

⁸⁸ Art. 2 of The Law on Public Sector Employees, *Official Gazette of the Republic of Macedonia*, No. 27/2014, 30/2014, 27/2016. The office holder, ie the persons who have been given a mandate to perform function in presidential, parliamentary or local elections, persons who have been mandated to perform functions in the executive or in the judiciary through election or appointment by the Assembly of the Republic of Macedonia or by the bodies of local government, as well as other persons elected by law or appointed to office by the holders of the legislative, executive or judicial government, in terms of this law, are not considered public sector employees.

⁸⁹ Art. 12 of The Law on Public Sector Employees.

⁹⁰ Art. 73 (11) (12) of the Law on Administrative Officials, *Official Gazette of the Republic of Macedonia*, No. 27/2014, 199/2014, 48/2015, 154/2015, 05/2016.

- state and local government bodies and other state bodies established in accordance with the Constitution and law and
- institutions that perform activities in the field of education, science, health, culture, labor, social protection and child protection, sports, as well as in other activities of public interest determined by law, and organized as agencies, funds, public institutions and public enterprises established by the Republic of Macedonia or by the municipalities, by the City of Skopje, as well as by the municipalities in the City of Skopje. Depending on the institution in which he is employed, the administrative officer may be civil servant or public servant.⁹¹

Based on these laws many bylaws have been adopted that regulate the matter of the conflict of interest for certain categories of public officials. In 2020 the Government of the Republic of North Macedonia adopted the **Ethical Code of Members of Government**, which applies to the members of the Government, the deputy ministers and office holders appointed by the Government.⁹² It is prescribed that holders of executive functions may not use their function for gaining personal benefit or the benefit of loved ones, as well as the benefit of political party and other entity.⁹³ This Code shall apply *mutatis mutandis* to the councilors it appoint the Prime Minister of the Republic of Northern Macedonia and the special advisers hired by the ministers who when signing the contract.

Code for Administrative Officials prescribes ethical standards for administrative officials.⁹⁴ Non – compliance with this Code leads to disciplinary accountability of the administrative officials. Administrative official has to work in an impartial manner, without intention to achieve personal gain. In his work administrative servant has to represent public interest and is not allowed to find himself in a situation of conflict of private and public interest and has to oppose any dishonest and inappropriate behaviour in the service.⁹⁵ Administrative official must not use advantages arising from his administrative status in his private affairs in order to obtain personal benefits. He is also not allowed neither to offer nor to provide any kind of benefits related to his administrative status.

⁹¹ Art. 2 of the Law on Administrative Officials.

⁹² Art. 3, 5, 12 Ethical Code of Members of Government, *Official Gazette of the Republic of Macedonia*, No. 109/18.

⁹³ Art. 5 of the Ethical Code of Members of Government.

⁹⁴ Code for Administrative Officials, *Official Gazette of the Republic of Macedonia*, No. 183/2014.

⁹⁵ Art. 12 of the Code for Administrative Servants.

6. COMPLIANCE OF THE LEGISLATION OF ANALYSED COUNTRIES WITH KEY INTERNATIONAL STANDARDS

6.1. General civil service

Standard 1: INCOMPATIBILITY BETWEEN PUBLIC SERVICE AND CONCURRENT EMPLOYMENTS AND OCCUPATIONS

Indicator 1. Clear legal provisions on a duty to report additional employment or accumulation of public functions to the superior official or the competent state authorities.

The request for impartiality in discharge of public function strongly demands clear legal regulation regarding reporting of additional employment and accumulation of public functions, because this consists the first step towards avoiding and preventing the conflict of interest. In all the analyzed countries (with the notable exception of North Macedonia) the duty to report additional employment or accumulation of public functions to the superior official or to some other competent state authority is set clearly within the legal framework either fully in compliance with the international standards (Montenegro and Serbia) or for the most part in line with the international standards (in the case of BiH, both on the state and entity levels). In the primary legislation of North Macedonia, the relevant norms are vague and of general nature, with the absence of the clear regulation of duty to report additional employment or accumulation of public functions to the superior official or the competent state authorities.

In **Serbia** performing other business activity or work which requires full-time or permanent work by the office holder is forbidden.⁹⁶ They also may not advise legal or natural persons on issues related to his public office he holds. The main point of this restraint is to prevent misuse of the information gained while discharging the public office.⁹⁷

⁹⁶ Art. 46 of the Law on the Prevention of Corruption.

⁹⁷ Art. 47 of the Law on the Prevention of Corruption.

Exceptionally, at the request of the office holder the Agency for Prevention of Corruption may give consent to the performance of the additional work or business activities. Apart from the request aimed at the Agency for Prevention of Corruption, the office holder on this occasion has also to submit a positive opinion of the authority that had elected, appointed or nominated him. The same rule applies to senior civil servants.⁹⁸ If the Agency for Prevention of Corruption finds that these forms of additional engagement represent conflict of interest, the Agency sets the deadline in which the office holder has to cease its further performance.

Office holders in Serbia also may perform only one public function except when they are obliged by the Constitution or the law to perform two or more public functions at the same time,⁹⁹ when they get the consent of the Agency and if they are elected to one function directly by the citizens.¹⁰⁰ As it is a case with an additional employment, office holder who has been elected, appointed to or nominated for another public office has to request a consent from the Agency. If the Agency decides that the cumulation of the public functions can not be approved, a office holder has to resign from one of the public offices.¹⁰¹

Civil servant in Serbia is allowed to work for another employer under three conditions: that he receives a written consent from his superior¹⁰² and that this additional work is not prohibited by some other law and that it does not create a possibility for conflict of interest or affects the impartiality of a civil servant.¹⁰³ State body keeps the record of the additional employments of all civil servants.¹⁰⁴

Legal framework of additional employment or accumulation of public functions is set fairly clearly in **Montenegro**. Office holders are not allowed to accumulate the functions,¹⁰⁵ apart in situations determined by law. (see Indicator 1.2. and 1.4).

Civil servants and state employees in **Montenegro** can perform additional activities and services outside of working hours under several conditions. First all, they need to have the approval of a head of the state authority before engaging in such activities. Also, this additional employment must not be the source of CoI, either in accordance with the Law on Civil Servants and State Employees or any other law.¹⁰⁶

⁹⁸ Art. 46 sec. 3 of the Law on the Prevention of Corruption.

⁹⁹ For example, the President of the Supreme Court of Cassation the court is also the president of the High Judicial Council.

¹⁰⁰ For example, a member of the Parliament who is also a member of the city or municipal assembly.

¹⁰¹ Art 56 sec. 7 of the Law on Prevention of Corruption.

¹⁰² If a state body is managed by a civil servant, the state body or body responsible for its appointment shall decide on giving consent for its additional work and on the prohibition of additional work.

¹⁰³ Art. 26 of the Law on Civil Servants.

¹⁰⁴ Art. 26 sec. 6 of the Law on Civil Servants.

¹⁰⁵ Art. 12 and 13 of the Law on Prevention of Corruption.

¹⁰⁶ Art. 79 par. 1 of the Law on Civil Servants and State Employees recognizes the following situations as problematic:

In **Bosnia and Herzegovina** (both on a state level and on the entity level of Federation of BiH) a civil servant may not perform an additional activity for which a fee is paid, unless approved by the Minister or the head of the institution. By-laws prescribe the cases in which such approval may be given.¹⁰⁷

Additionally, a civil servant whose candidacy for a public office is confirmed shall be deemed to be on a leave from the civil service in order to avoid CoI and a senior civil servant has to resign.¹⁰⁸

The regulation regarding the matter at hand is a bit different and more detailed in the entity of **Republic of Srpska**. Office holders who are not employed on the basis of election-appointment to a position, have the right to compensation for the function and additional tasks they perform if these are in accordance with law.¹⁰⁹ However, there are no clear provisions on that which tasks and additional employments are in accordance with the aforementioned Law.

It is just stated that office holders may not be members of the supervisory board or directors of public enterprises and certain companies during the time they hold public office and 3 months after the termination of public office. Apart from this, office holder may not perform personal services for a public enterprise or a company that does business with a Government body.¹¹⁰

In order to preserve their impartiality office holders are obliged to resign from each of the incompatible functions and tasks no later than one day before taking over the public function.¹¹¹

Civil servant may not perform duties, activities or be in a position that leads to a conflict of interest with his official duties, which particularly refers to a membership of the boards of legal entities, to the performance of the function of a councillor or deputy, and to the executive function in the authorities of the Republic and local self-government units.¹¹²

Finally, in **North Macedonia**, an office holder is obliged (for the duration of his term) to comply with the rules for incompatibility of a function it performs

1) state authority in which the civil servant is engaged supervises the additional activities and work of the civil servant and 2) additional employment and work represent an obstacle for the performance of regular tasks and damage reputation of state authority.

¹⁰⁷ Art. 16 par. 1 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina and Art. 19 par 1 of the Law on Civil Service in the Federation of Bosnia and Herzegovina.

¹⁰⁸ Art. 16 par. 1 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina and Art. 19 par 1 of the Law on Civil Service in the Federation of Bosnia and Herzegovina.

¹⁰⁹ Art. 3 sec. 8 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹¹⁰ Art. 7 sec. 2, 3 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹¹¹ Art. 10 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹¹² Art. 23 sec. 1 (b)(c) of the Law on Civil Servants.

with other functions or activities defined in the Constitution and laws.¹¹³ Explicit incompatibility between public functions is determined by the law.¹¹⁴ Additionally, an office holder may not simultaneously perform the function of a responsible person or a member of governing body or supervisory body in a public enterprise, public institution or other legal entity that has state capital.

Furthermore, Articles 44 and 45 of the LCSS impose a number of restrictions. Both officials and civil servants are prohibited from a) at the same time holding a responsible position or being members of the management or supervisory board of a company, public enterprise or public institution that uses state funds; and b) be members of the management or supervisory board of a company or entity involved in for-profit activities.

Before taking up public office, those who own or manage a commercial firm or institution must entrust its management to another person with whom they are not related or to a separate body.

Indicator 2. Existence of a clear legal framework that determines the conditions for granting approval for additional employment in the private sector and the accumulation of public functions for a public official.

Clear regulations on the possibility for additional employment and work are necessary to prevent a possibility for conflict of interest to arise. On this matter, the countries that are analyzed also show variations in relevant legislation. Montenegro is fully in line with international standards, as well as BiH entity of Republic of Srpska, which are being followed by state level in BiH and FBiH entity. North Macedonia and Serbia presents a noticeable exception, since this question has not been or has been only partially addressed in relevant laws, therefore not being in line with standards at all.

Law on the Prevention of Corruption does not prescribe exact conditions for granting approval for additional employment or accumulation of the public functions in **Serbia**. It just states that Agency for Prevention of Corruption holds power on this issue and that it can decide whether the performance of the other work or exercising another public office jeopardizes the public official's impartiality. That procedure is precisely determined by the Law.

In that sense, if the Agency for Prevention of Corruption finds that the duty of impartiality is breached by the office holder due to additional employment or another

¹¹³ Art. 44 of the Law on Prevention of Corruption and Conflict of Interest.

¹¹⁴ The function of President of the Republic, Prime Minister of the Republic of Macedonia, Minister, MP, council member, mayor, judge, public Prosecutor, Public Attorney, Ombudsman and other functions elected or appointed by the Assembly of the Republic of Macedonia, the Government of the Republic of Macedonia or local self-government bodies are incompatible with each other.

public function, it issues a decision in which it is specified in what time limit the office holder has to stop performing such work or activity or business. In case that the office holder does not act in accordance with this decision, the procedure for the establishment of the breach of the law will be conducted by the Agency for Prevention of Corruption.¹¹⁵

Law on Civil Servants just contains a general provision that a civil servant may perform additional work in the private sector if that kind of work is not prohibited by another law and that it does not affect the impartiality of a civil servant or cause conflict of interest.

Conditions for additional employment of civil servants and state employees in **Montenegro** are clearly set, as well as a necessity for the approval of the superior authority. An office holder may exceptionally become president or a member of the management body or supervisory board of a public enterprise, public institution or other legal person in a public enterprise, public institution or other legal person owned by the state or a municipality, but without acquiring incomes and other compensations.¹¹⁶

Additionally, in this sense, office holder may conclude a contract of services with the authority or company that has a contractual relation or performs tasks for an authority in which the office holder exercises his function, if the value of these contracts is less than 1000 Euros per year.¹¹⁷

In **Bosnia and Herzegovina**, both on a state level and on the level of the Federation of BiH, it is identically stipulated that during the performance of their tasks, office holders may generally not additionally perform the duties of authorized persons in foundations and associations, which are financed from the budget of any level of government. There is however a list of exceptions from this general rule, depending on the type of the additional function and the value of yearly financial reimbursement.¹¹⁸

In the **Republic of Srpska**, the Government is obliged to determine the conditions and cases in which approval may be given to a civil servant in a republic administrative body to perform additional activity.¹¹⁹ While performing additional activities, civil servants may not jeopardize their profession, efficiency and professional independence.¹²⁰

¹¹⁵ Art. 45, 56 of the Law on the Prevention of Corruption.

¹¹⁶ This does not apply to the President of Montenegro, MP, councilor, members of the Montenegro Government (cabinet), Judges of the Constitutional Court of Montenegro, Judge, the head of public prosecution office, public prosecutor, Special Prosecutor for Suppression of Organized Crime, Corruption, Terrorism and War Crimes and Deputy Special Prosecutor.

¹¹⁷ Art. 14 par. 2 of the Law on Prevention of Corruption.

¹¹⁸ Art. 11 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 12 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

¹¹⁹ Art. 24, sec. 2 of the Law on Civil Servants.

¹²⁰ Art. 5 of the Code of Conduct of Civil Servants of the Republic of Srpska.

What is definitely allowed to them is membership of the governing and other boards of humanitarian organizations, sports clubs, societies and federations, as well as other sports associations and performance of the activities at seminars and conferences and in projects of non-governmental and other similar institutions and organizations.¹²¹ Additional conditions for their engagement in the aforementioned organizations can be found in Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska can be approved to perform additional activity.

Civil servant has to submit a written request, with evidence and explanation, to the head of the state administration body no later than 7 days before the beginning of the performance of the planned additional activity, if he receives compensation for it.¹²²

Civil servants and state employees in the bodies of the local self – government units may not perform the function of councillor in the assembly of a unit of local self-government nor the executive function in the bodies of government of the Republic.¹²³ There is a procedure on deciding on incompatibility of the public office and additional employment carried out by a mayor, if these activities do not affect their impartiality and are not financed from the budget of the local self-government unit.¹²⁴

Indicator 3. Existence of a reasonable possibility at the discretion of the superior official or competent state authority to allow approvals for additional employment in the private sector and the accumulation of public office in cases of non-conflict of interest.

The legislation of the countries analysed is some cases incomplete or non-existent when this indicator is in question. Montenegro is fully in line with international standards, Serbia, the entity of the Republic of Srpska are mostly in line with the standards (regulation does exist but is not to be found within the primary legislation) and BiH (on the state and FBiH levels), North Macedonia are not in line with the standards because of total lack of relevant legal regulation concerning this issue. The reasonable possibility for the superior official or competent state authority to be able to allow additional employment or accumulation of public office (within reason and with somewhat predetermined criteria) is desirable for all the situations that can occur and could not be foreseen by the strict regulation

¹²¹ Art. 24, sec. 1 of the Law on Civil Servants.

¹²² The heads of the republic administration and republic administrative organizations within the ministry shall submit the request to the minister; and the heads of the same who are responsible to the Government for their work shall submit the request to the government of the Republic of Srpska. Art. 5 of the Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska can be approved to perform additional activity, *Official Gazette of the RS*, No. 94/06.

¹²³ Art. 45 sec. 2, 3 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units.

¹²⁴ Art. 46 sec. 2 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units.

of the law (this possibility helps with avoiding of legal framework “rigidness”, and allows for some flexibility that life situations may demand).

Law on Prevention of Corruption just prescribes the power of the Agency for Prevention of Corruption to approve the additional employment for the office holder and senior civil servant in **Serbia** if that additional engagement does not affect his impartiality or the reputation of the public office. Office holder has also to provide a positive opinion of the authority that had elected, appointed or nominated him. A superior to civil servant may give him a consent for the performance of additional work.

The Law does not explicitly state it but the aforementioned possibility for office holders in **Montenegro** to exceptionally become presidents or members of the management body of a public enterprise, institution or other legal person owned by the state or a municipality certainly implies the consent of the superior authority.

There is a possibility at the discretion of the superior official or competent state authority to allow approvals for additional employment in the private sector when civil servants and state employees are in question.¹²⁵

In **Bosnia and Herzegovina** discretionary power of the superior to allow approvals for additional employment is however not stipulated. In Republic of Srpska civil servants may perform certain additional activities and employment¹²⁶ if he notifies his superior, who is obliged to make a decision on this matter.¹²⁷ The amount of the compensation is predetermined in the Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska can be approved to perform additional activity.¹²⁸

There are no clear regulations on the matter in **North Macedonia**.

Indicator 4. Certain activities such as teaching, researching and creative activities of artists and writers should be treated as an exception to the general ban on the accumulation of functions and additional employment.

All the countries in this report have some sort of exceptions when the particular types of activities are in question, when it comes to the accumulation of functions. The scope and fields of application however differ – they are fully in line

¹²⁵ Art. 79 of the Law on Civil Servants and State Employees.

¹²⁶ This approval can be granted for a membership of the management and other boards of humanitarian organizations, of sports clubs, societies and federations, as well as other sports associations and for activities at seminars and conferences and in projects of non-governmental and other similar institutions and organizations.

¹²⁷ Art. 5 of Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska can be approved to perform additional activity.

¹²⁸ Art. 4 of Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska can be approved to perform additional activity.

with international standards in Serbia, Montenegro, North Macedonia and in the BiH entity of the Republic of Srpska, while they remain partially in line with standards in BiH on the state level and in the FBiH entity. The main reason for this discrepancy is that the estimation of international standards fulfilment lies in the fact that in BiH on the state and FBiH levels the list of allowed (desirably) exceptional activities is set narrower in comparison to other countries and international standards.

In the **Serbia** the rule on public official's engagement in scientific research, teaching, cultural, artistic, humanitarian or sports activities is regulated in that manner that the office holder may perform them without the approval of the Agency for Prevention of Corruption, unless it jeopardizes his impartiality or the reputation of the public office.¹²⁹ If this is to be the case, Agency for Prevention of Corruption will set a time limit in which the office holder has to cease performing such work or business activity. Civil servants do not have to ask for the permission for the same sort of additional engagement.

The same rule applies to civil servants, who may engage in this kind of additional employment without the consent of his superior, unless this activity hinders the work or affects the impartiality of a civil servant and puts a bad influence on the reputation of the state body.¹³⁰

The legal framework on the prevention of corruption in **Montenegro** foresees exceptions to the general ban on the accumulation of functions and additional employment. Office holder may be engaged in scientific, educational, cultural, artistic and sports activities and acquire income from copyrights, patent rights and other similar rights, intellectual and industrial property, unless specified otherwise by the law.¹³¹ Also, he may be the president or a member of the management body or supervisory board of scientific, educational, cultural, artistic, humanitarian, sports and similar associations, if he does not acquire any income or other compensation on this basis.¹³²

Similar rules and exceptions are to be applied to the civil servants and state employees, who have to notify the head of state authority. They may also act as a chairman or member of management or supervisory body of a public company, institution or another legal entity, scientific, humanitarian and sports associations.¹³³

In **Bosnia and Herzegovina** (on the state and FBiH entity level), when it comes to foundations and associations in the field of culture and sports and if the

¹²⁹ Art. 46 sec. 2 of the Law on the Prevention of Corruption.

¹³⁰ Art. 26 sec. 4, 5 of the Law on Civil Servants.

¹³¹ Art. 9 par. 1 of the Law on Prevention of Corruption.

¹³² Art. 12 par. 4 and 5 of the Law on Prevention of Corruption.

¹³³ Art. 80 par. 2 of the Law on Civil Servants and State Employees.

reimbursement for duties of office holders does not exceed 50,000 KM per year, such accumulation for office holders is also allowed by the law.¹³⁴

Office holders in **the Republic of Srpska** entity, who are employed and receive a salary on the basis of election-appointment to office, may perform jobs and receive compensation in teaching, scientific, cultural, health and sports institutions and associations.¹³⁵ Civil servants may engage in scientific research, give lectures at school institutions at all levels of education, perform training and professional development, if it does not endanger his reputation.¹³⁶

Finally, office holder in **North Macedonia** may earn income from scientific, educational, cultural, artistic and sport activities and revenues from copyright, patents and the like rights, intellectual and industrial property. If office holder or public sector employees are employed in the local administration, if elected as a member of the council of municipality, his employment rests in accordance with the law.¹³⁷

Indicator 5. Existence of legal framework on post-employment restrictions and determination of a reasonable time limit for post-employment (in cases of conflict of interest).

The existence of the clearly set legal regulation concerning post-employment restrictions and the reasonable time limit for them is an important factor to prevent the occurrence of conflict of interest and preservation of impartiality for public officials. It also prohibits the use of privileged information obtained by a person working as an office holder. The nature of this matter is such that it requires detailed and concrete regulation in order to avoid possible misinterpretations in practice. Of all the analysed countries only BiH (on both the state and entity levels) falls behind when the fulfilment of this requirement is in question, while Montenegro, Serbia and North Macedonia meet the international standards in this particular matter.

In **Serbia**, two years upon the termination of a public office, a former office holder may not, without the consent of the Agency for Prevention of Corruption, establish an employment relationship or business cooperation with a legal person,

¹³⁴ Art. 11 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 12 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

¹³⁵ Art. 3 (7) of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska. This applies only to companies that have concluded a contract or operate with a government body or local self-government unit at the same time as the elected representative, executive office holder or advisor performs a public function and when the value of the contract or work exceeds 30,000 KM.000 KM per year.

¹³⁶ Art. 24 sec. 1 (d) of the Law on Civil Servants. Also, Art. 4 (d) of the Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska can be approved to perform additional activity. This also applies to civil servants and state employees in local self-government units.

¹³⁷ Art. 44 of the Law on Prevention of Corruption and Conflict of Interest.

entrepreneur or an international organization performing activities related to his previous public office.¹³⁸ While deciding on giving this sort of consent, the Agency for Prevention of Corruption will especially take into the account the duties the ex office holder had while performing public office.

This kind of restriction is not applicable to public officials elected directly by the citizens.¹³⁹ Law on Civil Servants does not prescribe any restrictions on this matter.

In **Montenegro** for a period of two years following the termination of public office holder may not have business or contractual relations with a legal person whose gain and other benefits depend on the decision of the authority in which an office holder has exercised his public function.¹⁴⁰

In **Bosnia and Herzegovina** (both on the state level and on the level of Federation of BiH), a civil servant who has been relieved of duty within two years from the day of dismissal may not be employed by the employer to whom he was a regular superior and he may not be employed by the company over whose work he carried out regular supervision.¹⁴¹ In the **Republic of Srpska** it is only determined that office holders may not be members of the supervisory board or directors of public enterprises during the time they hold public office and 3 months after the termination of public office.¹⁴²

In **North Macedonia** the public official may not, within three years after the termination of the performance of the public authorizations or duties, be employed or acquire shares in a company he supervised while performing public duties.¹⁴³

The official within two years after the termination of the employment, may not act as a representative of an organization that has business relationship with the state body in which he previously worked. He also may not perform management or audit activities in the legal entity which he supervised as an office holder at least one year before the end of the exercise of public authority.¹⁴⁴ In these legal persons

¹³⁸ Art. 55 of the Law on the Prevention of Corruption.

¹³⁹ Art. 55 sec. 4 of the Law on the Prevention of Corruption.

¹⁴⁰ In accordance with Art 15. of the Law on Prevention of Corruption office holder may not act as a representative of legal person before the authority in which he exercised a public function if this legal person has or will have contractual or business relationship with this authority. This ban especially refers to cases in which he participated as an office holder. Also, he may not perform audit activities, be employed or enter a contract with a legal person whose acquirement of the gain depends on the decisions of the authority in which an office holder has exercised function.

¹⁴¹ Art. 16 par. 1 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina and Art. 19 par 1 of the Law on Civil Service in the Federation of Bosnia and Herzegovina.

¹⁴² Art. 5 sec. 1 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹⁴³ Art. 47 sub. 1 of the Law on Prevention of Corruption and Conflict of Interest.

¹⁴⁴ Art. 47 par. 2 of the Law on Prevention of Corruption and Conflict of Interest.

he may not acquire on any basis and in any form shareholder rights three years after termination of his public office.¹⁴⁵

Previous office holder that will establish a trade company or will start to engage in a profit-making activity in the area in which he worked as an official within three years from the date of termination of the exercise of public powers or duties, is obliged to inform the State Commission within 30 days.

(1) Incompatibility between public service and concurrent employments and occupations:

Indicators	Value	SRB	MNE	BIH			MKD
				BIH	FBIH	RS	
1. Clear legal provisions on a duty to report additional employment or accumulation of public functions to the superior official or the competent state authorities	0-3	3	3	2	2	2	0
2. Existence of a clear legal framework that determines the conditions for granting approval for additional employment in the private sector and the accumulation of public functions for a public official	0-3	1	3	2	2	3	0
3. Existence of a reasonable possibility at the discretion of the superior official or competent state authority to allow approvals for additional employment in the private sector and the accumulation of public office in cases of non-conflict of interest	0-3	2	3	0	0	2	0
4. Certain activities such as teaching, researching and creative activities of artists and writers should be treated as an exception to the general ban on the accumulation of functions and additional employment	0-3	3	3	2	2	3	3
5. Existence of legal framework on post-employment restrictions and determination of a reasonable time limit for post-employment (in cases of conflict of interest)	0-3	3	3	1	1	1	3
Total points		12	15	7	7	11	6
Average points		2,4	3	1,4	1,4	2,2	1,2
Standard score	0-5	4	5	2	2	4	2

Summary assessment for the standard

Engaging in incompatible activities or transactions (paid or unpaid) can endanger impartiality or distract the public official from the optimal and desirable performance of his duties. This matter requires, on one hand, strict and precise regulation in order to avoid to occurrence of conflict of interest, but on the other

¹⁴⁵ Art. 55 of the Law on Prevention of Corruption and Conflict of Interest.

hand it also needs to be flexible enough to allow for particular exceptions from the general rule of forbidding the accumulation of public functions. Additionally, certain post-employment restrictions are also to be set because of the very nature of some public functions, i.e. the high probability of impartiality endangerment if such restrictions were not set in the first place.

Regarding this standard and according to the present indicators, Montenegro achieves the highest grade, with its relevant legal framework being fully in line with international standards. Situation is somewhat similar when Serbia and the Republic of Srpska is in question, with respective regulation being mostly in line with international standards. Other countries, both Macedonia and BiH (as well as FBiH entity) scored lower and fell into “significant departures from the standard” category. It is noteworthy that when the existence of a reasonable possibility at the discretion of the superior official or competent state authority to allow approvals for additional employment in the private sector and the accumulation of public office in cases of non-conflict of interest is in question, only Montenegro, Serbia and the Republic of Srpska have the regulation at all, while it is missing in the other countries.

The overall lowest scoring country, North Macedonia, shows significant lacking of relevant regulation when number of important indicators are in question. There are no clear legal provisions (but only vague and general ones) on a duty to report additional employment or accumulation of public functions to the superior official or the competent state authorities. The conditions for granting approval for additional employment in the private sector and the accumulation of public functions for a public official are also not set and there is no reasonable possibility (within the primary legislation) at the discretion of the superior official or competent state authority to allow approvals for additional employment in the private sector and the accumulation of public office in cases of non-conflict of interest.

Therefore, it can be concluded that concerning this particular standard, out of all the analysed countries Montenegro presents the best legal framework, while the one in North Macedonia is the most lacking one.

Standard 2: GIFTS, GRATUITIES AND OTHER KINDS OF MATERIAL PRIVILEGES OR SERVICES IN RELATION TO THE EXERCISE OF PUBLIC DUTY

Indicator 1. Prohibition for public officials to receive monetary gifts, securities and precious metals – regardless of their value, in relation to their public tasks. In this regard no exception is to be allowed.

All the countries analysed in this report have some sort of regulation for public officials regarding receiving of gifts, gratuities and other material privileges, but the scope and content of this regulation differs significantly. A general rule discerned in each and every of the countries included in the analysis is that public officials are not allowed to receive gifts, with the exception of the protocol and casual gifts of small value (see Indicators 2.2, and 2.3.). However, already at the level of defining gifts and required course of action analysed legislations differ from each other.

While in Montenegro, Serbia and in BiH (on the state level and in FBiH) there is an explicit prohibition (by the law) for public officials to receive monetary gifts, it is not the case in North Macedonia as well, where the whole regulation regarding gifts is scarce and mostly left to the Code of Ethics (instead of the law). An absolute prohibition for monetary gifts extends to securities and precious metals in Montenegro (regardless of their value), in BiH it includes only monetary gifts and securities.

In **Serbia** Law on the Prevention of Corruption defines the concept of gifts as an item, right or service without appropriate compensation and as a benefit or advantage afforded to office holder or his family member.¹⁴⁶ In accordance with that, office holder and his family members are allowed to receive only protocol gifts and appropriate ones, while accepting all the other sorts of gifts is forbidden.¹⁴⁷ However, it is not precisely described that monetary gifts or similar gifts are not allowed at any cost.

Civil servants and with them associated parties are not allowed to request or receive a thing, right, service or any other benefit.¹⁴⁸ If a civil servant is offered a gift or some other benefit, he is obliged to refuse or return them, to take actions to identify the giver and, if possible, find witnesses and immediately make an official note about it and inform the immediate superior.¹⁴⁹

Law on Civil Servants prescribes appropriate gifts of lesser value as the allowed ones, but these gifts may not be in monetary form or in the form of the

¹⁴⁶ Art. 57 of the Law on Prevention of Corruption.

¹⁴⁷ Art. 3 of the Rulebook on the Office Holder's Gifts, *Official Gazette of the Republic of Serbia*, No. 118/2020-31.

¹⁴⁸ Art. 25a of the Law on Civil Servants; art. 9 sec. 1 of the Code of Conduct for Civil Servants.

¹⁴⁹ Art. 9 sec. 2 of the Code of Conduct for Civil Servants, *Official Gazette of the Republic of Serbia*, No. 29/2008, 30/2015, 20/2018, 42/2018, 80/2019 and 32/2020.

securities, which makes it more precise compared to the Law on Prevention of Corruption.¹⁵⁰

Both office holders and civil servants (and state employees) **Montenegro** are not allowed to receive gifts,¹⁵¹ with the exception of protocol and appropriate gifts. If they are offered a gift, they must refuse the offer and inform the donor that he is not allowed and cannot accept the gift.¹⁵²

Additionally, office holder must neither conclude a sponsorship agreement on his behalf, nor conclude a sponsorship agreement or receive donations on behalf of the authority in which he performs a public function, which affect or could affect the legality, objectivity and impartiality of work of the authority.¹⁵³

In **Bosnia and Herzegovina** receiving or demanding a gift or other benefit¹⁵⁴ or promising a gift or other benefit for the sake of performing a public function is explicitly forbidden by the Law on Prevention of Conflict of Interest, both on state and FBiH level.¹⁵⁵ As already stated, monetary gifts and all types of securities are absolutely forbidden to be accepted as gifts by the office holders.¹⁵⁶

However, by the mere definition contained in the law, gifts received by family members, as well as gifts whose value does not exceed two hundred convertible marks (200 KM) are not to be treated as gifts in the sense of this law, which can be widely misused.¹⁵⁷

Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska contains a general prohibition for office holders to receive or request a gift¹⁵⁸ to perform a public office.¹⁵⁹ There is also an explicit prohibition for

¹⁵⁰ Art. 25a sec. 2 of the Law on Civil Servants.

¹⁵¹ According to the art. 6 par. 1 of the Law on Prevention of Corruption gift is “an item, right, or service acquired or performed without compensation and any other gain provided to the public official or a person related to the public official in connection with the exercise of public function”.

¹⁵² Art. 17 par. 1 of the Law on Prevention of Corruption, Art. 78. of the Law on Civil Servants and State Employees.

¹⁵³ Art. 21 par. 2 of the Law on Prevention of Corruption.

¹⁵⁴ The Law on Prevention of Conflict of Interest in BiH (on the state and FBiH levels) stipulates that a gift “means any payment, action, service, or item of value made directly to the recipient, without compensation or expectation of compensation”.

¹⁵⁵ Art. 9 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 10 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

¹⁵⁶ Art. 10 par. 1 subpar. 5 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 11 par. 1 subpar. 5 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

¹⁵⁷ Art. 3 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 3 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

¹⁵⁸ Gifts include money, objects, rights, services free of charge, and any other benefit given or promised (for example: catering service, overnight service, debt or liability forgiveness, travel or similar service, ticket, art object, insurance, medical or other services not personally paid by the office holder). Art. 11 sec. 1 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹⁵⁹ Art. 9 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska. The same provision is to be found in the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units, art. 43 sec. 2.

office holders to receive money, check or other security, regardless of the amount, and if received, these material privileges have to be reported and afterwards they become the property of the Republic or local self-government unit.¹⁶⁰

In order to maintain impartial while performing public service, civil servants are also not allowed to request, receive gifts, neither for themselves nor for their family bodies.¹⁶¹ He may also not offer or give gifts or other benefits to another civil servant, his relative or a spouse or extramarital partner, for the purpose of realizing his own benefit.

Unlike in aforementioned countries, there are no explicit norms regarding receiving monetary gifts in **North Macedonia**, but only regulations on general prohibition on receiving gifts and about sponsorships. The Law stipulates that an office holder or a responsible person in a public enterprise and other legal entity that raises state capital may not conclude a sponsorship agreement in its own name while performing public office.¹⁶² Legal or natural person over which the elected or appointed person or the responsible person in a public enterprise and other legal entity that has state capital performs or has exercised supervision may not be a sponsor or donation of a legal entity in which service the benevolent person or a member of his family has an interest.

The absence of clear legal framework (or its scarcity) determines the score that one country gets when this indicator is in question. Vast difference in this domain leads to conclusion that the regulation in Montenegro is fully in line with international standards, and that on the other hand, North Macedonia falls behind when this issue is at hand. Other analysed countries stand somewhere in the middle.

Indicator 2. Existence of clear legal framework regarding acceptable protocol and casual gifts.

When receiving of acceptable protocol and casual gifts is in question, it is important to have clear and unequivocal regulation set by the relevant law, since these kinds of gifts could potentially present a way (“backdoor”) for partially decisions, illegal influence and corruption. On this regard, the legislation of Serbia and Montenegro clearly stipulates what the protocol and casual gifts are, and regulate the matter adequately. The differences between the legal framework of the state and the entities in Bosnia and Herzegovina about the obligation to refuse a gift according to its value

¹⁶⁰ Art. 11 sec. 5 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹⁶¹ Art. 23 of the Law on Civil Servants. Also, Art. 43 of the Law on Civil Servant and State Employees in the Bodies of the Local Self – Government Units.

¹⁶² Art. 59 of the Law on Prevention of Corruption and Conflict of Interest. This prohibition also applies to legal or natural person over whom the office holder or the responsible person in a public enterprise and other legal entity that has state capital performs or has exercised supervision.

are difficult to be justified, especially in the case of the Republic of Srpska, where the limit of 300KM seems to be set too high. Same norms on the state and FBiH levels leave space for improvement (they are not nomotechnically clearest) and the regulation regarding protocol gifts in this entity also leaves space for improvement. On the other side, relevant legal framework in North Macedonia is on the stricter side, going even maybe too far with the necessity to consult the Ministry of Foreign Affairs when protocol gifts are in question.

Both office holders and civil servants in **Serbia** may accept protocol, appropriate gifts. Law on Prevention of Corruption describes as a gift that an office holder receives from a representative of another country or organization, received during official visit or on similar occasion. Appropriate gift is defined in a more general way as a gift received on occasions when gifts are traditionally exchanged.¹⁶³ There aren't any provisions enlisting, at least exempli cause, what gifts are to be considered appropriate or protocol.

Law on Civil Servants just describes appropriate gifts as gifts received on occasion when gifts are traditionally exchanged or when the protocol requires it.¹⁶⁴ If a civil servant is in doubt whether the offered gift can be considered an appropriate gift of lesser value, he is obliged to request an opinion from the immediate superior.¹⁶⁵

In **Montenegro** as protocol gifts are considered the ones that are given from the representatives of other states or international organizations during visits and similar occasions. As casual gifts are to be treated those of small value, determined by The Law on Prevention of Corruption and the Law on Civil Servants and State Employees (see Indicator 2.3.).

In **Bosnia and Herzegovina** (on the state and FBiH entity level) The Law on Prevention of Conflict of Interest stipulates that the gift (given to the office holder) of a value lesser than 200 KM may be received and does not need to be declared or reported. Same applies if several such gifts are received from the same person for a period of one year.¹⁶⁶ This provision is not formulated clearly and leaves room for improvement. A civil servant in BiH (on a state and FBiH entity level) may not receive a gift, or any service or other benefit for himself or other persons in the performance of his duties, except for a protocol or occasional gift of lesser value with the appropriate application of regulations governing the prevention of conflicts of interest in public office.¹⁶⁷ In the Republic of Srpska however, gifts in the value of up to 300 KM may

¹⁶³ Art. 59 sec. 1, 2 of the Law on the Prevention of Corruption.

¹⁶⁴ Art. 25a of the Law on Civil Servants.

¹⁶⁵ Art. 9 sec. 3 of the Code of Conduct for Civil Servants.

¹⁶⁶ Art. 10 par. 1 subpar. 2 and 3 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 11 par. 1 subpar. 2 and 3 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

¹⁶⁷ Art. 8 par. 1 Code of Ethics for Civil Servants in Bosnia and Herzegovina and Art. 8 par. 1 of the Code of Ethics for Civil Servants of the Federation of BiH.

be retained by the office holder and should not be reported.¹⁶⁸ On the other hand, gifts above this value may not be retained by the office holders, and they are obliged to report them to the Commission and hand them over to the authorities that elected or appointed them and on whose behalf they perform the entrusted function.¹⁶⁹

In **North Macedonia** the official may not receive gifts, except in the cases, in the amount and in the manner determined by the Law on Use and Disposal of the items in state ownership and with the items in municipal ownership and by the Law on Public Employees.¹⁷⁰

Holders of executive functions in the performance of functions and duties may not receive gifts, except in cases, in the amount and manner determined by the Law on use and disposal of state-owned items and items in municipal property and the Law on Prevention of Corruption and Conflict of Interest.¹⁷¹ Holders of executive positions may not seek, receive or allow anything else a person on their behalf or for their benefit to give or receive a gift, service or any other value, help or other benefit related to the performance of the function, i.e. duty, which could have an impact or in any way compromise it their judgment or put them in inadequate subordination and obligation. Holders of executive positions may not accept orders, decorations, awards or honours from foreign countries and foreign organizations during the execution of their function, i.e. in the performance of their duty, and in case of such more often, they consult with the Ministry of Foreign Affairs regarding receiving honours for each individual case. Law on Administrative Officials perceives accepting gifts and other benefits by administrative servants as a disciplinary offence.¹⁷²

Indicator 3. Precise determination by law of the value of acceptable, casual gifts. The distinction for the value of gifts from one person and the general values of all gifts is required.

All the countries analysed possess regulation on the value of the casual gifts. It is clear that this matter is regulated with significant differences when the scope of value for acceptable gifts in question - from the most restrictive rules in North Macedonia, to the more liberal approach in BiH (especially in the entity of Republic of Srpska). Montenegro, Bosnia and Herzegovina (on all levels) and North Macedonia all set the maximum value of the single gift, as well as accumulated value of all the gifts received from one person in a year, while Serbian legislation does not foresee

¹⁶⁸ Art. 11 sec. 2 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska. A gift is considered to be several gifts given by the same person in a period of 1 year.

¹⁶⁹ Art. 4 sec. 6 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹⁷⁰ Art. 58 of the Law on Prevention of Corruption and Conflict of Interest.

¹⁷¹ Art. 17 of the Ethical Code for the members of the government.

¹⁷² Art. 73 (11) Law on Administrative Officials.

precise values of acceptable gifts. Montenegro and North Macedonia stand in line with international standards the most, because of the rationally stipulated values, considering the economic situation in these countries. In BiH (especially in the Republic of Srpska), the values are too high.

Neither Law on Prevention of Corruption nor the Law on Civil Servants do not prescribe the value of acceptable or protocol gifts in **Serbia**. However, it is defined by the Law on Prevention of Corruption that an office holder may retain the received protocol and occasional gift if the value of the received gift¹⁷³ does not exceed 10% of the average monthly salary without taxes and contributions in Serbia.¹⁷⁴

In the Rulebook on the Office Holders' Gifts the duty of the public authority to notify the Agency of the market value of the gift expressed in dinars by April 30 of the current year is prescribed in case that in the form for the declaration of the gifts it is stated that the assessment of the value of the gift is still in progress.¹⁷⁵

In **Montenegro** as the "appropriate gifts" are, in the sense of the Law on Prevention of Corruption, understood those that do not exceed 50 Euros in value. The total value of gifts from donor must not exceed 50 Euros in a year, and the total value of all the gifts that one public official receives within a year must not be larger than 100 Euros.¹⁷⁶ If however the value of the appropriate gift is greater than the aforementioned, allowed one, it is to be handed over to the authority in which the office holder exercises public function for further management and this gift will become state property, or property of the municipality.¹⁷⁷ The rules for the value of the appropriate gifts determined by the Law on Civil Servants and State Employees are the same as the aforementioned ones that apply to office holders.¹⁷⁸

In **Bosnia and Herzegovina** (on the state and FBiH levels) the limit is set to 200KM (see indicator 2.1), in cases of a doubt about the exact value of the gift, the office holder is obliged to request an invoice from the gift giver.¹⁷⁹ There is an accumulation of value of the gifts from one person (up to the allowed limit of 200KM in one year). If a civil servant in BiH (on a state and FBiH entity level) is in doubt whether the offered gift can be considered a suitable gift of lesser value, he is obliged to request

¹⁷³ Law on the Prevention of Corruption prescribes the value of the gift as the market price of the gift as at the day it is offered or received.

¹⁷⁴ The total value of gifts retained in the course of one calendar year cannot exceed the amount of one average monthly salary without taxes and contributions in Serbia.

¹⁷⁵ Art. 8 of the Rulebook on the Office Holder's Gifts.

¹⁷⁶ Art. 16 of the Law on Prevention of Corruption.

¹⁷⁷ Art. 18 par. 2 of the Law on Prevention of Corruption.

¹⁷⁸ Art. 78. of the Law on Civil Servants and State Employees.

¹⁷⁹ Art. 10 par. 1 subpar. 6 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 11 par. 1 subpar. 6 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

an opinion from his immediate superior.¹⁸⁰ In the entity of the Republic of Srpska, as mentioned above, office holders may accept and retain gifts whose value is less than 300 KM. In case of doubt about the value of the gift, the office holder is obliged to report the gift to the Commission, which will obtain information on the market value of the gift in the Republic of Srpska.¹⁸¹ The value of a gift is its market value.

In **North Macedonia**, public sector employees are not allowed to receive gifts related to their work with the exception of protocol and occasional gifts of lower value. Gifts that do not exceed the value of 1,000 denars, or gifts received from the same person whose total value does not exceed 3,000 denars in a given year, are considered gifts of lower value. Gifts received by office holder or international organizations, given during visits, guest appearances or in other similar circumstances are considered as protocol gifts.¹⁸²

The prohibition these restrictions also refer to the spouse of the employee, to the persons living together with the employee in an extramarital union, to their children, parents and to persons living in same household. The employees in the public sector are obliged to warn the donors that the gifts that exceed the aforementioned value stated become the property of the employer. In case the donor insists on receiving the gift, the official persons are obliged to deliver the gift to the employer. The data on the received gifts, their value, the donors and other circumstances shall be entered in the records of gifts.

The manner of disposing of the gifts, the manner of managing the records and other issues related to receiving gifts shall be regulated by the decree of the Government.¹⁸³

Indicator 4. All received and offered gifts have to be declared. Same applies for the offers of gifts that were rejected.

The obligation to declare all received and rejected gifts is important as a mean for transparency and control in order to avoid conflict of interest and corruption. All the analysed countries have some sort of legal regulation of the issue, but the ones in Serbia and BiH (on the state and FBiH levels) stands out concerning its compliance with international standards. The same applies for the Republic of Srpska, with the exception that some of the important relevant norms are only to be found in bylaws.

¹⁸⁰ Art. 8 par. 3 Code of Ethics for Civil Servants in Bosnia and Herzegovina and Art. 8 par. 3 of the Code of Ethics for Civil Servants of the Federation of BiH.

¹⁸¹ Art. 11 sec. 7 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

¹⁸² Art. 39 of the Law on Public Sector Employee.

¹⁸³ Regulation On The Method Of Disposal With The Received Gifts, The Manner Of Management Of The Records Of The Applications Gifts And Other Questions Regarding Receipt Of Gifts, *Official Gazette of the Republic of Macedonia*, No. 153/2014.

The regulation on this matter is a bit too general in North Macedonia and somewhat incomplete in Montenegro, leading to necessity for using analogy in interpretation.

In **Serbia** any gift received in connection with the discharge of public office, its value, giver, description and the reason why it is given has to be notified by an office holder to the public authority in which he discharges his public office within 10 days from the day the gift was received. On this occasion office holder has also to precise whether it was a protocol or occasional gift and in whose property it is now.¹⁸⁴ These rules apply not only to the gifts received by the office holder, but also for the gifts given to their family members. Civil servants have the same duty regarding the received gifts.¹⁸⁵

Office holders in **Montenegro** are to refuse gifts that are not according to aforementioned norms (Indicator 3) and write a statement about the offer, which is to be submitted to the authority in which he exercises public function. If it was impossible to refuse a gift, it should be submitted with the report to the same authority, after which it becomes state or municipal property.¹⁸⁶ Additionally, a written report on received sponsorships and donations must be submitted to the Agency for prevention of corruption by the end of March for the previous year, with a copy of the documentation related to these sponsorships or donations.¹⁸⁷

The Law on Civil Servants and State Employees does not stipulate the obligatory declaration of lawful, casual gifts, given to the civil servants and state employees. The Law also does not say anything about the future of the unlawful gifts that the civil servant or state employee was unable to refuse. In the absence of the explicit norm, The Law on Prevention of Corruption is to be applied here accordingly, hence the unlawful gifts are to be declared to superior authority and they become the property of state or municipality. Receiving unlawful gifts is however seen as a severe violation of official duty.¹⁸⁸

In **Bosnia and Herzegovina**, on the state and FBiH levels, if the value of the gift is higher than 200KM, office holders may not retain them, but are obliged to report and hand them over to the institution of the government that elected or appointed them and on whose behalf they perform the entrusted public function. Institutions are then obliged to submit information on gift in question to the Central Electoral Commission of Bosnia and Herzegovina within 15 days from the day of the report submission.¹⁸⁹

¹⁸⁴ Art. 62 of the Law on Prevention of Corruption, art. 3 of the Rulebook on the Office Holder's Gifts.

¹⁸⁵ Art. 25a sec. 3, 4 of the Law on Civil Servants.

¹⁸⁶ Art. 17 of the Law on Prevention of Corruption.

¹⁸⁷ Art. 22 par. 1 of the Law on Prevention of Corruption.

¹⁸⁸ Art. 95 of the Law on Civil Servants and State Employees.

¹⁸⁹ Art. 10 par. 1 subpar. 4 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 11 par. 1 subpar. 4 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

In BiH on the state level and on the level of FBiH entity, if a civil servant is offered a gift, he is obliged to refuse the gift or other benefit and return the handed gift. He is also obliged to take actions to identify the person, if possible, find witnesses and immediately make an official note and inform the immediate superior.¹⁹⁰

In the entity of the Republic of Srpska, as mentioned above, all the gifts received by the office holders whose value is over 300 KM have to be reported to the Commission and handed to the superior authority. Form of the report of the gifts may be found in the Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements.

If a civil servant is offered a gift or illicit benefits for the purpose of performing the work, the civil servant is obliged to: refuse the gift or illicit benefit, try to identify the person who made the offer, avoid long-term contacts with the same person; if the gift cannot be refused or returned to the sender, it should be postponed and not used, preferably with witnesses, to make an official note as soon as possible of the offer, attempt or delivery of an illicit benefit, and report it to your immediate supervisor.¹⁹¹

Notwithstanding the provisions of other regulations, a civil servant may inform the immediate supervisor or the Government of the Republika of Srpska of actions in a body of the republic administration that he believes have the character of corruption or other illegalities.

Finally, in **North Macedonia** (regarding office holders), the state bodies and other bodies and organizations are obliged to submit to the State Commission a copy of the list from the records of the received gifts no later than March 31 of the current year for the previous year. If the State Commission assesses that an official has received a gift that affects or may affect the objective and impartial performance of the functions, the public authorities or official duties shall inform the competent authorities, and the gifts shall become the property of the Republic of Macedonia or the local community unit.¹⁹² Also, in order to prevent giving and accepting inappropriate gifts by the employees in the public sector it is necessary that in the official premises of the public sector institution a notice on the terms and manner of giving gifts to public sector employees is placed in an appropriate manner, visible and accessible.¹⁹³

¹⁹⁰ Art. 8 par. 2 of the Code of Ethics for Civil Servants in Bosnia and Herzegovina and Art 8 par. 2 of the Code of Ethics for Civil Servants of the Federation of BiH.

¹⁹¹ Art. 3 of the Code of Conduct of Civil Servants of the Republic of Srpska.

¹⁹² Art. 58 par. 4 of the Law on Prevention of Corruption and Conflict of Interest.

¹⁹³ Art. 2 of Regulation On The Method Of Disposal With The Received Gifts, The Manner Of Management Of The Records Of The Applications Gifts And Other Questions Regarding Receipt Of Gifts.

Indicator 5. Existence of obligation stipulated by law for the public official's authority to create, keep and regularly publish the records on gifts.

Keeping records on the received (or offered gifts) and the regular publishing of those records present an important preventive measure in order to avoid conflict of interest and corruption. This relates especially to office holders because of the nature of their position and tasks. The relevant legal frameworks of Serbia, Montenegro, North Macedonia are set clearly and stand fully in line with international standards. Allocating the duty of keeping records to the specialized anti-corruption agency is in comparison better solution than the one that is present in in BiH, where this is the authority of the electoral commission (which is in its significant part politically influenced state body). The regulation in the entity of the Republic of Srpska is however scarce.

Public authorities in **Serbia** are obliged to keep records on gifts given to office holders and their family members and the copy of it has to be sent to the Agency for Prevention of Corruption in order to be verified. Agency for Prevention of Corruption is entitled to initiate the procedure to decide on the existence of the violation of Law on Prevention of Corruption in the terms of received gifts. Based on the submitted records Agency for Prevention of Corruption publishes catalogue of gifts online.¹⁹⁴

In **Montenegro**, all the reports on received gifts by the office holders are to be compiled and submitted to the Agency for Prevention of Corruption by the end of March for the previous year. The Agency then publishes a catalogue of all the gifts that public officials have received on its website.¹⁹⁵ Unlawful gifts are to be handed over (or the equivalent amount of money) to the authority where the public official has received such a gift, after which it becomes state or municipal property.¹⁹⁶ On the other hand, there is no obligation for the state servants and state employees' higher authority to keep records about received and offered gifts.

The Commission for Prevention of Conflict of Interest of **Bosnia and Herzegovina** is in charge of the central register of all the gifts that office holders of the BiH state level have been given or offered during their performing of public function.¹⁹⁷ Legal framework is somewhat general and incomplete and especially scarce in the Republic of Srpska.

¹⁹⁴ Art. 63-66 of the Law on Prevention of Corruption, art- 4 of the Rulebook on the Office Holder's Gifts.

¹⁹⁵ Art. 19 of the Law on Prevention of Corruption.

¹⁹⁶ Art. 20 of the Law on Prevention of Corruption.

¹⁹⁷ Art. 10 par. 1 subpar. 4 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 11 par. 1 subpar. 4 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

Finally in **North Macedonia**, a manager of the public sector institution authorizes one person in charge for keeping the record of gifts and taking care of receiving, storing and keeping received gifts.¹⁹⁸ Public sector employee who receives a gift has to inform the authorized person about the gift and to file an application. Application contains the information of the person who gave the gift, public sector employee that received the gift, the reason why the gift is given and the value of the gift.¹⁹⁹ The value of the gift is determined on the basis of the market price of such gift. All of this information together with the application and the data on the manner of further storage, storage and disposal of gifts that have become property of the employer shall be kept in the gift record that is kept and published by the State Commission for Corruption Prevention.²⁰⁰ The authorized person shall enter the data in the records of gifts on the same day when the recipient of the gift submits the application.

Indicator 6. Protocol gifts are to become public property upon receiving and registering. This applies to all kinds of protocol gifts due to possible misuse.

The respective legislation of Serbia, Montenegro and North Macedonia regarding the “destiny” of protocol gifts the is fully in line with international standards. The absence of clear legal framework in BiH regarding this matter is also noteworthy.

Received protocol and occasional gifts become a public property in **Serbia** after being handed over to the public authority in which the office holder discharges his public office. The public authority is then obliged to hand over the gift to the authority in charge of dealing with items that constitute public property.²⁰¹

Protocol gifts become state or municipal property regardless of their value in **Montenegro**.

There are no explicit norms in the relevant law for office holders in **BiH** neither on the state level nor on FBiH and Republic of Srpska level regarding this issue. Finally in **North Macedonia** gifts that have become the property of the employer until the end of the alienation procedure, are temporarily kept in a separate room in the institution, which is locked and inaccessible to the employees of the institution, except for the manager of the institution and the authorized person.²⁰² If the gift received cannot be used by the institution, it has to be alienated in accordance with the Law.

¹⁹⁸ Art. 3 of Regulation On The Method Of Disposal With The Received Gifts, The Manner Of Management Of The Records Of The Applications Gifts And Other Questions Regarding Receipt Of Gifts.

¹⁹⁹ Art. 4 of Regulation On The Method Of Disposal With The Received Gifts, The Manner Of Management Of The Records Of The Applications Gifts And Other Questions Regarding Receipt Of Gifts.

²⁰⁰ Art. 17 of the Law on Prevention of Corruption and Conflict of Interest.

²⁰¹ Art. 59 of the Law on Prevention of Corruption.

²⁰² Art. 6 of Regulation On The Method Of Disposal With The Received Gifts, The Manner Of Management Of The Records Of The Applications Gifts And Other Questions Regarding Receipt Of Gifts.

(2) Gifts, gratuities and other kinds of material privileges or services in relation to the exercise of public duty:

Indicators	Value	SRB	MNE	BIH			MKD
				BIH	FBIH	RS	
1. Prohibition for public officials to receive monetary gifts, securities and precious metals – regardless of their value, in relation to their public tasks. In this regard no exception is to be allowed.	0-3	2	3	2	2	2	1
2. Existence of clear legal framework regarding acceptable protocol and casual gifts.	0-3	3	3	2	2	2	2
3. Precise determination by law of the value of acceptable, casual gifts. The distinction for the value of gifts from one person and the general values of all gifts is required.	0-3	2	3	2	2	2	3
4. All received and offered gifts have to be declared. Same applies for the offers of gifts that were rejected.	0-3	3	2	3	3	2	2
5. Existence of obligation stipulated by law for the public official's authority to create, keep and regularly publish the records on gifts.	0-3	3	3	2	2	1	3
6. Protocol gifts are to become public property upon receiving and registering. This applies to all kinds of protocol gifts due to possible misuse.	0-3	3	3	0	0	0	3
Total points		16	17	11	11	9	14
Average points		2,6	3	1,83	1,83	1,5	2,33
Standard score	0-5	5	5	3	3	2	4

Summary assessment for the standard

Firm legal framework regarding gifts, gratuities and other kinds of material privileges or services in relation to the exercise of public duty is necessary in order to prevent the conflict of interest and maintain impartial and professional attitude of the public officials. As previously explained, the criteria are however not strictly set because of the necessity to allow for certain flexibility, when casual gifts are in question. Another set of exceptions consists of protocol gifts, that need however to be strictly regulated in order to prevent malpractice.

All the analysed countries share similar cultural patterns when casual gifts and related custom are in question. This allows for easier determination not only whether the particular legal system follows the desirable values manifested in international standards, but also allows for mutual comparisons in the quest for the optimal “middle ground” when it comes to the appropriate exceptions from the rule.

Regarding this standard all the analysed countries scored high or relatively high, with only the Republic of Srpska standing somewhat out with the general score falling into “significantly departures from the standard” category. On the other side, Serbia and Montenegro are standing out as the best ones and actually

the only countries whose regulation remain (fully) in line with the standards. North Macedonia is mostly in line with standards, while BiH (on the state and FBiH levels) shows some departures from the standards.

In all the countries received and offered gifts have to be declared, legal frameworks regarding acceptable protocol and casual gifts are satisfactory and there is quite precise determination by the law of the value of acceptable, casual gifts, whether the value of gifts from one person or the general values of all gifts is in question. On the negative side, it is noteworthy that BiH (on all levels), unlike other countries, lacks in any kind of regulation (within the primary legislation) concerning the need for protocol gifts to become public property after their receiving and registering, thus opening the door to potential misuse in this sense. In most cases however, the regulation of the topics out of with this standard consist of is similar, showcasing minor differences.

Standard 3: IDENTIFICATION AND REPORTING OF SITUATIONS THAT MAY RESULT IN COI

Indicator 1. Existence of obligation and procedure clearly established within the primary legislation for reporting a possible CoI by a public official.

The existence of the clearly established procedure for the public official to report the possible CoI is apart from its obvious necessity for maintaining impartiality in discharge of public function also important as a mean of public official's demonstration of willingness for avoiding and resolving such situations. The mere declaration of possible CoI does not necessarily mean that the conflict is actually taking place, but it supports the impartial approach and straightens the tendency towards objective unbiased procedure. All of the analysed countries successfully implement the necessary provisions within their primary legislation, apart from BiH (on the state and FBiH levels) where the regulation is somewhat scarce and indirect – hence only partially in line with standards.

In **Serbia** Law on Prevention of Corruption prescribes the duty of the office holder to notify his immediate superior and the Agency for Prevention of Corruption about the existence or the mere suspicion of conflict of interest.²⁰³ The Agency for Prevention of Corruption has 15 days to decide whether the conflict of interest exists or not and to order measure to be taken on that account. For that purpose, the Agency for Prevention of Corruption can demand from the office holder to provide with relevant information.

A civil servant is also obliged by the Law on Civil Servants to immediately inform his immediate supervisor about the existence of a private interest in connection with the performance of certain tasks.²⁰⁴ In case that the civil servant has doubts as to whether there is a conflict of interest or the possibility of accepting a gift, he is obliged to request the opinion of his superior in writing within three days, and the superior is obliged to submit a written answer to the civil servant within five days of receipt.²⁰⁵

In **Montenegro**, the office holder is obliged to inform other participants in the discussion and decision-making on the existence of private interest, even before they begin the discussion or the decision making.²⁰⁶

²⁰³ Art. 42 sec. 1 of the Law on the Prevention of Corruption.

²⁰⁴ Art. 30 of the Law on Civil Servants.

²⁰⁵ Each year states bodies must publish annual report on management of conflict of interest. Art. 30a, 30b of the Law on Civil Servants.

²⁰⁶ This rule from art. 8 par. 1 and 2 of the Law on Prevention of Corruption does not however apply to MPs, councilors and public officials who are subject to the rules on exemption prescribed by a special law or other regulation.

In performing their tasks civil servants and state employees in Montenegro are obliged to avoid CoI by placing their private interest before the public one or by performing their duties for acquiring monetary and non-monetary gains.²⁰⁷ They are obliged to inform the higher authority if their competency of the state authority in which he participates has any relation to his private interest (or the interest of his related person).²⁰⁸

In **Bosnia and Herzegovina**, according to the Law on Civil Servants in the entity of the Republic of Srpska, if a civil servant has concealed the existence of a CoI during employment, the head of the body shall be obliged to initiate disciplinary proceedings. In the event that a CoI occurs during the employment relationship, the civil servant shall state whether he will eliminate causes of CoI in the next 15 days.²⁰⁹ If the civil servant does not act accordingly, the head of the body shall be obliged to initiate disciplinary proceedings.

Also, according to the Code of Conduct of Civil Servants, a civil servant shall inform in writing the head of his organizational unit about the relations of cooperation that he has, in any way, achieved during the last five years, and for which he received financial compensation.²¹⁰

On the BIH and FBiH levels, the regulation concerning this issue is not as explicit but rather somewhat indirect. The existence of the obligation for reporting a possible CoI by a public official definitely exists, is not however set clearly by the primary legislation, but within the electoral legislation, which is only to be applied the elected office holders.²¹¹

Similarly to Montenegro, and fully in line with international standards, in **North Macedonia**, if both office holder and civil servant participate in a hearing of an organ or body in which decisions are made on matters for which he or a close person has a private interest, the official is obliged to report the existence of private interest and to be excluded before the hearing and the decision-making.²¹² If one does not act in this way, it represents a basis for initiating a procedure for determining the responsibility.

²⁰⁷ Art. 8 of the Law on Civil Servants and State Employees.

²⁰⁸ Some of the forms of the private interest they have to report are financial interest (e.g. ownership of shares and bonds) in legal persons or some forms of contractual and business relations that he has with natural and legal persons that are in competency of a state authority he is working for.

²⁰⁹ Art. 22a sec. 2, art. 22b sec. 1 of the Law on Civil Servants.

²¹⁰ He also has to explain if he or his related persons still have financial benefit from his previous cooperative relationship and whether he has or had relationships with persons who may benefit from his engagement in public service. The same rules apply to the head of organizational unit. Art. 6 of the Code of Conduct.

²¹¹ Art 15 of the Election Law, *Official Gazette of BiH*, No. 23/2001, 7/2002, 9/2002, 20/2002, 25/2002 - ispr., 4/2004, 20/2004, 25/2005, 77/2005, 11/2006, 24/2006, 33/2008, 37/2008, 32/2010, 48/2011, 63/2011, 18/2013, 7/2014, 31/2016, 54/2017, 41/2020, 38/2022, 51/2022 and 67/2022.

²¹² Art. 73 of the Law on Prevention of Corruption and Conflict of Interest.

However, rest of the provisions on *ad hoc* disclosure are considered inconsistent.²¹³ When an office holder or a civil servant suspect there might be a CoI, he has to ask State Commission on Prevention of Corruption. If a conflict seems likely, he must take all necessary measures to prevent its influence.²¹⁴

When the public official finds out about circumstances that indicate the existence of a real or potential CoIs, he shall immediately request to be exempted by the decision of a body in which he is engaged. This decision can be made also at the request of an interested person who has learned about circumstances indicating the existence of CoI.²¹⁵

Indicator 2. Existence of by law stipulated obligation for the public official to be timely introduced to all the relevant rules for the prevention of CoI.

Timely introduction of all the relevant rules for the prevention of CoI to the acting public official is of high importance as a mean of prevention. Apart from the general rule that all the public officials should be fully aware of all the legal norms that relate to the discharge of their duties, it is desirable to have more concrete obligation stipulated by the law for the public official to be introduced to most important norms regarding this issue. Here in Serbia and at the level of FBiH entity in Bosnia and Herzegovina the standards are fully met, while the other countries fall behind, especially North Macedonia and the Republic of Srpska where relevant legal provisions are not to be found at all.

In each public service in **Serbia** a civil servant holding a duty to advise his colleagues and his superior about the prevention of conflict of interest and to give appropriate directions has to be appointed.²¹⁶

The head of the HR unit is obliged to acquaint the future civil servant before starting work with the legally prescribed restrictions and prohibitions aimed at prevention of conflict of interest.²¹⁷

The office holders in **Montenegro**, in cases of doubt, may ask for the official opinion of the authority for these issues – the Agency for Prevention of Corruption, and take further steps accordingly.

In **Bosnia and Herzegovina**, according to the Code of Ethics for Civil Servants of the Federation of BiH, all employees in the civil service body are obliged to sign a statement that they are familiar with the content of this code of ethics, including

²¹³ GRECO, Report, Macedonia, 18.

²¹⁴ Art. 72, par. 2, 3 of the Law on Prevention of Corruption and Conflict of Interest.

²¹⁵ Art. 75 of the Law on Prevention of Corruption and Conflict of Interest.

²¹⁶ Art. 30a sec. 2 of the Law on Civil Servants.

²¹⁷ Art. 8 of Code of Conduct for Civil Servants.

the regulation regarding the prevention and avoiding of CoI. The statement on acquaintance with the content of this code of ethics is an integral part of the personal file of employees in the civil service body.²¹⁸ Such norms however do not exist in the Code of Ethics for Civil Servants in Bosnia and Herzegovina and are also not to be found in the relevant legislation of the Republic of Srpska. In **North Macedonia** relevant provisions on this matter are also not present.

Indicator 3. Detailed regulation of the procedure to determine if the CoI exists. The provisions on the authority competent for the procedure is required to be stipulated by the law.

With certain differences in the procedure and the relevant authority institution for this matter, the regulations of the countries analysed are still in most part similar to each other. There are either fully in line with standards (Serbia, Montenegro, Republic of Srpska, North Macedonia), or mostly in line with standards (BiH on state and FBiH levels). The only notable difference between these countries lays in the level of detail and depth of the relevant legislative regulation.

The Agency for Prevention of Corruption in **Serbia** will provide the opinion on the existence of the conflict of interest within 15 days from the day of receipt of the public official's notification. During this period office holder has to stop acting, unless there is a danger of delay.²¹⁹ After establishing the existence of the conflict of interest, Agency for Prevention of Corruption will inform both the office holder himself and the public body wherein such office holder holds public office and purpose the measures for the elimination of the conflict of interest.

If the Agency for Prevention of Corruption learns of the actions of office holder that raised suspicion of the existence of a conflict of interest, procedure has to be initiated *ex officio* within two years so that the Agency for Prevention of Corruption decides on the existence of a conflict of interest.²²⁰

The superior to the civil servant has to decide whether there is a conflict of interest or not when reported. Private interest will be deemed to exist especially if the civil servant participates in supervision or control activities, i.e. in other activities in which decisions are made on the rights and obligations of legal entities or entrepreneurs where the civil servant performed additional work or two years before he was making decision as a civil servant in that particular case.²²¹

²¹⁸ Art. 22 of the Code of Ethics for Civil Servants of the Federation of BiH.

²¹⁹ Art. 42 of the Law on the Prevention of Corruption.

²²⁰ Art. 43 of the Law on the Prevention of Corruption.

²²¹ Art. 30 sec. 2 of the Law on Civil Servants.

Regarding office holders in **Montenegro** and the procedure to determine the existence of CoI, the Law on Prevention of Corruption in Montenegro is quite clear. It states that the authority in which the office holder exercises public function must write a report on the possible CoI stated by the office holder and send a request for the opinion on the matter to the Agency for Prevention of Corruption. This Agency is responsible for determining the existence of CoI and providing measure to prevent it from happening.²²² No further action on the matter that presents a possible CoI is to be undertaken before the final decision of the Agency. If the Agency however determines the existence of CoI, it will inform the office holder and the authority to which the suspected CoI was initially reported. The office holder will not be able to participate in the discussion and decision-making on the matter in question, the authority shall make the decision on his exemption and prevent any enforcement of the decision taken contrary to these rules.²²³

Civil servants and state employees are to be exempted for working on particular tasks by the decision of the head of state authority if it turns out that the CoI is taking place.

The procedure and the competent authority to determine the existence of CoI for office holders in **BiH** (on a state level) are regulated by the Law on Prevention of CoI. On the level the Federation of BiH, the same rules are to be applied.²²⁴ In the **Republic of Srpska** republic Commission is in charge to determine and examine if the office holder has found himself in CoI.²²⁵

In case there is a suspicion of the existence of CoI in **North Macedonia**, the State Commission initiates the procedure in which the existence of the CoI is to be determined. The procedure can be initiated *ex officio*, at the request of an official, upon application of another person, at the request of the manager of the public official and upon anonymous application.²²⁶ The State Commission is authorized to request documents from the public official himself, and from other legal and natural persons.

If the State Commission ascertains the existence of the CoI, the public official will be informed about it and asked to remove the collision of the interests.²²⁷ If the public official acts upon the request of the State Commission, the procedure will be terminated. If not, State Commission can inform the competent authority

²²² Art. 7 par. 3 of the Law on Prevention of Corruption.

²²³ Art. 8 par. 3 – 6 of the Law on Prevention of Corruption.

²²⁴ Art. 17 and 18 of the Law on Prevention of CoI in the Institutions of Bosnia and Herzegovina and Art. 14 and 15 of the Law on Prevention of CoI in State Organs of the Federation of BiH.

²²⁵ Art 13, 15 of Law on Prevention of Conflict of Interest in the organs of the Republic of Srpska.

²²⁶ Art. 76 par. 2 of the Law on Prevention of Corruption and Conflict of Interest.

²²⁷ Art. 77 of the Law on Prevention of Corruption and Conflict of Interest.

and request the initiation of the disciplinary procedures if the public official is not elected or appointed person.²²⁸ In this case the State Commission will adopt decision to impose a measure of public reprimand.²²⁹

Indicator 4. Precisely and extensively determined circle of with the public official related persons that are also subjected to the rules regarding the prevention of CoI.

Some of the rules that serve to prevent CoI naturally have to take into consideration that closely related persons to the public official may present a “weak link” and potential threat to the goal of preserving impartial discharge of public function – mostly for the reasons of potential bypassing of rules by using these persons in order to achieve personal, illegal benefit. All the countries that were analysed in this study show high level of compliance with the international standards regarding these issues. This indicator is actually the only one in the whole “CoI” chapter where all the countries got the highest grade: fully in line with the standards. Some differences in the particular legislative frameworks are naturally present, but they all manage to face the challenges adequately.

Associated party to the office holder in **Serbia** is a family member, a blood relative in the direct line and/or in the collateral line up to the second degree of kinship, as well as a legal or natural person whose interests, based on other grounds and circumstances, may be reasonably assumed to be associated with those of the office holder.²³⁰ One has to bear in mind that the Law on the Prevention of Corruption has precisely defined family members and blood relatives, while not clearly defining who is to be considered associated with the public official. This gap requires each case to be processed separately and with special caution. Law on Civil Servants foresees that associated parties are to be determined in accordance with the provisions of the Law on Prevention of Corruption.²³¹

As a person related to civil servant in **Montenegro** is to be considered: “a relative in the first direct line and in the collateral line up to the second degree of kinship, relative-in-law up to the first degree of kinship, spouse and out-of-wedlock partner, adoptive parent and adoptee”.²³² The circle of related persons to the office holder is clearly set to be broader in comparison to the one for civil servants and state employees, because of the different importance and nature of their tasks.

²²⁸ Art. 77 par. 3 of the Law on Prevention of Corruption and Conflict of Interest.

²²⁹ Art. 79 of the Law on Prevention of Corruption and Conflict of Interest.

²³⁰ Art. 2 sec. 6 of the Law on the Prevention of Corruption.

²³¹ Art. 25 sec 4 of the Law on Civil Servants.

²³² Art. 76 par. 2 of the Law on Civil Servants and State Employees.

The Law on Prevention of Corruption stipulates the list of the persons that are considered to be “related” to the office holder, stating all the previously mentioned ones for the civil servants and state employees, with the addition of “a member of a household, other natural or legal person with which the public official establishes or has established a business relationship”.²³³

As a relative to the office holder in the state legislation of **Bosnia and Herzegovina** (and on the level of the Federation of BiH) the following persons are to be considered: a spouse or extramarital partner of an official, his blood relatives in the direct line, adoptive parent and adoptee, relatives in the collateral line up to the third degree and in-law relative up to the second degree.²³⁴ Their involvement leads to CoI.²³⁵

Law on the Prevention of CoI in the Authorities of the **Republic of Srpska** only precisely defines who are family members,²³⁶ but does not provide a precise definition of close persons. This legal gap should be eliminated since the Law on several places prescribes CoI situations which include personal interests not only of office holders and his family members, but also of related person.²³⁷

Finally in **North Macedonia**, the term “close persons” means persons in a marital or extramarital union with a public official, blood relatives in a straight line and in a lateral line up to the fourth degree, relatives by marriage up to the second degree, as well as any natural person or legal entity with whom the official has a financial interest. Persons who are close to the public official, who are justifiably considered to have an interest related to the official, may not exercise supervisory or control over his work.²³⁸

²³³ Art. 6 of the Law on Prevention of Corruption.

²³⁴ Art. 3 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 3 of the Law on Prevention of CoI in State Organs of the Federation of BiH.

²³⁵ Art. 8a of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina. and Art. 9 of the Law on Prevention of CoI in State Organs of the Federation of BiH.

²³⁶ According to art. 4 (g) family members are a spouse or common-law partner of the office holder, a child, an adoptive parent, an adoptee and a child of a spouse (stepfather / stepdaughter).

²³⁷ When it comes to Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units, it contains a broader definition of the related person. It is a relative or a person who is in a personal, political, economic or other relationship with a civil servant or a state employee in the bodies of the local self – government units that could affect his or her objectivity in work and conduct. Art. 43 sec. 3 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units.

²³⁸ Art. 46 of the Law on Prevention of Corruption and Conflict of Interest.

Indicator 5. Existence of be law stipulated obligation of regular (or due to changes - extraordinary) declaration of assets and income for office holders and senior civil servants.

An office holder in **Serbia** has to submit a report on his assets and income²³⁹ to the Agency for Prevention of Corruption within 30 days from the day he was elected, appointed or nominated.²⁴⁰ One of the main issues regarding this provision was the understanding of a notion of the office holder. According to the Law on the Prevention of Corruption, an office holder is any person who was elected, appointed or nominated to a public authority, with the exception of persons who are representatives of private capital in managing bodies of companies that are public authorities.²⁴¹

For that reason and in connection with this provision of the Law, Serbian National Assembly gave the authentic interpretation of this provision, stating that this provision is applicable to all persons directly elected by the citizens; to persons elected, nominated or appointed by the National Assembly, by the President of the Republic, by the Supreme Court of Cassation, the High Judicial Council, the State Prosecutors' Council, the Government of Serbia, the Autonomous Province Assembly, the Autonomous Province Government and local self-government units.²⁴²

The office holder that does not act accordingly shall be punished by imprisonment for a term between six months and five years.²⁴³

Apart from the data regarding his income and assets, this report contains also information on assets and income of his spouse and common law partner, as well as those of his underaged children if they live in the same household, as at the day of the election, appointment or nomination.

Within 30 days of the termination of public office the former office holder has to submit this report. An office holder who has been re-elected, re-nominated od re-appointed immediately upon the termination of public office is not obliged to

²³⁹ Reports on income and assets include information on other work, business activity and membership in the bodies of associations; source and amount of net income the office holder receives for discharging public office in Serbia and abroad; source and amount of net income from other work or business activity, including income from scientific research, teaching, sports and humanitarian; other sources of incomes; the right of ownership on a real property; the right of ownership or the right of lease on moveable property subject to registration in Serbia and abroad; deposits in banks and other financial institutions; lease of bank safes; shares and stakes in legal persons, cash, digital property and valuables, as well as other movable property whose value exceeds 5,000 euros. Art. 71 of the Law on the Prevention of Corruption; art. 3 Rulebook on The Register of Public Officials and Register of Assets and Income of Office Holders, *Official Gazette of the Republic of Serbia*, No. 118/2020, 96/2021.

²⁴⁰ Art. 68 of the Law on the Prevention of Corruption.

²⁴¹ Art. 2 sec. 1 (3) of the Law on the Prevention of Corruption.

²⁴² Authentic Interpretation of the provision of Article 2, section 1, item 3) of the Law on the prevention of corruption, *Official Gazette of the Republic of Serbia*, No. 35/19, 88/19.

²⁴³ Art. 101 of the Law on the Prevention of Corruption.

resubmit his report to the Agency for Prevention of Corruption if there have been no changes from the previous report, while being obliged to inform the Agency for Prevention of Corruption thereof within 30 days from the day of re-election, re-nominated and re-appointed.²⁴⁴

If the assets or income of an office holder have changed significantly in the course of the previous year, the office holder shall submit a report to the Agency for Prevention of Corruption.²⁴⁵ Law on the Prevention of Corruption defines the significant change as an increase or decrease in the assets and income which exceed the average annual salary (without taxes and contributions) in Serbia, or as a change of the structure of said assets.

These aforementioned forms of reports are not to be submitted by councillors, members of municipal and city councils, members of municipal and city election commissions and members of bodies of public enterprises, companies, institutions and other organizations whose founder or member is a municipality, city or a city municipality.²⁴⁶ Members of bodies of public enterprises, companies, institutions and other organizations whose founder or member is Serbia or the autonomous province are also not obliged to submit reports on income and assets, unless it is prescribed that this kind of office holder has the right to compensation due to membership. The Agency for Prevention of Corruption has the authority to demand report on assets and incomes from these persons, if necessary.²⁴⁷

Senior civil servants are also obliged to submit the described reports.²⁴⁸

In **Montenegro** office holders are required to submit the report on income and assets to the Agency for prevention of Corruption within 30 days from assuming the function. This report also includes information on assets and income of married and extramarital partner and children, if they live in the same household. The Law on Prevention of Corruption states that this report is to be submitted once a year (by the end of March for the previous year), also in the case of changes – increase in assets of more than 5,000 Euros (within 30 days from the date of change), at the request of the Agency and in the cases of termination of public function (deadline – 30 days as well). Additionally, office holder whose office has terminated has to submit annual Report to the Agency in the next two years after the termination of office.²⁴⁹ The Law on the Prevention of Corruption stipulates that the report has to contain the following data:

²⁴⁴ Art. 68 sec. 2 of the Law on the Prevention of Corruption.

²⁴⁵ Art. 69 sec. 1 of the Law on the Prevention of Corruption.

²⁴⁶ Art. 70 sec. 1 of the Law on the Prevention of Corruption.

²⁴⁷ Art. 70 sec. 2 of the Law on the Prevention of Corruption.

²⁴⁸ Art. 31 of the Law on Civil Servants.

²⁴⁹ Art. 23 par. 1-5 of the Law on Prevention of Corruption.

- 1) Personal data of the public official and his/her household members referred to in Article 23, paragraph 1 of this Law, as follows: name and surname, Personal Identification Number of the Citizen, permanent or temporary residence, address, education and occupation, and in the case of public official also the father's name, mother's name and mother's maiden surname.
- 2) Data about the public function exercised;
- 3) Data on assets and income of the office holder and his/her household members referred to in Article 23, paragraph 1 of this Law, and especially regarding the following:
 - Ownership rights over immovable assets and lease rights over immovable assets for a term exceeding one year, in the country and abroad;
 - Ownership rights over movable assets the value of which exceeds € 5,000, or that are required to be registered with the competent authorities (motor vehicles, vessels, aircrafts, etc.);
 - Ownership rights over the immovable and movable assets of a company, institution or other legal person owned or established by the public official;
 - Deposits in banks and other financial institutions in the country and abroad;
 - Stocks and shares in a legal person or other securities;
 - Cash in the amount exceeding € 5,000;
 - Rights arising from copyrights, patent and similar rights, intellectual and industrial property;
 - Debts (principal, interest and terms of repayment) and receivables;
 - Sources and amount of income from the exercise of scientific, educational, cultural, artistic and sports activities;
 - Membership in the management bodies and supervisory boards of public enterprises, public institutions and other legal persons with a share of capital owned by the state or municipality, as well as in scientific, educational, cultural, artistic, humanitarian, sports or similar associations.²⁵⁰

Also, the obligation to submit Report and the procedure of verification of the data from the Report shall also apply to civil servants who are obliged to submit the Report in accordance with the special law.²⁵¹ The reports are to be submitted to the Agency both electronically and in writing.²⁵²

In order to avoid conflict of interest civil servants and state employees in Montenegro must declare the ownership of shares and bonds or other (non) financial interests in business organizations within competency of a state authority

²⁵⁰ Art. 24 par. 1 of the Law on Prevention of Corruption.

²⁵¹ Art. 23 par. 5 of the Law on Prevention of Corruption.

²⁵² Art. 25 par. 1 of the Law on Prevention of Corruption.

they may be working for. Also, the information about physical persons and legal entities with whom civil servants and state employees had contractual or business relation with (two years prior to entering employment with a state authority) has to be provided as well, if those persons or entities are within competency of the state authority for which the state servant or employee is working for.²⁵³

The office holders on a **state level of BiH and on the FBiH level** are obliged to submit regular financial reports, as provided by law and regulations of the Central Election Commission of BiH.²⁵⁴ In accordance with this law, when appointed as a civil servant, a civil servant shall present all information on the property available to him or his immediate family members as well as on the activities and functions performed by the civil servant and members of his immediate family.²⁵⁵

Office holders are obliged to submit regular financial reports, as provided by law and regulations of the Commission.²⁵⁶ Further information on this duty are to be found in Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements.

Office holders have to submit to the Commission reports on income and property for themselves, spouse or common-law partner, child, adoptive parent, adoptee and child of spouse (stepfather / stepdaughter).²⁵⁷ They have to submit these reports *ex officio* three months from the day of taking over the mandate and three months before the expiration of the mandate, without an invitation from the Commission.²⁵⁸ The Commission may also request submitting these reports irrespective of taking over the mandate and its expiration. In cases when it is necessary to establish decisive facts about the possible existence of a conflict of interest or violation of the Law, Commission may request from the office holder to submit report on income and property.²⁵⁹

According to the Decree on incompatibilities and cases in which a civil servant in the administration of the **Republic of Srpska** can be approved to perform additional activity has to, upon and during each appointment, present all data on

²⁵³ Art. 76 par. 1 of the Law on Civil Servants and State Employees.

²⁵⁴ Art. 12 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 13 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

²⁵⁵ Art. 16 par. 2 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina and Art. 19 par 2 of the Law on Civil Service in the Federation of Bosnia and Herzegovina.

²⁵⁶ Art. 12 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

²⁵⁷ Art. 5 of the Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements.

²⁵⁸ Art. 6 of the Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements.

²⁵⁹ Art. 7 of the Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements.

property status, as well as information on the activities and functions of immediate family members.²⁶⁰

Duty to declare assets in **North Macedonia** concerns the following public officials: elected or appointed person, responsible person in public enterprise, public institution or other legal entity person who has state capital, notary, public executor, administrative servants from the category A determined by law, or a person employed in the cabinets of the President of the Republic of Macedonia, the President of the Assembly of the Republic of Macedonia, the Presidents of the Assembly of the Republic of Macedonia, the Prime Minister of the Republic of Macedonia, the Deputy Prime Ministers of the Republic of Macedonia, the Ministers and the Secretary General of the Government of the Republic of Macedonia.²⁶¹

In accordance with the Law on Administrative Servants administrative servants from category A are the secretaries.²⁶²

Declarations are to be filed within 30 days of appointment, when there is an increase in assets, and within 30 days from leaving the office. The content and the form of the declaration are set by the State Commission and the form itself is published in the Official Gazette and on the State Commission's website.

Asset declaration contains the information on real estate, movable property with a value exceeding the amount of twenty average net salaries in the previous quarter, securities, receivables and debts, and more property owned by him, or owned by members of his family.²⁶³ Information about work positions and membership in boards of directors, membership in associations and foundations are also required.

Based on a risk assessment of corruption, a law regulating the performance of activity in the field of defence, internal affairs or finance, may prescribe an obligation to submit a statement of assets and interests by persons with special powers.

The State Commission may request from an official person who, in accordance with this Law, is not obliged to submit a statement of property status and interests, to submit a statement, as well as to conduct a procedure for examination of his property status, when acting in a case in which that person is involved.²⁶⁴

²⁶⁰ Art. 1 of the Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska.

²⁶¹ Art. 82 of the Law on Prevention of Corruption and Conflict of Interest.

²⁶² Art. 22 of the law on Administrative Servants.

²⁶³ Apart from the abovementioned information, declaration includes also information on legal basis for acquiring the declared property.

²⁶⁴ Art. 84 of the Law on Prevention of Corruption and Conflict of Interest.

The state bodies, the bodies of the units of local self-government, holders of payment operations and other natural and legal persons, at the request of the State Commission and within the deadline determined by it, are obliged to provide all information necessary for determination of the factual situation which are important for checking the data and examination of the property and property condition.²⁶⁵

Indicator 6. Keeping a register on assets and income of office holders and senior civil servants and its regular publication.

Legal frameworks of the all analysed countries provide for some system of keeping a register on assets and income of office holders. The regulation however varies significantly in its depth. While Montenegro, Serbia and North Macedonia fall under category of “fully in line with international standards”, the Republic of Srpska is somewhat behind, while BiH on the state and FBiH levels remains only partially in line with the standards, because of the absence of the relevant norms within the primary regulation.

In **Serbia**, the Agency for Prevention of Corruption forms and maintains the Register of public officials, which is also online available.²⁶⁶ It is kept both in hard copy and electronic version.²⁶⁷ Based on these reports, Agency for Prevention of Corruption forms and maintains the register of assets and income of office holders and parts of it are to be made available to public.²⁶⁸

In **Montenegro** the register of income and assets of office holders is kept by the Agency for the Prevention of Corruption as part of an integrated information system of the Agency. The data is kept in the register for the duration of 10 years after the termination of function of the office holder and thereafter is to be erased either *ex officio* by the Agency or at the request of the office holder himself.²⁶⁹ Data from the register is available to the public via web page of the Agency.²⁷⁰

²⁶⁵ Art. 94 of the Law on Prevention of Corruption and Conflict of Interest.

²⁶⁶ Information on personal ID number and permanent and temporary residence will not displayed on the website of the Agency for Prevention of Corruption.

²⁶⁷ Art. 6 of the Rulebook on The Register of Public Officials and Register of Assets and Income of Office Holders.

²⁶⁸ Art. 73 of the Law on the Prevention of Corruption clearly states what information from the report on income and assets are allowed to be published.

²⁶⁹ Art. 26 par. 1 of the Law on Prevention of Corruption.

²⁷⁰ In order to protect personal information publicly available registers do not contain personal information, addresses of immovables, data on children and information on payments on the basis of social and child welfare. Art. 27 par. 1 of the Law on Prevention of Corruption.

All data on the property of the civil servants is kept in the records of the Civil Service Register in accordance with the regulations on data protection in force in **Bosnia and Herzegovina**.²⁷¹

In the **Republic of Srpska** Republic Commission enters all the reports on incomes and assets of official holders into the appropriate database.²⁷² Commission is supposed to control the property reports in accordance with the Law on Prevention of Conflict of Interest in RS Authorities, which is problematic since this Law does not contain any clear provisions on this matter.

Finally, in **North Macedonia** all the declared information on assets and incomes are kept by the State Commission, which makes them public, apart from the data protected by law.²⁷³

Indicator 7. Existence of a procedure that empowers the competent authority to verify the fidelity of the reported information.

All the rules concerning the asset and income declaration remain ineffective if the clear procedure for the competent authority to verify the fidelity of the reported information is not set. State commissions or anti-corruption agencies are empowered adequately for such actions in Serbia, Montenegro and North Macedonia, while in Bosnia and Herzegovina (on the state and entity levels) legislation only partially stands in line with the standards. The entity of the Republic of Srpska falls significantly behind on this issue, because of the absence of the relevant provisions.

In **Serbia** information from the registers on assets and incomes that are not available to the public are used for the verification and when deciding whether the violation of the Law on Prevention of Corruption exists. In order to accomplish this task, the Agency for Prevention of Corruption will submit necessary unpublic data from the report on assets and incomes to courts, public prosecutors, Ministry in charge of internal affairs, the Administration for the Prevention of Money Laundering, the Tax Administration and other competent authorities.²⁷⁴

Upon the submission, the report on the assets and income of the office holder will be verified by the Agency for Prevention of Corruption and according to the annual verification plan adopted by the Director of the Agency.²⁷⁵

²⁷¹ Art. 16 par. 3 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina and Art. 19 par 3 of the Law on Civil Service in the Federation of Bosnia and Herzegovina.

²⁷² Art. 9 of the Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements

²⁷³ Art. 87 of the Law on Prevention of Corruption and Conflict of interest.

²⁷⁴ Art. 74 of the Law on the Prevention of Corruption.

²⁷⁵ Art. 75 of the Law on the Prevention of Corruption.

In the process of verifying the financial status, the Agency for Prevention of Corruption has to assess whether there is a discrepancy between the data contained in the Report and the actual situation, or a discrepancy between the increased value of the assets and the reported income. In the event of discrepancy, office holder will be invited by the Agency for Prevention of Corruption to explain the reason for the discrepancy.²⁷⁶ The Agency for Prevention of Corruption may also request from the associated person to submit data on assets and incomes directly.

In **Montenegro**, the Agency for the Prevention of Corruption is authorized to verify the data from the reports with the data collected on the property and income of office holders from authorities and legal persons possessing such data by making available the requested documentation.²⁷⁷ An office holder can give consent to the Agency to access his data on bank accounts and accounts of other financial institutions in order to verify the data from the report on income and assets. In cases of discrepancies between reports and the obtained information, the office holder must provide detailed information on the grounds of acquiring property and income. The process of verification of the data from the Report remains secret to the public.²⁷⁸

In **North Macedonia**, after the declaration has been submitted, the State Commission has the authority to verify the given information by collecting, comparing and analyzing data obtained from legal entities and natural persons, who possess the necessary data.²⁷⁹ In the event that personal data is found to be incomplete, inaccurate or out of date in, the State Commission shall take measures to supplement, amend or delete it.²⁸⁰

If there is a reasonable suspicion that the property of these public officials disproportionately increased compared to his regular income or the income of his family members, The State Commission initiates an examination procedure of property status. The State Commission invites the person for whom the procedure is conducted to submit data on the basis for acquiring the property.

State bodies, bodies of units of local self-government, holders of payment operations and other natural and legal persons, at the request of the State Commission and within the deadline determined by it, are obliged to provide all information necessary for determination of the factual situation which is important for checking the data and examination of the property of the public official.²⁸¹ If the State

²⁷⁶ The Agency for Prevention of Corruption will notify the competent authority on the established discrepancy between the data from the report and actual state. Art. 76 of the Law on the Prevention of Corruption.

²⁷⁷ Art. 30 par. 1 and 2 of the Law on Prevention of Corruption.

²⁷⁸ Art. 30 par. 1 of the Law on Prevention of Corruption.

²⁷⁹ Art. 92 of the Law on Prevention of Corruption and Conflict of Interest.

²⁸⁰ Art. 88 of the Law on Prevention of Corruption and Conflict of Interest.

²⁸¹ Art. 95 of the Law on Prevention of Corruption and Conflict of Interest.

Commission does not establish that the property was acquired or increased as a result of income reported and taxed, it can initiate criminal proceedings to the competent public prosecution.

Indicator 8. Obligation of public official to transfer his managerial rights in a private company, if he has any. The only exceptions may be allowed for public officials who own a small percentage of shares.

For the sake of prevention of CoI public officials cannot be owners of the private companies on whose operation they decide in the course of their public office, or which enter in contracts with the state (with the exceptions of small stakes or shares which could be tolerated, but also examined on individual basis). Only the legislation of Serbia is fully in line with standards regarding this issue.

An office holder whose public office requires the establishment of an employment relationship in a public authority, may not, while discharging public office and civil servants in **Serbia** are not allowed to establish a company, public service or start performing business activity, while discharging public office and civil service.²⁸² The Law on Prevention of Corruption also prohibits office holders from being a representative or member of the body of a privately owned legal person or exercising management rights while performing a public office.

An office holder who possesses at the time of the election or appointment a stake or shares in a company, which entitles him to management rights, is obliged to transfer the management rights to either a legal or natural person within 30 days from the day of his appointment or election.²⁸³ The same rules are to be applied if an office holder acquired these stakes or shares while discharging public office. The person to whom the management rights are transferred becomes an associated party in the terms of the Law on the Prevention of the Corruption and both the company and Agency for Prevention of Corruption are to be informed on this, together with the evidence of the transfer.

The aforementioned rules are not to be applied to a situation in which an office holder acquired a stake or a share in a company of up to 3%. According to the Law on Civil Servants the same provision regarding transfer of managerial rights are to be applied on civil servants.²⁸⁴

The Law on Prevention of Corruption in **Montenegro** states that a person who is the owner or founder of a company, institution or other legal person must

²⁸² Art. 48 sec. 1 of the Law on the Prevention of Corruption, Art. 28 of the Law on Civil Servants.

²⁸³ Art. 51 of the Law on the Prevention of Corruption.

²⁸⁴ Art 28 sec. 2 of the Law on Civil Servants.

transfer his managerial rights in these entities to another legal or natural person within 30 days from the election, appointment or assignment to public office, in order for that person to exercise these rights in their name and on behalf of the office holder until the termination of his public office. If the company or other previously mentioned entity has a management body in which the office holder exercises his managerial rights as a member of the body, the transfer of managerial rights shall include the obligation of the office holder to resign from the membership in the management body. Additionally, the Agency for the prevention of Corruption must be informed about the transfer of managerial rights. The person to whom the office holder has transferred managerial rights shall become a person related to the office holder, with all the legal consequences of that status.²⁸⁵

Also, an office holder must not be the president, authorized representative or member of a management body or supervisory board, or the executive director or member of management in a company and has the obligation to resign from such function.²⁸⁶

Civil Servants or State employee also may not be a chairman or member of management or supervisory body of a business organization.²⁸⁷

There are no explicit legal obligations for the office holders on the state level in **Bosnia and Herzegovina** and FBiH entity level to transfer their managerial rights in a private company. There is however a general regulation that an “engagement in a private company, in conditions in which a CoI is created, is incompatible with the public functions of an office holder”.²⁸⁸ Also, office holders may not vote on any matter directly affecting a private enterprise in which they or financially related persons have a financial interest. Office holders who find themselves in such situations will abstain from voting, and explain in open session the reasons why they abstained.²⁸⁹

When it comes to relations of office holders to private companies in the **Republic of Srpska**, office holders may not, while performing public functions and 3 months after the termination of public office, be members of management boards, supervisory boards or directors of companies in which they invested capital in the period of 4 years before taking over the public function and which do business with the authority of the Republic or local self-government unit at the time when

²⁸⁵ Art. 10 of the Law on Prevention of Corruption.

²⁸⁶ Art. 11 of the Law on Prevention of Corruption.

²⁸⁷ Art. 79 par. 1 of the Law on Civil Servants and State Employees.

²⁸⁸ Art. 4 par. 3 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 4 par. 3 of the Law on Prevention of CoI in State Organs of the Federation of BiH.

²⁸⁹ Art. 7 par. 1 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 7 par. 1 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

the office holder performs public functions and if the value contract or business greater than 30,000 KM.²⁹⁰

Civil servants and state employees in the body of the local self-government units who were engaged in entrepreneurial activity before establishing employment in the bodies of a local self-government unit, or were the founder, owner or majority owner of a company or institution, have to submit to the employer all the information on person to whom the management and other rights were transferred.²⁹¹ This also implies that a person who is an entrepreneur may not establish an employment relationship in the capacity of an employee in the city or municipal administration.²⁹²

Finally, in **North Macedonia**, a person who becomes office holder who owns a company and manages it, is obliged, before taking office, to entrust ownership rights to another person or body, other than members of his family, during the performance of public service.²⁹³ In case that office holder as a member of managerial body has managerial rights, the transfer of the managerial rights implies an obligation for the office holder to resign from the membership in the governing body.²⁹⁴

Office holder has to report to the institution, ie the body in which performs the function about the legal entity that he owns, in which he has shares or stakes or a management function.²⁹⁵ He also has to submit to the State Commission the data on the person to whom it has transferred the management rights. The person to whom the elected or appointed person has transferred the management rights shall be considered a person with whom the official has a private interest.

Office holder may not be a member of management or supervisory body in a trade company, public enterprises, agencies, funds and all other legal entities with dominant state capital. On the other hand, public sector employee may be a member of an administrative or supervisory body in a company, public enterprises, agencies, funds and other legal entities with dominant state capital.²⁹⁶ No exceptions to this rule have been provided.

²⁹⁰ Art. 6 sec. 2 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

²⁹¹ Art. 44 sec. 3 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units.

²⁹² Art. 44 sec. 1, 2 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units.

²⁹³ Art. 45 of the Law on Prevention of Corruption and Conflict of Interest.

²⁹⁴ Art. 45, sub. 4 of the Law on Prevention of Corruption and Conflict of Interest.

²⁹⁵ Art. 42, par. 2 of the Law on Prevention of Corruption and Conflict of Interest.

²⁹⁶ Art. 49 of the Law on Prevention of Corruption and Conflict of Interest.

(3) Identification and reporting of situations that may result in conflict of interest:

Indicators	Value	SRB	MNE	BIH			MKD
				BIH	FBIH	RS	
1. Existence of obligation and procedure clearly established within the primary legislation for reporting a possible conflict of interest by a public official.	0-3	3	3	1	1	3	3
2. Existence of by law stipulated obligation for the public official to be timely introduced to all the relevant rules for the prevention of conflict of interest.	0-3	3	2	1	3	0	0
3. Detailed regulation of the procedure to determine if the conflict of interest exists. The provisions on the authority competent for the procedure is required to be stipulated by the law.	0-3	3	3	2	2	3	3
4. Precisely and extensively determined circle of with the public official related persons that are also subjected to the rules regarding the prevention of conflict of interest.	0-3	2	3	3	3	3	3
5. Existence of be law stipulated obligation of regular (or due to changes - extraordinary) declaration of assets and income for office holders and senior civil servants.	0-3	2	2	2	2	3	3
6. Keeping a register on assets and income of office holders and senior civil servants and its regular publication.	0-3	3	3	1	1	2	3
7. Existence of a procedure that empowers the competent authority to verify the fidelity of the reported information.	0-3	3	3	1	1	0	3
8. Obligation of public official to transfer his managerial rights in a private company, if he has any. The only exceptions may be allowed for public officials who own a small percentage of shares.	0-3	3	2	1	1	2	2
Total points		22	21	12	14	16	20
Average points		2,75	2,62	1,5	1,75	2	2,5
Standard score	0-5	5	5	2	3	3	4

Summary assessment for the standard

Effective application of rules on CoI requires that these rules are clear, unambiguous and easily accessible. For that reason, it is necessary that laws and by-laws on this matter contain provisions clearly explaining rules and applicable exceptions. Apart from the pure existence of these rules, it is necessary that persons concerned are aware of their duties in order to cultivate a commitment for the public good. Only the legislation of Serbia and Montenegro can be perceived as fully in line with the international standard. Most of the analysed laws and by-laws recognized the importance of prescribing the duty of the state organs to introduce all the relevant rules on prevention of CoI to the public officials so that can act accordingly. An exemption represents legislation of Bosnia and Herzegovina (either on state or entity level), since legislation of BiH and of the

Republic of Srpska does not contain appropriate provisions on introducing relevant rules on CoI to public officials.

Fulfilling the aforementioned duty by the authority provides public officials with enough knowledge, skills and awareness that they have to declare situations that are or can be CoI. By declaring the problematic situations, public official will make it possible for the organs they work in to react properly to any alleged CoI, with a great possibility to prevent it. Biggest issue in the legislation of the analyzed countries represents the lack on rules on reporting a possible CoI in laws of Bosnia and Herzegovina (on state level and on FBiH level). However, all the countries own clear rules on the procedure to determine if the CoI exists or not and all of them broadened the application of the CoI rules also on to widely defined circle of related persons.

CoI situations include financial and non-financial interests. Financial interests include, but are not limited to, ownership of businesses, also through stocks and shares, beneficial interests in trusts or other properties, ownership of real properties and personal properties, accounts receivable and payable, outside self-employment or employment. Reporting of real assets and property will not reveal outside activities or other interests, unless there is a relation to a third party to be reported. In order to identify such potential CoI, it is necessary that the list of required information in the report is broadened, which helps indicate if the public official has a private interest standing in conflict with the private one.

Legislation of all the analysed countries stipulates the duty of office holders to declare their property, stock, shares, incomes and other forms of beneficial interests. Only in Bosnia and Herzegovina (on all levels) civil servants are also subject of this duty, which is a questionable solution in the terms of the administration's capacity to control all the applications. In North Macedonia and in Serbia, apart from office holders, senior civil servants have to submit report on their property due to the duties that are assigned to them.

In the legislation of all countries, provisions on the office holder's duty of transferring managerial rights in private companies and informing competent authority could be found. Bosnia and Herzegovina on the state and FBiH levels falls significantly behind because of vague and too general regulation.

Legal frameworks of the all analysed countries provide for some system of keeping a register on assets and income of office holders and those systems are organized mostly in line with international standards, with the exception of legislation of BiH due to lack of relevant norms within primary legislation. The other important aspect of the duty to keep register on assets and incomes represent the mechanisms for controlling the content of the submitted reports. State commissions or anti-corruption agencies are empowered adequately for such

actions in Montenegro and North Macedonia, while in Bosnia and Herzegovina legislation only partially stands in line with the standards due to non-compliance of legislation on entity levels with legislation of state level. The entity of the Republic of Srpska falls significantly behind on this issue because no regulations on this matter could be found.

Standard 4: IMPARTIALITY IN ADMINISTRATIVE DECISION MAKING AND CONTRACTING

Indicator 1. Existence of legislative framework that addresses and prevents potential conflict of interest in decision making process, caused by marital relations and nepotism, as well as other (in)direct monetary or non-monetary relations that could put in danger impartiality of the persons acting on behalf of the administration.

The regulations in the analysed countries are similar on this issue, with the exception of North Macedonia, where the relevant legal framework is somewhat scarce, but still mostly in line with the international standards. Effective legal framework that addresses nepotism and possible conflict of interest caused by marital relations is *conditio sine qua non* for impartial discharge of administrative function.

Office holder in **Serbia** may also not be a member of the body of an association or its representative if between public office and membership in the body of the association or the representation of the association exists the relationship of dependence that jeopardizes or could jeopardize the impartiality and reputation of the office holder and his public office.²⁹⁷

A civil servant must not be a director, deputy or assistant director of a legal person, while he can be member of the board of directors, supervisory board or another governing body of the legal entity if he is appointed by the Government or any other government body.²⁹⁸ A civil servant can also be a member of an association's body, but he must notify his superior on all memberships in the bodies of legal entities.²⁹⁹

The Law on Prevention of Corruption in **Montenegro** defines integrity as a "legitimate, independent, impartial, accountable and transparent performance of duties based on which the public officials and other employees of an authority protect their reputation and the reputation of the authority, provide confidence of citizens in the performance of public functions and the operation of the authority and eliminate doubts about the possibility of the emergence and development of corruption."³⁰⁰ The impartiality – avoiding of the potential conflict of interest in decision making process, caused by marital relations and nepotism, is guaranteed by application of the relevant norms of this law to the circle of related persons to the office holder, which were thoroughly explained in the Indicator 3.4.

²⁹⁷ Art. 49 of the Law on the Prevention of Corruption.

²⁹⁸ Art. 29 of the Law on Civil Servants.

²⁹⁹ Art. 29 of the Law on Civil Servants.

³⁰⁰ Art. 72 of the Law on Prevention of Corruption.

In **Bosnia and Herzegovina**, regarding office holders, on the state and FBiH level law stipulates that the involvement of close relatives of the elected official, executive officer and adviser also leads to a situation where there is a conflict of interest.³⁰¹ For the definition of the close relative, see Indicator 3.4.

The Law on Civil Service in the Institutions of Bosnia and Herzegovina stipulates that the civil servant must act impartially in fulfilling his duties and the hence he especially “does not seek or accept for himself or his relatives any gain, benefit, compensation in money, services and the like, except those permitted by this law”³⁰²

Office holders in **Republic of Srpska** may not vote on any issue directly related to the company in which he or a member of his family has a financial interest and is obliged, when he finds himself in such situations, to abstain from voting, and to explain to the session the reasons for abstaining from voting.³⁰³ On the other hand, a civil servant may not make decisions, ie participate in making decisions that affect the financial or other interest of his or her spouse, child or parent.³⁰⁴

Also, in the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units there is a general prohibition for civil servants and state employee to participate in making decisions that affect his financial or other interest, or the financial or other interest of his related persons.³⁰⁵ For that reason, civil servants and state employees are obliged to inform the non-possessing manager in writing of any interest he may have in connection with the decision in the adoption of which he participates, in order to decide on his exemption.³⁰⁶

In **North Macedonia**, the Law stipulates that a public official must not influence the employment or promotion of a close person in the body in which he is elected or appointed or in another state authority or public enterprise, public institution or other legal entity that has state capital at its disposal due to which it supervises the body in which the person is elected, ie named.³⁰⁷

³⁰¹ Art. 8a of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 9 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

³⁰² Art. 14 par 3 of the Law on Civil Service in the Institutions of Bosnia and Herzegovina and Art. 17 par 3 of the Law on Civil Service in the Federation of Bosnia and Herzegovina.

³⁰³ Art. 6 sec. 2 of the Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska.

³⁰⁴ Art. 23, sec. 5 of the Law on Civil Servants.

³⁰⁵ Art. 45, sec. 3 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units defines related persons as: spouse or common-law spouse, children (married, illegitimate and adopted), stepchildren, children taken into custody, and other orphans taken as dependent, mother, father, stepfather, stepmother, adoptive parent, maternal and paternal grandparents, brothers and sisters.

³⁰⁶ Art. 47, sec. 1 of the Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units.

³⁰⁷ Art. 56 par. 1 of the Law on Prevention of Corruption and Conflict of Interest.

An elected or appointed person or a responsible person in a public enterprise and other legal entity that raises state capital is obliged to inform State Commission for each election, appointment or employment, promotion of a member of his family in a state body, a body of local self-government, public enterprise or other legal entity that has state capital, within ten days from the day of the selection, appointment, promotion or employment.³⁰⁸

Indicator 2. The possibility of the abstention (exemption) procedure provided for the person acting on behalf of the administration (if in conflict of interest) and the possibility for the introduction of the third, independent party to make the decision in question.

With the exception of North Macedonia and the entity of Republic of Srpska, the regulation on this issue remains rather general in the legislative framework of the analysed countries. Regulations are however either fully or partially in line with the standards, with the exception of Montenegro, which can be described as only partially in line with standards because of too general and somewhat lacking regulations.

An office holder in **Serbia** is obliged to terminate the proceedings in a case in which there is a suspicion of a conflict of interest, unless there is a danger of delay.³⁰⁹

Upon notifying his superior about the existence of conflict of interest or the mere suspicion, civil servant has to refrain from any further activities that may jeopardize the public interest, until his superior appoints another civil servant to perform those tasks.³¹⁰ This especially applies to a decision-making process on the rights and obligations of legal entities or entrepreneurs where the civil servant performs additional work two years before performing supervision or control, i.e. decision-making.

The Law on Prevention of Corruption in **Montenegro** provides with the procedure for the cases when office holder is having suspicions about the existence of possible conflict of interest. He is to take measures to resolve the conflict of interest in accordance with the law, and report it to the Agency, which will issue its opinion on the subject. These proceedings are confidential.³¹¹

According to the Law on the state level in **Bosnia and Herzegovina** (as well as in FBiH entity), office holders must not take any official action that could

³⁰⁸ Art. 56 par. 2 of the Law on Prevention of Corruption and Conflict of Interest.

³⁰⁹ Art. 42 sec. 2 of the Law on the Prevention of Corruption.

³¹⁰ Art. 30 sec. 1 of the Law on Civil Servants.

³¹¹ Art. 28 and 29 of the Law on Prevention of Corruption.

directly affect a private enterprise in which they or related persons have a financial interest. In such situations, office holders must forward the decision to take action to another competent authority and state in writing the reasons for such referral.³¹²

A civil servant in **Republic of Srpska** shall refrain from participating in decision-making and activities related to his personal interests; interests of his relatives or persons from his immediate living environment; interests of individuals or the organization with which the civil servant or his spouse is in a current legal dispute or to which he is a protector or a manager. The civil servant will also refrain in all other cases where it exists a serious basis for violation of his interests.³¹³ The final decision of the refrainment of the civil servant is reached by his superior.

In **North Macedonia**, when a conflict of interest is identified, public official has to ask to be exempted and cease being involved in the matter concerned; his recusal has to be accepted by a decision of a body to which he is elected, appointed to, where he discharges his public office or at the request of an interested party.³¹⁴ When the public official finds out about circumstances indicating a conflict of interest or of a potential conflict of interest is due immediately to ask to be exempted and to stop his further actions.

The public official who participates or decides in the procedure for selection, appointment or employment is obliged to inform the managing person and the institution where he performs his public duties about all proceedings that may give rise to a conflict of interest.³¹⁵

After determining the relationship of the public official with the candidate for selection, appointment or employment, the manager shall be obliged to take all necessary measures to prevent the occurrence of conflict of interests. The official and the manager may request an opinion from the State Commission on Prevention of Corruption.

If an official participates in a hearing of an organ or body in which it is decided about matters for which he or a close person has a private interest, the official shall be obliged to report the existence of the private interest and to be excluded before the hearing and before the decision has been reached.³¹⁶

³¹² Art. 7 par. 2 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 7 par. 2 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

³¹³ Art. 7 of the Code of Conduct of Civil Servants.

³¹⁴ Art. 75 of the Law on Prevention of Corruption and Conflict of Interest.

³¹⁵ Art. 74 of the Law on Prevention of Corruption and Conflict of Interest.

³¹⁶ Art. 73 of the Law on Prevention of Corruption and Conflict of Interest.

Indicator 3. Existence of a procedure for the affected party to challenge the disputably partial (favourable) decision by the person acting on behalf of the administration.

Existence of a possibility for the affected party to challenge the disputably partial (favourable) decision by the person acting on behalf of the administration is the prerequisite for effective combating and prevention of CoI. This issue is regulated in the similar manner in the countries that were analysed (reaching the highest scores), apart from Serbia and the entity of the Republic of Srpska where the relevant norms are not to be found and is hence considered not to be in line with the standards.

The only provision applicable to this matter in the legislation of **Serbia** would be that concerning the duty of the Agency for Prevention of Corruption to act upon anonymous action containing a claim and evidence about the corruption involving office holder.³¹⁷

In **Montenegro**, when office holders are concerned, the procedure for violating the impartiality that had led to the CoI in the exercise of public function, breaking of the rules about receiving gifts, or if fidelity of the reports on income and assets of office holders comes in question, the Agency for the prevention of corruption has the authority to decide upon the matter. This procedure can be initiated *ex officio* or at the request of the authority in which the office holder exercises a public function or which elected him, other state or municipal authority or other legal or natural person. All the information about the applicant are treated as confidential, unless the applicant himself explicitly requests to make this information available to the public or to the office holder in question, as well as to his higher authority.³¹⁸

Regarding office holders in **Bosnia and Herzegovina**, on the state level the central authority for the determination of existence of the possible conflict of interest is the Commission for Prevention of Corruption of BiH. The procedure can be initiated either *ex officio* or upon request of any other person. The Republic of Srpska has no regulation on this matter.

Finally in **North Macedonia**, the public official will be exempted from performing of a certain action by decision of the body in which it is elected or appointed and after a request from an interested person who has learned of circumstances indicating a conflict of interest or a potential conflict of interest.³¹⁹

³¹⁷ Art. 91 of the Law on Prevention of Corruption.

³¹⁸ Art. 31 of the Law on Prevention of Corruption.

³¹⁹ Art. 75 of the Law on Prevention of Corruption and Conflict of Interest.

Indicator 4. Existence of clear and precise legal framework regarding contracting in cases when a public official has a key decision-making role in the evaluation of bidders and the award conditions, if at the same time he has an interest in a potential counter party.

Another requirement for the effective system of CoI prevention is a clear and precise legal framework regarding contracting in cases when a public official has a key decision-making role in the evaluation of bidders and the award conditions, along with the personal interest in the matter. Of all the analysed countries only North Macedonia is fully in line with standards concerning this issue, while Bosnia and Herzegovina (both on the state and entity levels), Montenegro and Serbia are mostly in line with standards.

In **Serbia**, when a legal person in which an office holder or his family member possesses a stake or a share greater than 20% participates in a public procurement or privatization procedures that result in concluding a contract with a public authority, another budget user or another legal person in which Serbia³²⁰ has more than 20% of the capital, this legal person has to notify the Agency for Prevention of Corruption on the information regarding this public official, public authority that has become a contractual party and other details on the concluded contract.³²¹ Described legal person has this duty not only while office holder discharges public office but also two years upon termination.

An office holder in **Montenegro** may not conclude a contract on the provision of services with a public enterprise or with a company that has a contractual relation or performs tasks for the authority in which the public official exercises his function. Also, the authority in which the office holder exercises his duties must not conclude a contract with the company in which the office holder and a person related to him have some private interest.³²²

In order to avoid possible conflict of interest the office holders on a state level (and FBiH entity level) in **Bosnia and Herzegovina** may not enter into contract on personal services with any public company or with any private contracting company, or otherwise do business with governments at any level. However, these provisions apply only to private companies that have entered into a contract or do business with the Government at the same time as when the office holder performs the function. Also, the value of the contract has to exceed 5000 KM per year.³²³

³²⁰ This also applies to the autonomous province, a local self-government unit or a city municipality of Serbia.

³²¹ Art. 53 of the Law on the Prevention of Corruption.

³²² Art. 14 of the Law on Prevention of Corruption.

³²³ Art. 8 par. 2 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 8 par. 2 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

In the entity of the **Republic of Srpska**, when signing a contract on behalf of a state administration body, a civil servant will not use his mediation to seek services from a third party, nor will he make promises in terms of speeding up the conclusion or execution of the contract. If a civil servant has signed private contracts in the previous two years with a company, he may not, on behalf of the administrative service, conclude contracts for the performance of public works, delivery, services, financing or insurance with this company. In the event that a state administration body concludes that kind of contract with that company, the civil servant shall refrain from taking part in decision-making and activities related to the execution of the contract.

A civil servant who concludes a private contract with companies with which he has officially signed a contract in the previous three years for the performance of public works, delivery, services, financing or insurance, will inform the head of the organizational unit about that fact in writing.³²⁴

In **North Macedonia** an official may not establish business relations with a legal entity that is in his ownership or in the ownership of a member of his family or in which they have shares and stakes or in which the responsible person is a member of his family.³²⁵ This kind of company cannot be a beneficiary of a grant, loan or financial support from the state or a unit of local self-government.

Indicator 5. The existence of the control body to which the contracting has to be declared and which assesses and monitors the existence of conflict of interest.

Only legislation in the BiH entity of Republic of Srpska does not clearly establish the control body to which the contracting has to be declared and which assesses and monitors the existence of CoI. In the case of other analysed countries, it is either some sort of the special Anti-Corruption Agency (Montenegro), the Agency for Pervention of Corruption (Serbia) or Commission for Prevention of Corruption (BiH).

All the data about the contracting of public officials in **Serbia** are to be submitted to and verified by the Agency for Prevention of Corruption.³²⁶

The Agency for the prevention of corruption in **Montenegro** establishes the existence of CoI in the exercise of public function and takes measures for its prevention, controls restrictions in the exercise of public function, gives an opinion on

³²⁴ Art. 13 of the Code of conduct for Civil Servants.

³²⁵ Art. 51 of the Law on Prevention of Corruption and Conflict of Interest.

³²⁶ Art. 53 of the Law on the Prevention of Corruption.

the existence of threats to the public interest that indicate the existence of corruption and makes recommendations for preventing threats to the public interest.³²⁷

On the state level in **Bosnia and Herzegovina** the central authority for the determination of existence of the possible CoI is the Commission for Prevention of Corruption of BiH.³²⁸

In **North Macedonia**, according to Greco report, although there is no explicit prohibition on office holders and civil servants entering into contracts with state authorities, they are to report to State Commission any transaction involving state assets in a company owned or controlled by them or a family member.³²⁹

(4) Impartiality in administrative decision making and contracting:

Indicators	Value	SRB	MNE	BIH			MKD
				BIH	FBIH	RS	
1. Existence of legislative framework that addresses and prevents potential conflict of interest in decision making process, caused by marital relations and nepotism, as well as other (in)direct monetary or non-monetary relations that could put in danger impartiality of the persons acting on behalf of the administration.	0-3	1	3	3	3	3	2
2. The possibility of the abstention (exemption) procedure provided for the person acting on behalf of the administration (if in conflict of interest) and the possibility for the introduction of the third, independent party to make the decision in question.	0-3	2	1	2	2	3	3
3. Existence of a procedure for the affected party to challenge the disputably partial (favorable) decision by the person acting on behalf of the administration.	0-3	0	3	3	3	0	3
4. Existence of clear and precise legal framework regarding contracting in cases when a public official has a key decision-making role in the evaluation of bidders and the award conditions, if at the same time he has an interest in a potential counter party.	0-3	2	2	2	2	2	3
5. The existence of the control body to which the contracting has to be declared and which assesses and monitors the existence of conflict of interest	0-3	3	2	2	2	0	3
Total points		8	11	12	12	8	14
Average points		1,6	2,2	2,4	2,4	1,6	2,8
Standard score	0-5	3	4	4	4	3	5

³²⁷ Art. 78 of the Law on Prevention of Corruption.

³²⁸ Art. 17 and 18 of the Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina and Art. 14 and 15 of the Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH.

³²⁹ Art. 53, 105 of the Law on Prevention of Corruption and Conflict of Interest.

Summary assessment for the standards

Existence of private interest of public official in decision-making process or concluding of private contract requires his exclusion from these processes. If this would not be the case, he would be in a situation to make a decision on the matter while favouring his interest of the interest of the related persons. There are several options standing in front of the public official: abstention from voting, withdrawal from the discussion by his own will or by the will of the state organ that will not provide the public official with necessary information referring to his private interest. Thanks to these measures undue influence on public decision-making process can be avoided. An important aspect of enabling impartial decision-making process is regulating CoI caused by marital relations and other forms of monetary and non-monetary relations, which has been recognized by all the analysed countries. The regulation of the matter is in line with international standards in all the legislations.

In all of the analysed legislations provisions on abstention and withdrawal of the public officer in the case of CoI are to be found. An issue is noticed in Montenegro where the provisions on the matter are too general, which influenced the total score Montenegro accomplished regarding this standard.

In all the other countries, especially in North Macedonia and in the Republic of Srpska, more detailed provisions explaining the procedure when a public official has a private interest that can be affected in the decision-making process, found their place within primary legislation. On the other hand, it is interesting to note that the legislation of Serbia and of the Republic of Srpska does not contain any provision on a procedure for the affected party to challenge the disputably favourable decision made by the administration.

Another issue represents awarding the contracts on behalf of the state since the public official finds himself in a situation in which he can abuse information and authority at his disposal by giving privileges to natural or legal persons with whom he has business or private relations. Only North Macedonia has clear and precise rules on the matter, while in legislation of other countries general rules on prohibition for public official to conclude a contract on his behalf or behalf of the authority. However, only the legislation of Republic of Srpska does not establish clear rule on the control body to which the contracting has to be declared. In all the other legislations, that role has been assigned either to anti-corruption agencies or to commissions for prevention of corruption.

6.2. Legal regime for police and military

6.2.1. SERBIA

Conflict of interest in the army and police in Serbia is regulated in a very good, but still incomplete way, due to the fact that these rules are fragmented and scattered in a number of regulations, creating problems in their application. This issue is partially regulated by the laws dedicated to the work of civil servants, anti – corruption, public procurement procedure, general administrative procedure, and by special rules on conflicts of interest in the military and police.³³⁰ Special laws on the Serbian Army and police establish rules on prevention of conflicts of interest, which are not comprehensive, but they certainly serve as indicators that some forms of conflict of interest in the military and police are recognized as undesirable and unacceptable. It is not unusual that these Laws do not contain provisions on certain situations and behaviours that represent conflict of interest, but do provide that breach of certain duties are a disciplinary offence. It means that there are no provisions explaining what is a duty of an officer or servant in a defence sector, while they can be held responsible for breaching these duties.

A ban from the Constitution of Serbia that prohibits the possibility of jeopardizing public activities by private interests of public office holders also extends to the members of the army and police. Protection of the citizens of one country through internal affairs and defence system requires the exclusion of the influence of particular interest in decision – making process and acting in accordance with reached decisions.

The Law on Civil Servants will be applied when the rights and duties members of the army and police are not regulated by special regulations,³³¹ while the General Administrative Procedure Act and its rules on exemption be relevant in proceedings in which rights and interests of the parties are decided upon. The Law on Prevention of Corruption will be especially important for the position of the selected, nominated and appointed public officials working in the systems of internal affairs and defence.

The Law on the Army prescribes that the Army of Serbia is neutral in the terms of ideology, interest and political parties.³³² It is also foreseen that the member of Serbian Armed Forces has to harmonize his personal interest with the public, general one.³³³ Basic principles in performing police duties are, apart from the principles of

³³⁰ During the negotiations on Serbia's accession to the EU, within Chapter 23 (Judiciary and Fundamental Rights) it was determined that further improvements were needed legal framework and administrative capacity to prevent conflicts of interest and ensure good understanding of this concept at all levels of public authority.

³³¹ Art. 8 of the Law on Army, *Official Gazette of the Republic of Serbia*, No. 16/2007, 88/2009, 101/2010 – other law, 10/2015, 88/2015, 36/2018, 94/2019 and 74/2021.

³³² Art. 12 - 13 of the Law on Army.

³³³ Art. 5 of the Code of Honor of Members of Serbian Army, *Official Military Gazette*, 2010.

professionalism, depoliticization, cooperation, cost-effectiveness and efficiency, legality of work, also principles regulating the activities of public administration authorities, and of civil servants, and the procedure in administrative matters.³³⁴ Also, numerous bylaws on police foresee the duty of police officers to act in an impartial manner, without putting private interest before the public one.³³⁵

Organization's Membership

A professional Serbian Armed Forces member can take part in activities of associations fulfilling the goals related to the system of defence and Serbian Armed Forces only if he provides the prior consent of the Minister defence.³³⁶ Thus, professional members of the military are limited in their ability to achieving and promoting a particular common or general goal and interest. What makes this provision questionable is the question whether this kind of membership represents conflict of interest in the first place and the question based on what criteria will the Ministry of Defense assess the presence of conflict of interest in the given situation.

When it comes to police, basic principles regarding prevention of conflict of interest can be found in the Law on Police: professionalism, depoliticization, efficiency and legality in work.³³⁷ Apart from that, the Law on Police prescribes the duty of police to ensure everyone equal protection of security, rights and freedoms, while applying law and the Constitution. The prohibition of conflicts of interest is also indirectly prescribed by the rules on operational independence in the work of the police.³³⁸

Asset Declaration

The Law on Prevention of Corruption defines the obligation of public officials to report their incomes and assets, which indicates that only elected, appointed and nominated persons in defence sector are subject to this duty. The Law on Police also

³³⁴ Art. 32, 33 of the Law on Police, *Official Gazette of the Republic of Serbia*, No. 6/2016, 87/2018. Also art. 67 of the Law on Police and art. 9 of the Code of official ethic, *Official Gazette of the Republic of Serbia*, No. 17/2017-51.

³³⁵ Art. 5 of Rulebook on behaviour and personal appearance of police officers and other employees at the Ministry of Internal Affairs, Code of official ethic, *Official Gazette of the Republic of Serbia*, No. 13/2018-32, 83/2021-78; art. 9 of the Code of official ethic.

³³⁶ Art. 14a of the Law on Army. This provision has been introduced in 2008 and in the beginning, it banned completely the possibility of membership in these organizations. In 2015 this ban was mitigated through Law amendments and membership can be allowed to professional members of the Army if the Ministry of defense gives his consent.

³³⁷ Art. 12 of the Law on Police.

³³⁸ Art. 12 of the Law on Police.

contains certain provisions on this matter.³³⁹ Some of the officials involved in the property registration process are their defence and police ministers, their assistants, state secretaries of the two ministries, the Chief of the General Staff and his Deputy, the Director police. The middle level of managers and decision makers has been omitted from the obligation to report assets, which makes it impossible to check the relationship between income and assets. That is why a discrepancy between the officially available ones and funds and assets at their disposal can go unnoticed.

Managers as well as employees in high-risk jobs in the Ministry of Internal Affairs established by risk analysis of corruption are obliged to submit an asset declaration to the Internal Control Sector. Internal Control Sector will control the submitted information and if any changes in the property of these persons occurred. If there are any changes, managers and employees in high-risk jobs in the Ministry of Internal Affairs have to report it to Internal Control Sector no later than the 31st of January of the current year for the changes occurred in a previous year.³⁴⁰ The property card contains personal data and data on the property and income of the employee in the Ministry and the persons with whom he lives in a joint family household. However, the Law on Police neither defines who the managers are, nor establishes the list of positions which will necessarily be considered particularly risky. All these issues and rules on collection of data on changes in property are and must be regulated by bylaws, which in this sector are often insufficiently available to public.³⁴¹ Rulebook on the manner of control of registration and change of property status in the Ministry of Internal Affairs contains more precise rules on the procedure of assets and income declaration. This bylaw prescribes the manner of control of the declaration of property status and change of property status of employees in the Ministry of the Interior, which are recorded in the personal property card. The collision with the Law on Police is that this bylaw in its 1st article foresees this obligation for all employees in Ministry of Interior Affairs, which are police officers, civil servants, and common service employees.³⁴² This would indicate that this duty is defined in a broader manner in the bylaw than in the law itself. But from the further provisions and the form of property card, which is also a part of the Rulebook, it can be indirectly concluded that only Managers and employees in high-risk jobs in the Ministry have to submit asset declaration.

The employee fills in the property card in electronic form available on the official intranet website of the Ministry, no later than 30 days from the occurrence of

³³⁹ Failure to report changes in the assets declaration represents serious violations of official duty. Art. 207 of the Law on Police.

³⁴⁰ Art. 230v of the Law on Police.

³⁴¹ Sofija Mandić, *Predlog za unapređenje sprečavanja sukoba interesa u vojsci i policiji Srbije*, Beograd 2016, 8.

³⁴² Art. 10 of the Law on Police.

the obligation, as well as in analog form, which he, within that period, submits to the Sector.³⁴³ Personal property records and data on the registration of property status for managers (strategic, high, middle and operational level) and for employees in high-risk jobs determined by risk analysis of corruption, who have the obligation based on their position, status or work places of reporting property to the Agency for the Prevention of Corruption are kept on the basis of taking over data from that state body.

Control of asset registration begins within 30 days from the day of entering the position where the employee has the obligation to report asset, based on the notification of the Sector and the employee by the organizational unit of the Ministry responsible for human resources that the employee started working in such a position and is provided by filling in the prescribed form and downloading data from official records.³⁴⁴

Based on the plan of regular annual control the Sector prepares the report which is submitted to the Minister of Interior Affairs. Apart from the regular control, the Sector controls of asset registration on its own initiative or upon the request of the public prosecutor, on the basis of collected information, also the anonymous ones.

The Sector compares the data from the property card form with the data of competent state bodies and other legal entities and if necessary, performs other checks in accordance with law.³⁴⁵

If the Sector in the control procedure determines that there is a discrepancy between the reported data in the form of property card and the actual situation or that there is a discrepancy between the increased value of the employee's property and his legal and reported income and assets, the Sector determines the essential facts within 30 days and asks the employee to explain the circumstances of the observed discrepancy as well as the circumstances of the established factual situation. If the Sector determines non-reporting or untimely reporting of assets and changes in property status and reporting of incorrect data, it prepares a report ordering the elimination of identified irregularities and implementation of measures of responsibility in accordance with the law and other regulations issued by law. The Sector submits a report to the head of the organizational unit in which the employee works, who is responsible for the implementation of the ordered and proposed measures and for the feedback of the head of the Sector.³⁴⁶

³⁴³ Art. 2 of Rulebook on the manner of control of registration and change of property status in the Ministry of Internal Affairs, *Official Gazette of the Republic of Serbia*, No. 49/2018-23, 14/2020-85.

³⁴⁴ Art. 3 of Rulebook on the manner of control of registration and change of property status in the Ministry of Internal Affairs.

³⁴⁵ Art. 3 sec 5 of Rulebook on the manner of control of registration and change of property status in the Ministry of Internal Affairs.

³⁴⁶ Art. 3 sec. 7 of Rulebook on behaviour and personal appearance of police officers and other employees at the Ministry of Internal Affairs

Information that has to be submitted are personal information of the employee and his spouse, extramarital partner and members of the joint household, information on income, income from other activities, incomes from scientific activities, cultural, artistic or sports activities, revenue from IP and copyright, income based on membership in the bodies of the association.³⁴⁷

Apart from the income declaration, employees have to submit asset declaration, which includes immovable property in Serbia and in outland, movables that are subject to registration and those of high value. Information on account debt, other bank accounts, loan debts, bonds, the safe, insurance policies, stocks.

Gifts and Privileges

When it comes to gifts and privileges, Law on Police and Law on Army do not contain provisions on this matter. It means that provisions of the Law on Civil Servants and Law on Prevention of Corruption are to be applied accordingly. On the other hand, Code of official ethics, which is applicable to police officers, prescribes that police officers must not demand or receive gifts for their work or abuse their official position.³⁴⁸ Law on Army just provides that reception of gifts related to the execution of duty outside the provisions of the law, accepting service or benefit for oneself or another person or the use of service for influence in fulfilment of one's own rights or rights of persons related to the Serbian Armed Forces member represents disciplinary offence.³⁴⁹

Additional Employment

Provisions on Civil Servants are to be applied accordingly when it comes to the issue of additional employment.

Employees of the Ministry of Internal Affairs may perform jobs and activities outside working hours, i.e. perform additional work, with the approval of the head of the organizational unit in which the employee is deployed, provided that these jobs and activities, i.e. additional work, are not prescribed by law governing the rights and duties of state officials as incompatible jobs and activities, i.e. that they may cause a

³⁴⁷ <http:// prezentacije.mup.gov.rs/sukp/imovinski/OBRAZAC%20IMOVINSKOG%20KARTONA%20PROSIREN.pdf>, 06. 04. 2021.

³⁴⁸ Art. 5 of the Code of official ethic. Also, art. 5 of Rulebook on behaviour and personal appearance of police officers and other employees at the Ministry of Internal Affairs.

³⁴⁹ Art. 149 (24) of the Law on Army.

conflict of interest or affect the impartiality of work.³⁵⁰ While performing additional work and activities, employees in the Ministry of Internal Affairs must not invoke the status of police officers and employees in the Ministry, nor may they use official identification, weapons or other means. In case of need, the employee is obliged to terminate additional work and make himself available to the organizational unit of the Ministry in which he is deployed. Employees are obliged to immediately inform the immediate supervisor and report the event to the competent organizational unit of the Ministry about all information obtained during the performance of additional work, which relates to the commission of criminal acts, misdemeanours or other illegal actions and behaviour.³⁵¹ Previous amendments of the Law on Police prescribed that the employees of the Ministry of Internal Affairs may not perform activities whereby they commercialize their knowledge and skills acquired while working in the Ministry of Internal Affairs. This provision also used to include ban of the engagement in free – lance and other business activities and of performance of functions and activities that are incompatible with official duties, or which may lead to the conflict of interest and affect impartiality at work. But both the provisions on commercialization of knowledge and additional activities that may cause conflict of interest have not found their place in the latest version of the Law on Police. What also one has to bear in mind is that police officers in the status of authorized officers have to perform their police duties and exercise police powers also outside their working hours.³⁵²

A professional member of the Serbian Army may, under the conditions established by law, work for a fee or reward outside the unit or institution or independently perform professional activities only with the approval of the Chief of General Staff or of an officer authorized by him in the Serbian Army, or of the Minister of Defence or of manager of an organizational Ministry of Defence unit, authorized by the Ministry of Defence.³⁵³

Law on Police and Law on Army do not in any way deal with conflicts of interest of associated parties. Responsibility for these parties is established indirectly and in two ways - through the provisions of the Law on Civil Servants and the Law on Prevention of Corruption. This means that the Law on Civil Servants (which is applied in the absence of special rules and to members of the army and police) indicates that the prohibition of conflicts of interest in the civil service extends and to those who are defined by the Law on Prevention of Corruption as associated parties. However, experience shows that this kind of chain reference to others regulations generally

³⁵⁰ Art. 168 of the Law on Police.

³⁵¹ Art. 168 sec. 4 of the Law on Police. Engaging in activities incompatible with official duties represents serious violations of official duty. Art. 207 of the Law on Police.

³⁵² Art. 42 of the Law on Police.

³⁵³ Art. 52 of th Law on Army.

does not yield results. Liability of related parties should explicitly be regulated by the Law on Army and Law on Police.

Decision Making

Provisions of the Law on Civil Servants are applied accordingly, together with the provisions of the General Administrative Procedure Act on exclusion of the public servant deciding in administrative matter or performing certain actions in the procedure.³⁵⁴ The only provision of the Law on Army is the one that prescribes that failure to report the interest the Serbian Armed Forces member or a person related to him can have pertaining to decision made by a state body if he participates in its making represents a disciplinary offence.³⁵⁵

³⁵⁴ Art. 32-38 of the General Administrative Procedure Act, *Official Gazette of the Republic of Serbia*, No. 18/2016, 95/2018, 2/2023.

³⁵⁵ Art. 149 (25) of the Law on Army.

6.2.2. MONTENEGRO

Police

The internal affairs, i.e. police affairs, the manner of performance and other issues of importance for the performance of police duties are regulated in Montenegro by the Law on the Internal Affairs.³⁵⁶ Since the administrative internal and related affairs, as well as certain police affairs are performed by the state administration body in charge of internal affairs (the Ministry of the Internal Affairs), apart from this law, the general labor legal framework (the Law on Civil Servants and State Employees) applies to the rights, duties and responsibilities of the police and Ministry employees, if they are not otherwise explicitly regulated by the Law on Internal Affairs.³⁵⁷

Regarding measure for avoiding the possible CoI, the Law on Internal Affairs stipulates the general prohibition of independent performance of economic or other activity for police officers. A police officer may not therefore independently perform economic or other activities, nor perform tasks or provide services to a legal or natural person. Exceptionally however, a police officer may, outside regular working hours and with the prior written approval of the Minister or a person authorized by him, perform tasks independently or with a legal or natural person that do not affect the lawful and proper performance of internal affairs. Also, a police officer may, outside regular working hours and also with the prior written approval of the Minister or persons authorized by him, perform activities or provide services to legal entities founded by a trade union operating in the Ministry, established to improve the social position of members or strengthen trade union institutions.³⁵⁸ The general prohibition hence has significant exception, which are all however conditioned by written approval of the Minister.

The Law itself does not have any other provisions relevant for the prevention of conflict of interest. Some of the stated “severe violations of police duty” imply the protection against CoI and personal gain that could be achieved through it. Unlawful acquisition of personal or property gain, engaging in activities that are incompatible with official duty or without the written approval of the Minister and corruption are treated as severe violations of police duties that are to be sanctioned harshly.

Further Montenegrin regulations concerning CoI in police can be found in the Code of Police Ethics that is based upon the Law on Internal Affairs.³⁵⁹

³⁵⁶ Law on the Internal Affairs, *Official Gazette of the Republic of Montenegro*, No. 44/2012, 36/2013, 1/2015 and 87/2018.

³⁵⁷ Art. 7 of the Law on Internal Affairs.

³⁵⁸ Art. 95 of the Law on Internal Affairs.

³⁵⁹ Art. 15 of the Law on Internal Affairs.

In this code, the obligation to submit the property card is stipulated.³⁶⁰ Code of Police Ethics also contains rules about receiving gifts. There is a general prohibition for police officers to accept gifts while performing police work, except in cases prescribed by law, in which he is obliged to inform his superior. If a police officer is offered a gift or some other benefit to do a task, he is obliged to refuse it and to identify the person who offered it. Part of the procedure is also reporting the offer of the gift and make an official note on it.³⁶¹

Finally, the Chief of Police is obliged to inform the person who first starts working as a police officer with the provisions of the Code of Police Ethics.³⁶²

The scarcity of the special legislation, as well as the provisions of the Code of Ethics, lead to conclusion that the general legal framework regarding the CoI is to be applied (by proclaimed subsidiarity) when it comes to most issues that may arise regarding this topic.

Defence Sector

The organization of the Army of Montenegro, service in the Army, rights, obligations and status of persons serving in the Army and other issues of importance to the Army are regulated by the Law on the Armed Forces of Montenegro.³⁶³ Just as when it comes to the police, if a particular issue is not regulated by this law, the Law on Civil Servants and public Employees is to be applied (subsidiary application of law).³⁶⁴ In comparison with police, these regulations about avoiding CoI in the military are more detailed, though many of them actually contain the same solutions that are applied to the general regime.

The obligation to avoid the CoI is explicitly stipulated by the Law.³⁶⁵ A person serving in the Army may not use his position in the Army for the purpose of achieving a private interest, as well as use state property and information that stand at his disposal to achieve such purposes.³⁶⁶

The regulation regarding gifts is similar, but not entirely the same as the one provided by the Law on Civil Servants and State Employees. The Law on the Armed Forces of Montenegro states that a person serving in the Army may not receive gifts, except

³⁶⁰ Art. 11 of the Code of Police Ethics.

³⁶¹ Art. 12 of the Code of Police Ethics.

³⁶² Art. 21 of the Code of Police Ethics.

³⁶³ Law on the Armed Froces of Montenegro, *Official Gazette*, No. 51/2017 and 34/2019.

³⁶⁴ Art. 8 of the Law on the Armed Forces of Montenegro.

³⁶⁵ Art. 17 of the Law on the Armed Forces of Montenegro.

³⁶⁶ Art. 76 of the Law on the Armed Forces of Montenegro.

for casual, appropriate gifts of small value. They may however not receive any money, securities or precious metal, regardless of their value. As an appropriate gift of small value is considered the one that is worth up to 50 Euros. If a gift is worth more than 50 euros a person that is serving in the Army is obliged to refuse it. If the gift however could not be refused, nor returned to the donor, he is obliged to hand over the gift to the Ministry.³⁶⁷

Unlike civil servants and state employees, a person serving in the Army is obliged to report such gift to the Ministry (of Defence). Also, he may, on behalf of the Ministry or the Army, accept protocol gifts, which also have to be reported to the Ministry. The Ministry keeps records of all these gifts.³⁶⁸

Regarding the possibility for the additional work, a person serving in the Army may, outside working hours, with the written approval of the Minister, and at the proposal of the Chief of General Staff, perform tasks or provide services to a natural or legal person, if the Ministry does not supervise those persons or if such work is not prohibited by law.³⁶⁹ These activities also must not represent a CoI or an obstacle to the performance of duties, or harm the reputation of the Ministry and the Army. These rules also apply to performing tasks in scientific research, pedagogical, humanitarian, sports activities, lecturers at seminars and conferences, as well as publish professional papers.³⁷⁰

A person serving in the Army must not establish a company or engage in entrepreneurship³⁷¹ and may not be the president or a member of the management or supervisory body of a company. He may however be a member of the management body or supervisory body of a public enterprise and institution, as well as of the management body and supervisory body of scientific, humanitarian and sports associations.³⁷²

The Law on the Armed Forces of Montenegro also sets a list of restrictions upon termination of the service in the army (post-employment restrictions). A person serving in the Army, in a period of two years after the termination of service may not enter into business cooperation with the Ministry³⁷³ or become a director, manager or consultant in a company or over which the Ministry has performed or is performing control activities.³⁷⁴ The main reasoning behind both restrictions is the elimination of possibility of misuse of official confidential information a person serving in the Army had during the service.

³⁶⁷ Art. 78 of the Law on the Armed Forces of Montenegro.

³⁶⁸ Art. 77 of the Law on the Armed Forces of Montenegro.

³⁶⁹ Art. 79 of the Law on the Armed Forces of Montenegro.

³⁷⁰ Art. 79 of the Law on the Armed Forces of Montenegro.

³⁷¹ Art. 80 of the Law on the Armed Forces of Montenegro.

³⁷² Art. 81 of the Law on the Armed Forces of Montenegro.

³⁷³ The only exception to this rule are work contracts and contracts on occasional or temporary work.

³⁷⁴ Art. 82 of the Law on the Armed Forces of Montenegro.

6.2.3. BOSNIA AND HERZEGOVINA

Police

Both Law on Police Officers of Bosnia and Herzegovina and Law on Police and Internal Affairs of the Republic of Srpska proclaim the duty of police officers to be guided by public interest, to be impartial while performing their duties and to avoid activities or omissions which are incompatible with the duties.³⁷⁵ Police Ethic Code of the Republic of Srpska provides clear rules on procedure for police officers that find themselves in the CoI situations: they must notify the directly superior and must file a complaint on the appropriate form. The superior will give him direction who to act in the given situation. If the superior considers that he does not have an appropriate recommendation, will seek further instructions from the minister or the director of police, during which time he will appoint another employee to act.³⁷⁶

Police officers in Bosnia and Herzegovina may not hold a position, perform a function or activity that are incompatible with their official duties, and in particular they may not hold any public office³⁷⁷ and perform any additional activity for a fee, except with the approval of the manager.³⁷⁸ Upon appointment, a police officer shall provide all information on the functions and activities performed by him or members of his immediate family, as well as information on his property and of members of his family.³⁷⁹

Police officers in the Republic of Srpska also must obtain the position of the Minister and the Director and to submit a written report to the Minister for each form of participation in the work and communication with bodies and institutions outside the Ministry.³⁸⁰

Both laws regarding police in Bosnia and Herzegovina contain a general provision regarding ban of the acceptance of the gifts by police officers.³⁸¹

³⁷⁵ Art. 36 of the Law on Police Officers of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 27/2004, 63/2004, 5/2006, 58/2006, 58/2006, 15/2008, 50/2008, 63/2008, 35/2009, 7/2012, 42/2018;

Art. 56 of the Law on Police and Internal Affairs, *Official Gazette of RS*, No. 57/2016, 110/2016, 58/2019, 82/2019, 18/2022, 55/2023. Also, art. 8.1.4. of the Police Ethic Code.

³⁷⁶ Art. 8.1.4. of the Police Ethic Code.

³⁷⁷ A police officer shall resign when he/she registers as a candidate for an elected public office or from the moment he / she is appointed to a position within any government body in Bosnia and Herzegovina.

³⁷⁸ Art. 38, par. 2 of the Law on Police Officers of Bosnia and Herzegovina. Art. 56 of the Law on Police and Internal Affairs; Art. 8.6.2. of the Police Ethic Code.

³⁷⁹ Art. 38, par. 3 of the Law on Police Officers of Bosnia and Herzegovina. Close family members are the marital or extramarital partner of a police officer, his blood relatives in the direct line, the adoptive parent and the adoptee, the guardian and protegee, and the child of the marital partner (stepfather).

³⁸⁰ Art. 56 par. 8, 117 of the Law on Police and Internal Affairs.

³⁸¹ Art. 56 par. 4 of the Law on Police and Internal Affairs, art. 36 par. 4 of the Law on Police Officers of Bosnia and Herzegovina.

Police Ethic Code of the Republic of Srpska contains certain exception when the police officer may accept gifts. It is the case when the gift is of an insignificant value (e. g. tie, cup, diary), when a gift is given at a public forum, seminar, or during a visit when refusing would cause an embarrassing situation.³⁸² Police officer has to notify the immediate supervisor in writing each offering and acceptance of the gift. All other benefits, discounts and services provided to the Ministry of Internal Affairs of the Republic of Srpska by business entities may be accepted only in the name and for the account of the Ministry.³⁸³

Police Ethic Code of the Republic of Srpska recognizes also the following situations as the sources of the CoI: supervising a company in which a related person is employed or have property interest and participating in decision-making process on awarding the contract to the company with whom the police officer is negotiating on establishing a working relationship after the termination of the service.³⁸⁴

If a police officer of the Republic of Srpska invests in shares or other securities, he must not be a member of the management or supervisory board of the company in which he invests his money, or in any other way to be involved in business decisions.³⁸⁵

In FBiH the law stipulates that the laws and bylaws governing the rights, duties and responsibilities of employment for civil servants and employees in federal administrative bodies also apply to employment of civil servants and employees of the Federal Ministry and the Police Administration, except in matters otherwise regulated by special law on Police of FBiH.³⁸⁶ More detailed regulation (on receiving of gifts and other potential causes of conflict of interest) is left to the ethical codes of the cantons (that are not subjected to this analysis).

Defence Sector

Law on Defence of Bosnia and Herzegovina contains a general provision according to which professional military personnel serving in the Armed Forces of Bosnia and Herzegovina may neither have a financial interest nor have employment outside the Armed Forces or perform any other activities that are in conflict with

³⁸² Art. 7.1.2. of the Police Ethic Code. Also, art. 8 of the Rules Of Conduct For Police Officers And Other Employees In The Ministry Of Internal Affairs, *Official Gazette of RS*, No. 13/2018.

³⁸³ Art. 7.2. of the Police Ethic Code.

³⁸⁴ Art. 8.6.1. of the Police Ethic Code.

³⁸⁵ Art. 8.7. of the Police Ethic Code.

³⁸⁶ Art. 85 par. 1 of the Law on Police of FBiH.

the official duties and responsibilities and their conscientious performance.³⁸⁷ This means they have to behave in such a way as to avoid a real or obvious conflict between their professional duties and private, political and financial interests.³⁸⁸

Apart from the provision regulating additional employment, Law on Defence also stipulates that officer of any rank is not allowed to serve in the Armed Forces or to be employed in the Ministry of Defence after serving in the armed forces of another state. Being a part of Armed Forces prevents them from belonging to the armed forces of other states or to all other military and paramilitary forces and may not be recruited by other states.³⁸⁹

In order to avoid real or obvious CoI, professional military personnel serving in the Armed Forces have to make decisions that are in the best interests of the Ministry of Defence of Bosnia and Herzegovina and the Armed Forces, regardless of personal beliefs or relationships.³⁹⁰ For that reason, and among others, military personnel may not influence with their position or function on concluding contracts, providing facilities, data and official information for companies in order to favour them, with the aim of gaining illegal benefits for themselves and others. If they come to the position that they can influence on the procedure and contracts conducted between Ministry of Defence, Armed Forces and companies, in which they have the membership in the administrations, the ownership and co-ownership relationship, they are obliged to report it at every stage of the procedure. They also may not conclude contracts for the provision of personal services with public companies, as well as contracts for the provision of personal services with private companies operating with the Ministry of Defence.³⁹¹

It is allowed to professional military personnel serving in the Armed Forces to engage in the activities of associations and non-governmental organizations and to become a member of a foreign professional association or international organization only with the approval of the Minister of Defence.³⁹²

³⁸⁷ Art. 47 of the Law on Defense, *Official Gazette of BiH*, No. 88/05. Also, art. 86 of the Law on Service in the Armed Forces, *Official Gazette of BiH*, No. 88/05 and Art. 10 of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 02/19.

³⁸⁸ Art. 83 of the Law on Service in the Armed Forces.

³⁸⁹ Art. 50 of the Law on Defense.

³⁹⁰ Art. 88 of the Law on Service in the Armed Forces.

³⁹¹ Art. 10 of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina.

³⁹² Art. 89 of the Law on Service in the Armed Forces.

In order to raise awareness on the standards of conduct, The General Inspectorate shall acquaint all persons who are recruited for the first time for service in the Armed Forces with issues related to standards of conduct and each unit conducts a training on standards of conduct once a year.³⁹³

Law on Service in the Armed Forces prescribes the general ban for professional military personnel serving in the Armed Forces to receive and induce someone to receive a gift or anything of material value.³⁹⁴

However, there are several exceptions when professional military personnel serving in the Armed Forces may accept the gifts, which have to be declared to the superior.³⁹⁵ This refers to gifts offered by official representatives of a foreign country, on behalf of Bosnia and Herzegovina or the Armed Forces; those received from any individual or organization for the performance of professional duties, as long as the total value of the items or services received does not exceed 100 KM³⁹⁶ and gifts from the subordinated received on special personal occasions.³⁹⁷ What also is allowed for military personnel, cadets or candidates for training to receive within the military organization are food, hot and cold beverages of small value, awards and recognitions in accordance with applicable regulations.³⁹⁸

When it comes to additional employment, a part from the aforementioned general ban on the employment outside the Armed Forces or on the performance of any other activities, that are in conflict with the official duties and responsibilities, bylaws contain more detailed provisions on forms of additional employment that are not allowed. Some of them are membership in management, business boards,

³⁹³ Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina also prescribes the duty of heads of organizational units of Ministry of Defense, commanders and commanders at all levels to distribute this Code to each military person in their organizational units. Each military person will sign a statement of acquaintance and the obligation to comply with the provisions of the Code of Ethics. All cadets or candidates for training, after starting the training or schooling, will be acquainted with the provisions of the Code of Ethics, and the obligation to comply with its provisions, which will be an integral part of the contract on the status of these persons.

³⁹⁴ Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina defines gifts as any free item, service, discount, entertainment, hospitality, loan, deferred payment, and may include transportation, accommodation, meals, and the like. Gifts also include gifts given to a close family of members of the Armed Forces (parents, siblings, spouse, children, grandchildren) due to their kinship with the staff of the Armed Forces.

³⁹⁵ Art. 86 of the Law on Service in the Armed Forces. Also, art. 11 of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina.

³⁹⁶ Art. 88 of the Law on Service in the Armed Forces. Also, Art. 11 (b) of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina

³⁹⁷ Art. 87 of the Law on Service in the Armed Forces recognizes as those situations the following ones: promotion, retirement, professional successes and weddings, anniversaries, as long as the total value does not exceed the amount of 400 KM.

³⁹⁸ Art. 11 of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina.

supervisory and executive boards, and various non-service committees of public and private companies.³⁹⁹

However, certain provisions allowing the additional engagement under strict conditions can be found. In that manner, a professional military person serving in the Armed Forces may engage in the activities of associations and non-governmental organizations only if those activities are in accordance with Law on Service in the Armed Forces. They may also become a member of a foreign professional association or international organization only with the approval of the Minister of Defence.⁴⁰⁰ Also, Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defence and the Armed Forces of Bosnia and Herzegovina allows professional military personnel serving in the Armed Forces to have additional activities during non-working hours, provided that there is the consent of the Minister of Defence of BiH for that engagement.⁴⁰¹

³⁹⁹ Art. 10 of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina.

⁴⁰⁰ Art. 89 of the Law on Service in the Armed Forces. Also, Art. 7 par. 2 of the Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina.

⁴⁰¹ A military person, cadet and candidate for training, during the approved additional engagement, may use the title of his rank, but he may not represent the official position of the Ministry of Defense or of Armed Forces.

6.2.4. NORTH MACEDONIA

Police

The employees in the Ministry are not allowed to bring the personal material and immaterial interest into conflict with the public interest and their status which may cause a conflict of interests, according to law.⁴⁰² In performing their duties and tasks, the employees in the Ministry maintain high standards for personal integrity, professional ethics and care for the protection of the public interest and adhere to the acts that regulate these standards.⁴⁰³ The employees in the Ministry during the performance of the works and the work tasks shall ensure impartial and objective application of the laws and other regulations, whereby they enable the protection of the citizens and the legal entities and the realization of their rights, without being to the detriment of others.⁴⁰⁴

The police officer and the employee in the Ministry, with the prior consent of the Minister, and on the proposal of a special commission in the Ministry, may perform certain activities, independent or additional economic or professional activity that are not in conflict with the police affairs.⁴⁰⁵ The police officer shall be obliged to perform the activity outside the working hours in the Ministry and in a manner that the performance of that activity does not affect the legal and proper execution of the police affairs. The consent shall be given by the Minister in accordance with the regulations in the field of labour relations.

The tasks and activities that are forbidden due to their clash with police affairs are engagement in international and NGO organizations, foreign state bodies, in the field of insurance and in the field of security of persons and property. Detective activities and activities related to handling weapons and explosives and motor vehicle driving training are also considered to be damaging to the reputation of the service.⁴⁰⁶ Also, the police officer should not perform activities directly related and kinship with the police work since it would affect its legal and proper execution.⁴⁰⁷

⁴⁰² Art. 13 of the Law on Internal Affairs.

⁴⁰³ Art. 10 of the Law on Internal Affairs.

⁴⁰⁴ Art. 10 par 2, 3 of the Law on Internal Affairs.

⁴⁰⁵ Art. 104 par. 1 of the Law on Police, *Official Gazette of the Republic of Macedonia*, No. 144/06, 6/09, 145/12, 41/14, 33/15, 31/16, 106/16, 120/16, 21/18, 64/18.

⁴⁰⁶ For the further forbidden activities see Art. 1 and 2 of Rulebook on Works and Activities Conflicting with Police Affairs.

⁴⁰⁷ Art. 3 of Rulebook on Works and Activities Conflicting with Police Affairs, *Official Gazette of the Republic of Macedonia*, No. 61/07 .

Defence Sector

In accordance with the Law on the Service in the Army of the Republic of North Macedonia receiving gifts or other type of benefit, in order to activate illegal property benefit, and placing personal financial interest in conflict with the position and status of military and civilian personnel represent disciplinary offences.⁴⁰⁸

Employees at the Ministry of Defence and in the Army of the Republic of North Macedonia have to act in impartial manner and without any intention to gain personal benefit and ambition.⁴⁰⁹ While performing their professional tasks, the employees may not be led by the CoI and have to avoid these situations.⁴¹⁰ Apart from that, they have to avoid activities that can be interpreted as CoI.

Employees at the Ministry of Defence and in the Army of the Republic of North Macedonia must not accept any kinds of gifts, favours or any kind of material or financial benefit for performing their tasks.⁴¹¹ Everything that an employee at the Ministry of Defence and in the Army of the Republic of North Macedonia receives while working has to be reported to his superior.

⁴⁰⁸ Art. 131 par. 2 of the Law on the Service in the Army of the Republic of Macedonia, *Official Gazette of the Republic of Macedonia*, No. 36/10, 23/11, 47/11, 148/11, 55/12, 29/14, 33/15, 193/15, 71/16.

⁴⁰⁹ Art. 6 of the Ethical Code for the Employees at the Ministry of Defence and at the Army of the Republic of Macedonia, *Official Gazette of the Republic of Macedonia*, 2017.

⁴¹⁰ Art. 9 of the Ethical Code for the Employees at the Ministry of Defence and at the Army of the Republic of North Macedonia.

⁴¹¹ Art. 10 par. 1 of the Ethical Code for the Employees at the Ministry of Defence and at the Army of the Republic of North Macedonia.

7. CONCLUDING REMARKS

In 2013, the Institute of Comparative Law in Serbia, in cooperation with the Centre for Integrity in the Defence Sector of Norway (CIDS) conducted a comparative legal study of corruption prevention mechanisms set in place to reduce mistakes or improper behaviour in selected countries of the South-East Europe. The study, *inter alia*, covered the field of conflict of interest.⁴¹² The study concluded that every country in the region has undertaken significant efforts to establish a legal framework for building integrity that should provide the basis for prevention and fight against corruption. In the meantime, a number of changes in international standards and national legislations have taken a place and some of the changes will be presented in this section.

For the last eight years there were some changes in the field of international standards related to CoI. First of all, SIGMA Principles of Public Administration, which the main requirements that countries should follow during the European Integration process,⁴¹³ were revised in 2017 and its methodological framework in 2019.⁴¹⁴ Even though there is no SIGMA principle directly referring to CoI, Principle 7 dedicated to HR Management (*Measures for promoting integrity, preventing corruption and ensuring discipline in the public service*) is certainly predicated upon quality implementation of CoI legislation.

G20 Anticorruption Working Group countries recognized the importance of preventing and managing CoI, which was also represented in their Action Plan 2017-2018. In 2018 CoI was set as a priority issue which requires promotion of culture of integrity and accountability in public institution. As a result, G20 Anticorruption Working Group issued High-Level Principles for Preventing and Managing Conflict of Interest in 2018, that identify set of actions that countries commit to undertake

⁴¹² Legal Mechanisms for Prevention of Corruption in Southeast Europe with Special Focus on the Defence Sector (ed. Aleksandra Rabrenović), Institute of Comparative Law, Belgrade, 2013, available at: <http://iup.rs/books/legal-mechanisms-for-prevention-of-corruption-in-southeast-europe/>

⁴¹³ On the position of the Western Balkan countries in the European Integrations, see Jelena Čeranić Perišić, Mirjana Glintić, "Evropske integracije u zemalja Zapadnog Balkana u vremenu nove realnosti" in: *Pravni sistem u vremenu nove realnosti* (ed. Ždravko Grujić), Kosovska Mitrovica 2021, 23-44. Also, Mirjana Glintić, "Sporazum o stabilizaciji i pridruživanju pred Evropskim sudom pravde", *Strani pravni život* 3/2013, 105-107.

⁴¹⁴ SIGMA, *The Principles of Public Administration*, 2017, available at: <http://sigmaweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>, 26. 08. 2021.

in order to prevent actual, potential and apparent CoI. While defining High Level Principles, G20 countries used the standards developed by UN, World Bank, OECD, Council of Europe as a starting point. Also, in order to provide adequate support for the implementation of the High-Level Principles, G20 Anticorruption Working Group, together with the World Bank, OECD and UNODC, prepared the *Good Practices Guide for Preventing Conflict of Interest in the Public Sector*. The Good Practice Guide issued in 2019 is intended as a resource for policymakers, practitioners and civil society in strengthening conflict of interest regulations and systems.

In **Serbia** since the beginning of September 2020, the Law on Prevention of Corruption has entered into force in Serbia. The law was passed in the National Assembly in May 2019, five years after the inception of the process by the Agency for Prevention of Corruption in 2014, in line with the National Strategy for Fight Against Corruption (2013-2018), Action Plan and Serbia's obligations deriving from the Chapter 23 in the negotiation process with the EU. Strategy and Action plan were expired, and three draft laws were proposed (in 2016, 2018 and 2019) before the Law on prevention of corruption was finally adopted. It was done by urgent legislative procedure in May 2019.

The scope of this law is the same as in the previous one, which means that it regulates the issue of conflicts of interest of office holders, duty of reporting assets and income, additional jobs and functions, i. e. the powers of the Agency for Prevention of Corruption regarding compliance with such norms.

This Law changed the name of the Anti-Corruption Agency of Serbia to the Agency for Prevention of Corruption. The biggest change in the organization of the Agency is related to the manner of electing the director and board members of the Agency, which makes room for the political influence. So far, the nine-member board of the Agency, whose members were elected on the proposal of various institutions, has elected the first man of the Agency. Now the director is elected by the National Assembly following a public competition announced by the Ministry of Justice, Also, the number of board members is now five instead of nine and they are all proposed by the Minister in charge of judicial affairs and elected by the National Assembly. In the previous Law boards members could be proposed by the Administrative Board of the National Assembly, the President of the Republic, Government, the Supreme Court of Cassation, State audit institution, the Protector of Citizens and the Commissioner for Information of Public Importance, by mutual agreement, Socio-Economic Council, Serbian Bar Association and associations of journalists in Serbia, by mutual agreement.

The novelty is the institutionalization of the role of the Agency in relation to corruption risks in regulations - for certain draft laws, their proposers will have

to seek the opinion of the Agency.⁴¹⁵ These are the laws recognized in strategic documents as important for the fight against corruption. Also, the Agency will be formally given the authority to monitor the change of the Action Plan for Chapter 23 in the part related to the fight against corruption.

Office holders now have five instead of eight days to inform their immediate superior and the Agency about the suspicion of a conflict of interest or a conflict of interest.⁴¹⁶

Now prohibition has been introduced regarding office holders who may not use for the benefit or convenience of himself or of another or of causing harm to another, information obtained in the performance of a public function, if that information is not available to the public.⁴¹⁷

Cumulation of public functions is now allowed only when so prescribed by another law or Constitution or when elected directly by citizens for another function.⁴¹⁸

Rules on additional engagement have been slightly changed. Each office holder has to inform the Agency on the additional employment. The Law on Prevention of Corruption omitted a part of the provision which stipulated that this duty on reporting does not apply to office holders who were appointed from the ranks of employees to the management and supervisory boards of public companies and public institutions. Thus, in the future, it is impossible to perform certain tasks that are in the relation of dependence, supervision and control with a public function at the same time. An office holder in a public institution or public enterprise, who performs activities related to the finances of that institution, ie enterprise, may not at the same time be a member of the supervisory or management board of that enterprise. The new Law introduces another prohibition for the office holder to advise legal and natural persons on issues related to the public office he holds, unless he is obliged to do so.⁴¹⁹

When it comes to asset and income declaration and monitoring these reports, it should be expected that there will be easier access to the data necessary for this control since the Agency can not only demand information on this account not only from the office holder, associated persons, but can also notify the competent authority thereof to enable it to take measures within its purview. This competent authority is obliged to inform the Agency on the undertaken measures.⁴²⁰ Also, on

⁴¹⁵ Art. 6 (12) of the Law on Prevention of Corruption.

⁴¹⁶ Art. 42 of the Law on Prevention of Corruption.

⁴¹⁷ Art. 40 sec. 3 of the Law on Prevention of Corruption.

⁴¹⁸ Art. 56 sec. 3, 4 of the Law on Prevention of Corruption.

⁴¹⁹ Art. 47 of the Law on Prevention of Corruption.

⁴²⁰ Art. 76 sec. 4, 5 of the Law on Prevention of Corruption.

the general level, the duty of the public authorities and other persons exercising public powers to provide the Agency with direct access to databases kept in electronic form has been introduced by the new Law.⁴²¹ If the public access is not possible, these public authorities are obliged to provide the Agency with direct access to these documents. These duties concerning information access also apply to other legal persons. Finally, the Agency is entitled to obtain data about the accounts of office holders from banks and other another financial institution.

Novelty is also that reports on income and assets have to contain information on cash, which was not previously the case.

According to the previous Law office holders were obliged to submit regular and extraordinary reports on assets and income when been elected or after leaving the public office. Apart from these rules, now the Law on Prevention of Corruption prescribes precisely that those who were office holders and got re-elected, are not obliged to report assets and their income if there were no changes. However, they must notify the Anti-Corruption Agency in writing within 30 days of being appointed.⁴²²

Also, the circle of associated persons whose assets and incomes have to be reported to the Agency has been expanded. This obligation has been extended to parents and children, ie adoptive parents and adoptees of a public official, regardless of whether they live with him in the same family household or not.⁴²³

The latest date for submitting an extraordinary report on assets and income is defined as “no later than by the time of the expiry of the time limit specified for submitting the annual tax return for determining personal income tax”.⁴²⁴ The Law on Prevention of Corruption also foresees the end of January as the first date for submitting the reports (that was also a case with the previous Law), but it also introduces this additional date since the reports do not arrive by the end of January.

The novelty is also that data from the reports on assets and incomes of office holder in state authorities specified by the laws governing the organisation and competence of state authorities in the suppression of organised crime, terrorism and corruption are not publicly available until a period of two years has elapsed since the termination of his public office.

The Agency is now also entitled to conduct extraordinary verification of the accuracy and completeness of submitted report on income and assets in case of suspicion that submitted data are nor precise, accurate and complete.⁴²⁵ The Agency can now also monitor the financial status of the office holder, his spouse or partner, as well as those of his underage children if they live in the same family household.

⁴²¹ Art. 36 of the Law on Prevention of Corruption.

⁴²² Art. 68 sec. 1, 2 of the Law on Prevention of Corruption.

⁴²³ Art. 68 of the Law on Prevention of Corruption.

⁴²⁴ Art. 69 of the Law on Prevention of Corruption.

⁴²⁵ Art. 75 sec. 2 of the Law on Prevention of Corruption.

According to the previous Law, when the Agency finds out that there are grounds for suspicion that a criminal offence prosecuted ex officio has been committed, or a misdemeanour offence or breach of duty, it was only entitled to inform the competent authority in order to initiate disciplinary, misdemeanour and criminal proceedings. Now the Agency is entitled **to file a criminal complaint, a request for initiating misdemeanour proceedings or an initiative for initiating disciplinary procedure.**⁴²⁶

In **Bosnia and Herzegovina** there have been no normative development (neither on the state nor on the entity level) since 2013 and no amendments of the legislation on CoI have been adopted. Some of the shortcomings noticed in the study back in 2013 (e.g. duty of civil servants to declare their property) still have not been addressed by the legislator. The legislation in the Federation of Bosnia and Herzegovina remains very similar to the one of the state (BiH) level. Also, the gaps between legislation at FBiH and BiH level created through amendments in 2013 still have not been eliminated (the matter of competent authority to determine the existence of CoI at the state and FBiH level). However, it is worth mentioning that the Ethical Code for Civil Servants in FBiH has been adopted in 2014 and which regulates more thoroughly the duties of civil servant regarding CoI. The general evaluation is that the normative situation is the same as it was in 2013, since the last amendments were adopted in the given year.

In 2014 a new Law on Prevention of Corruption was adopted in **Montenegro**. This Law, amended in 2017, replaced the previous Law on Prevention of Conflict of Interest. Agency for Prevention of Corruption, which also covers the field of CoI, was established by the new Law and its started to work in January 2016. The new Law and its amendment have resulted in more precise provisions when comparing to the previous Law. This relates to the provisions on additional employment and additional sources of income, while the deadlines for filing a resignation in those cases have been extended. Further, when it comes to the duty of the office holder to inform the other participants in the discussion and decision-making process about the existence of his private interest on the matter, if there is one, the duty of the competent authority to prevent the execution of decisions made contrary to the previous demands has been added. Stricter rules regarding postemployment restrictions have been introduced – the “*cool-off*” period now lasts two years, instead of one and one more restriction (establishment of the employment relationship with an entity that benefits from the decisions of the government body in which the official holder was engaged) for this period has been foreseen. Additionally, his duty to submit a report on his property and incomes after the termination of

⁴²⁶ Art. 86 sec. 1 of of the Law on Prevention of Corruption.

public function has been extended for the period of two, instead of one year.

However, the new Law did nothing to improve the definition of a gift, that still includes only thing, right or service, while the privilege/benefit is still out of the scope of the definition. Also, the list of related persons when it comes to the ban of receiving gift is still too narrow, since it does not include spouses and children that do not live with an office holder. On the other hand, one additional restriction when it comes to the value of appropriate gifts has been added. A significant addition to the corruption combat represents omitting the provision from the previous Law according to which gift with a value smaller than 30 EUR do not have to be registered. Following the same aim, new restrictions on concluding sponsorship contract have been introduced by the new Law. In the end, compared to the previous Law, the Law on Prevention of Corruption has introduced a significant addition since it precisely described the procedures and powers of the Agency concerning the procedures for verifying the data from reports on incomes and assets. The overall impression is that the legislation of Montenegro has improved compared to the state of affairs in 2013.

The regulatory framework of **North Macedonia** governing conflict of interest has undergone a number of changes since 2013. In 2019, the Parliament adopted the new Law on Prevention of Corruption and Conflict of Interest, which merges two laws and is meant to offer thorough provision on safeguards against corruption of elected authorities, senior officials, civil servants and public sector employees in general. One of the biggest values of this Law is that officially introduces the notion of integrity as an element in the performance of the public service for the first time. The Law also stipulates that the State Commission is responsible to undertake activities aimed at strengthening personal and institutional integrity. Accordingly, ethical codes and codes of conduct for all categories of public officials have been adopted to promote integrity, honesty and responsibility. These include not only general codes for high-level officials and administrative servants, but also sector-specific codes taking into account various corruption risks. Furthermore, the new Law also stipulates and provides with precise provisions on role and composition of State Commission, which covers verification of assets and conflict of interest declarations, access to bank accounts, gifts and lobbying control. It also contains a significant number of guarantees for the members' integrity, independence, knowledge and skills, which was not the case during the previous years. Part of these guarantees also represents dilatation of restrictions concerning post-employment of the public official, accepting gifts and sponsorships. Even though there is still some room for the improvement, as it has been pointed out in the study, one may conclude that North Macedonia has taken some serious steps in managing CoI.

EXECUTIVE SUMMARY

The legal framework regarding the prevention of conflict of interest (hereinafter: CoI) in Montenegro, Serbia, BiH and Macedonia generally shows some improvement over the past years but still leaves a lot more to be done. The analysed countries in some aspects (a number of issues related to the regulation of gifts, the existence of exceptions to the ban on the accumulation of functions or measures to prevent nepotism) show a high level of legal compliance with international standards, while in other aspects shortcomings are to be found (or sometimes even no regulation is present whatsoever).

Unlike in Serbia, in other analysed countries is the prevention of CoI provided by the constitutions of these countries, so it does not represent a constitutional category. Although in terms of achieving international standards, the constitutionalizing of CoI prevention is certainly not to be understood as a *conditio sine qua non*, it still contributes and shows the systemic determination of the state to oppose potential CoI at all levels and improve objectivity and impartiality of public official. This is especially important in transitional countries that generally require stricter regulation due to higher challenges compared to more developed democracies with longer tradition.

The particularism is to some extent present in all the analysed countries, but certain indicators also show the absence of regulation which then requires different interpretations, potentially susceptible to abuse. The rules on preventing CoI for office holders are generally regulated better and more systematically by the relevant anti-corruption laws, while the provisions relating to civil servants and public employees are sometimes scattered throughout a range of laws and bylaws. A general feature, which can be derived from the above analysis of legal provisions, as well as the given assessments by indicators, is that improving the regulation of CoI prevention in the analysed countries would require a more general, systematic approach to this matter.

The relevant legal regulations in Bosnia and Herzegovina are characterized by some level of harmonization, i.e. unification of relevant rules when it comes to the state level in relation to the level of the Federation of BiH (with particular discrepancies that occurred after the amendments of the relevant stet law in 2013),

while the entity of the Republic of Srpska sometimes noticeably shows significant deviations from the state model. These divergences occasionally imply more detailed, ie. quality regulations in relation to the state level, or, on the other hand – in some cases even the complete absence of any regulations when it comes to a specific issue.

The literal application (legal transplantation) of the standards developed in the economically and democratically developed countries of the West would not be possible and effective due to the habits and characteristics of the environment in the analysed countries. Therefore, certain flexibilities and slight deviations from the rules could be considered as justified in some cases, up to a reasonable limit. However, in some instances, for example the values determined by law that should enable this flexibility are measured too extensively, which is not in line with international standards and recommendations (e.g. when it comes to the value of casual gifts allowed in BiH, especially in Republika Srpska). In that sense, certain restrictive measures have been noticed in some of the countries in order to reduce the possibilities of abuse and the emergence of CoI.

Within domain of CoI in the security sector, whether it is the policy or the defence sector, it is universal in all analysed countries that in the absence of special rules, the general regime applies. Differentiation and specification of special legal regimes imposed by the nature of police and defence functions and tasks is regulated in detail by special legislation in Montenegro, and on the other hand quite scarcely in Northern Macedonia. However, the existing KSF regulations are largely in line with international standards and recommendations.

It is characteristic for all the analysed countries, and perhaps especially for Bosnia and Herzegovina, that the matter of preventing CoI in special regimes of the police and defence sector is largely left to bylaws - codes of ethics. It would certainly be better if part of the relevant regulations found a greater place within the texts of the laws themselves. The special matter envisages by a rule a stricter regime in relation to the general one, and it differs significantly from state to state in terms of its scope and application.

The general conclusion is that the analysed countries have a number of shortcomings in the legislation on issues related to the prevention of conflicts of interest in general, as well as that these shortcomings vary from country to country. A systematic approach in future revisions of the legislation of these countries would help create a system of greater integrity and strengthen the impartiality of the decision making, in the final instance.

CoI is not only system-damaging, but often permanent and irreversible in practice: “With its harmfulness, it does not only last through the duration of the mandate of a public official who is in a conflict of interest, but can also extend

‘indefinitely’ even after the termination of public office and often spread from the field of administrative offenses to the field of criminal offenses (and criminal liability) of public officials.” Additionally, the damage done does not extend only to the concrete case but also to the creation of an atmosphere of overall distrust in public officials and the state itself by the common citizens. One of the core elements for preserving and developing a democratic state is the belief of its sovereign – the people, that the state system is actually *res publica* – hence there to serve for a general, public good. Much like when it comes to the judiciary, education, or healthcare system, public officials are subjugated to special scrutiny by the people, and nothing can endanger this delicate relationship of trust as corruption, and CoI can be perceived (as stated in the introductory remarks of this book) as a “prelude to corruption”, into which it does not necessarily have to, but may develop.

All the analyzed countries are striving to become full members of the EU. Hence, better compliance with the European standards in this domain is twofold beneficial – for the sake of the accession negotiations, but in the first place – for the sake of all the citizens of the aforementioned countries. The adequate legal framework is only the beginning of strengthening the anti-CoI system of one country since the efficient and complete application of these norms remains the primary goal. The constant development and adaptation of the relevant laws is, however, necessary for any looked-for practice. Through this perspective, the legal frameworks of all the analyzed countries still have significant room for improvement. With its findings, this publication could hopefully help any future normative undertakings in this domain.

BIBLIOGRAPHY

Articles and monographs

1. Auby, J., Breen, E., Perroud, T., "Introduction" in: *Corruption and Conflicts of Interest, Studies in Comparative Law and Legal Culture* (eds. Jean Bernard Auby, Emmanuel Breen, Thomas Perroud), Edward Elgar Publishing, Cheltenham 2016.
2. Bellamy, D., *Toronto Computer Leasing Inquiry and Toronto External Contracts Inquiry*, vol 2 (*Good Government*), City of Toronto, 2005.
3. Congress of Local and Regional Authorities of the Council of Europe, *Conflicts of Interest at local and regional levels*, 2018.
4. Ćeranić J., Glintić, M., "Vladavina prava u Evropskoj uniji – Preispitivanje koncepta u kontekstu proširenja EU", *Pravni život* 12/2016, 295-307.
5. Ćeranić Perišić, J., Glintić, M., "Evropske integracije u zemalja Zapadnog Balkana u vremenu nove realnosti" in: *Pravni sistem u vremenu nove realnosti* (ed. Zdravko Grujić), Kosovska Mitrovica 2021, 23-44.
6. Ćirić, J., Đorđević, M., „Jedan pogled na ustavne promene u oblasti pravosuđa u Srbiji“ in: *Vaninstitucionalne mere, pojednostavljene forme postupanja i drugi krivičnopravni instrumenti reakcije na kriminalitet i pozitivno kazneno zakonodavstvo (ispunjena očekivanja ili ne?)*, Beograd 2022, 73 – 82.
7. Ćorić, V., *Improper Superior Order*, Institute of Comparative Law, Belgrade 2022.
8. Đorđević, Đ., Đorđević, M., „Ljudski život kao najviša vrednost i njegova ustavnopravna i krivičnopravna zaštita“ in: *Constitutio Lex Superior: sećanje na profesora Pavla Nikolića* (eds. Oliver Nikolić, Vladimir Čolović), Beograd 2021, 75 – 86.
9. Đorđević, M., „Constitutional Boundaries of Presidential Power and General Level of Political Culture – the Case of Serbia“, *Revistă Științifică Internațională „Supremația Dreptului”* 2/2021, 8 – 20.
10. Đorđević, M., "Zamke prenaplašene težnje ka efikasnosti u ustavnom pravu" in: *Preispitivanje klasičnih ustavnopravnih shvatanja u uslovima savremen države i politike*, Beograd 2021, 85 – 99.
11. Esadze, L., *Guidelines for the Prevention of Conflict of Interest*, Belgrade 2013.
12. Glintić, M., Đorđević M., *et al.*, „Historical Development of Corruption Prevention Mechanisms in Southeast European Countries“, *Legal Mechanisms for Prevention of Corruption in Southeast Europe*, Belgrade 2013, 13 – 36.
13. Glintić, M., Vukadinović, J., "Conflict of Interest" in: *Legal Mechanisms for Prevention of Corruption in Southeast Europe – with Special Focus on the Defence Sector* (ed. Aleksandra Rabrenović), Institute of Comparative Law, Belgrade 2013, 95 – 130.

14. Glintić, M., "Sporazum o stabilizaciji i pridruživanju pred Evropskim sudom pravde", *Strani pravni život* 3/2013, 105 – 119.
15. Glintić, M., "Conflict of Interest" in: *Integrity and Good Governance in Western the Balkans* (eds. Aleksandra Rabrenović, Ana Knežević Bojović), Respa, Danilovgrad 2018, 71 – 126.
16. Independent Commission Against Corruption, Crime and Misconduct Commission, *Managing Conflict of Interest in the Public Sector*, Sydney 2004.
17. Knežević Bojović, A., Matijević, M., Glintić, M., "International Standards on Judicial Ethics and the Pitfalls of Cursory Legal Transplantation", *Balkan Yearbook of European and International Law*, 2021, 163 – 184.
18. Knežević Bojović, A., Reljanović, M., *Free Access to Information*, Institute of Comparative Law, Belgrade 2022.
19. Lewis, C., Gilman, S., *The Ethics Challenge in Public Service*, San Francisco, 2005.
20. Lilić, S., „Državni službenici i sukob interesa“ in: *Sukob interesa kod javnih funkcionera i javnih službenika u Srbiji – regulative i nadzor nad njenom primenom*, Beograd 2003, 18 – 25.
21. Mandić, S., *Predlog za unapređenje sprečavanja sukoba interesa u vojsci i policiji Srbije*, Beograd 2016.
22. Marius Popa, F., "Conflict of Interest and Integrity in Public Administration in CEE Countries. Comparative Analysis", *Journal of Public Administration, Finance and Law* 4/2013, 55 – 67.
23. Milić, D., „Pantofraža kao poseban oblik sukoba interesa javnih funkcionera u pravnom sistemu Republike Srbije“, *Sveske za javno pravo* 34/2018, 52 – 61.
24. Mooney, J., Bildfell, C., "Public Officials and Conflict of Interest" in (ed. Gerry Ferguson), *Global Corruption: Law, Theory & Practice*, Victoria 2018, 853 – 887.
25. OECD, *Managing Conflict of Interest in the Public Service, OECD Guidelines and Overview*, 2003.
26. Rose-Ackerman, S., "Corruption and conflicts of interest" in: *Corruption and Conflicts of Interest, Studies in Comparative Law and Legal Culture* (eds. Jean Bernard Auby, Emmanuel Breen, Thomas Perroud), Edward Elgar Publishing, Cheltenham 2016, 3 – 11.
27. SIGMA, *Conflict-of-interest Policies and Practice in Nine EU Member States: A Comparative Review*, SIGMA, Paper No. 36, SIGMA/OECD, 2007.
28. Stark, A., *Conflict of Interest in American Public Life*, Harvard, Cambridge 2000.
29. United Nations Office on Drugs and Crime, *Legislative Guide for the Implementation of the United Nations Convention against Corruption*, 2nd revised ed (United Nations, 2012).

INTERNATIONAL LEGAL SOURCES

1. *Anti-Corruption Initiative of the South-East Europe Stability Pact*, 2000, text available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://rai-see.org/php_sets/uploads/2015/05/SPAI_for_SEE-Compact_and_action_plan.pdf.
2. Council of Europe, *Resolution on the “Twenty Guiding Principles for the Fight against Corruption”*, No. 97/24, adopted by the Committee of Ministers on 6 November 1997 at the 101st session of the Committee of Ministers.
3. Council of Europe, *Recommendation No. R (2000) 10 of the Committee of Ministers to Member States on “Codes of Conduct for Public Officials”*, adopted by the Committee of Ministers at its 106th Session on 11 May 2000.
4. G20 Anticorruption Group, *High Level Principles on the Prevention of Conflicts of Interest*.
5. *Model Code of Conduct for Public Officials*, text available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.unodc.org/documents/corruption/G20-Anti-Corruption-Resources/Principles/2021_G20_High-Level_Principles_on_Preventing_and_Combating_Corruption_in_Emergencies.pdf.
6. OECD *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences*, 2003, <https://www.oecd.org/gov/ethics/oecdguidelinesformanagingconflictinterestinthepublicservice.htm>.
7. OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, adopted by the Negotiating Conference on 21 November 1997.
8. OECD *Conflict of Interest Guidelines*, <https://www.oecd.org/gov/ethics/conflict-of-interest/>.
9. United Nations *Convention against Corruption, General Assembly Resolution*, No. 55/61 of 31st October 2003.

NATIONAL LEGAL SOURCES

BOSNIA AND HERZEGOVINA

1. Code of Ethics for Civil Servants in Bosnia and Herzegovina, *Official Gazette of BiH*, No. 43/09.
2. Code of Ethics for Military Persons, Cadets and Candidates in Training in the Ministry of Defense and the Armed Forces of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 02/19.
3. Code of Ethics for Civil Servants of the Federation of BiH, *Official Gazette of the FBiH*, No. 27/14.

4. Law on Civil Service in the Institutions of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 12/2002, 19/2002, 8/2003, 35/2003, 4/2004, 17/2004, 26/2004, 37/2004, 48/2005, 2/2006, 50/2008 43/2009, 8/2010, 40/2012, 93/2017.
5. Law on Defense, *Official Gazette of BiH*, No. 88/05.
6. Law on Police Officers of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 7/04, 63/04, 5/06, 58/06, 15/08, 63/08, 35/09, 07/12.
7. Law on Service in the Armed Forces, *Official Gazette of BiH*, No. 88/05.
8. Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina, *Official Gazette of BiH*, No. 16/02, 14/03, 12/04, 63/08, 18/12.
9. Police Ethic Code, *Official Gazette of BiH*, No. 03/05.

FEDERATION OF BOSNIA AND HERZEGOVINA

1. Law on Civil Service in Governmental Institutions the Federation of Bosnia and Herzegovina, *Official Gazette of the FBiH*, No. 29/03, 23/04, 39/04, 54/04, 67/05, 8/06, 4/12.
2. Law on Police of FBiH, *Official Gazette of the FBiH*, No. 49/05.
3. Law on Prevention of Conflict of Interest in State Organs of the Federation of BiH, *Official Gazette of the FBiH*, No. 70/08.

REPUBLIC OF SRPSKA

1. Code of Conduct of Civil Servants of the Republic of Srpska, *Official Gazette of the RS*, No. 83/02.
2. Decree on incompatibilities and cases in which a civil servant in the administration of the Republic of Srpska, *Official Gazette of the RS*, No. 94/06.
3. Law on Civil Servants, *Official Gazette of the RS*, No. 118/08, 117/11, 37/12, 57/16.
4. Law on Civil Servants and State Employees in the Bodies of the Local Self – Government Units, *Official Gazette of the RS*, No. 97/16.
5. Law on Police and Internal Affairs, *Official Gazette of the RS*, No. 57/16, 110/16.
6. Law on the Prevention of Conflict of Interest in the Authorities of the Republic of Srpska, *Official Gazette of the RS*, No. 73/08.
7. Police Ethic Code, *Official Gazette of the RS*, No. 92/06.
8. Rules Of Conduct for Police Officers and Other Employees in The Ministry Of Internal Affair, *Official Gazette of the RS*, No. 13/2018-32, 83/2021-78.
9. Rules of the Republic Commission for Determination of Conflicts of Interest in Government Bodies of the Republic of Srpska and Manner of Control of Financial Statements, *Official Gazette of the RS*, No. 21.

MONTENEGRO

1. Code of Police Ethics, *Official Gazette of Montenegro*, No. 21.
2. Law on Civil Servants and State Employees, *Official Gazette of Montenegro*, No. 2/2018, 34/2019, 8/2021.
3. Law on Internal Affairs, *Official Gazette of Montenegro*, No. 44/2012, 36/2013, 1/2015, 87/2018.
4. Law on Prevention of Corruption, *Official Gazette of Montenegro*, No. 53/2014, 42/2017.
5. Law on the Armed Forces of Montenegro, *Official Gazette of Montenegro*, No. 51/2017, 34/2019.

NORTH MACEDONIA

1. Code of Police Ethics, *Official Gazette of the Republic of Macedonia*, No. 72/07.
2. Ethical Code for the Employees at the Ministry of Defence and at the Army of the Republic of Macedonia, *Official Gazette of the Republic of Macedonia*, 2017.
3. Law on Administrative Servants, *Official Gazette of the Republic of Macedonia*, No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16, 11/18, *Official Gazette of the Republic of North Macedonia*, No. 275/19, 14/20.
4. Law on Police, *Official Gazette of the Republic of Macedonia*, No. 144/06, 6/09, 145/12, 41/14, 33/15, 31/16, 106/16, 120/16, 21/18, 64/18.
5. Law on Prevention of Corruption and Conflict of Interest, *Official Gazette of the Republic of Macedonia*, No. 12/19.
6. Law on the Service in the Army of the Republic of North Macedonia, *Official Gazette of the Republic of Macedonia*, No. 36/10, 23/11, 47/11, 148/11, 55/12, 29/14, 33/15, 193/15, 71/16, *Official Gazette of the Republic of North Macedonia*, No. 101/19, 275/19, 14/20.
7. Regulation On The Method Of Disposal With The Received Gifts, The Manner Of Management Of The Records Of The Applications Gifts And Other Questions Regarding Receipt Of Gifts, *Official Gazette of the Republic of Macedonia*, No. 153/2014.
8. Rulebook on Works and Activities Conflicting with Police Affairs, *Official Gazette of the Republic of Macedonia*, No. 61/07.

SERBIA

1. Code of Civil Servants' Ethic, *Official Gazette of the Republic of Serbia*, No. 29/2008, 30/2015, 20/2018, 42/2018, 80/2019, 32/2020.
2. Code of Honor of Members of Serbian Army, *Official Military Gazette*, 2010.

3. Code of Official Ethic, *Official Gazette of the Republic of Serbia*, No. 17/2017-51.
4. General Administrative Procedure Act, *Official Gazette of the Republic of Serbia*, No. 18/2016, 95/2018, 2/2023.
5. Law on Army, *Official Gazette of the Republic of Serbia*, No. 16/2007, 88/2009, 101/2010 – other law, 10/2015, 88/2015, 36/2018, 94/2019, 74/2021.
6. Law on Civil Servants, *Official Gazette of the Republic of Serbia*, No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020.
7. Law on Police, *Official Gazette of the Republic of Serbia*, No. 6/2016, 87/201.
8. Law on Prevention of Corruption, *Official Gazette of the Republic of Serbia*, No. 35/2019, 88/2019, 11/2021, 94/2021.
9. Rulebook on Behaviour and Personal Appearance of Police Officers and Other Employees at the Ministry of Internal Affairs, *Official Gazette of the Republic of Serbia*, No. 13/2018-32, 83/2021-78.
10. Rulebook on the Manner of Control of Registration and Change of Property Status in the Ministry of Internal Affairs, *Official Gazette of the Republic of Serbia*, No. 49/2018-23, 14/2020-85.
11. Rulebook on the Office Holder's Gifts, *Official Gazette of the Republic of Serbia*, No. 118/2020-31.
12. Rulebook on The Register of Public Officials and Register of Assets and Income of Office Holders, *Official Gazette of the Republic of Serbia*, No. 118/2020, 96/2021.

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Đorđević. - Beograd : Institute of Comparative Law in Belgrade,
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