

Czech Republic - Legal Annex

1. Constitution

2. 2006 Law on Conflict of Interest (came into effect on January 1st 2007) (ACT No.159/2006)

3. Blank Disclosure Form

Other laws consulted, but not included in the legal annex for lack of immediately relevant articles:

- Rules of procedure of the Chamber of Deputies (September 2004)

1. Constitution, 16th December 1992

Source: http://www.senat.cz/informace/zadosti/ustava-eng.php?ke_dni=28.02.2007&O=6

Article 21

Nobody may be at the same time member of both chambers of the Parliament.

Article 22

- (1) The office of Deputy or Senator shall be incompatible with the exercise of the office of the President of the Republic, of a judge or of other offices specified by law.

Article 32

A Deputy or a Senator who is a member of the Government may not be the Chairman or Vice-Chairman of the Chamber of Deputies or of the Senate, or a member of a parliamentary committee, an investigation commission or commission.

2. 2006 Act on Conflict of Interest

ACT No.159/2006 Coll.

of March 16, 2006

on Conflict of Interest

As adopted by the Parliament of the Czech Republic.

PART ONE

CONFLICT OF INTEREST AND INCOMPATIBILITY OF SOME PUBLIC OFFICES

Part I Introductory Provisions

Section 1 Subject Matter of Legislation

This Act sets forth:

- a) the obligation of public officials to avoid, in the course of their public service, any conflict of interest between their personal interests and the interests which they shall, based on their position, promote or defend,
- b) the obligation of public officials to disclose all facts necessary to enable public control of all their activities outside public service, their assets gained while in public service, and any other revenues, gifts, or benefits obtained while in public service, or any liabilities incurred,
- c) limitations imposed hereby on selected activities of public officials and incompatibility of performance of public service with other positions,
- d) the liability of public officials for any violations hereof, including sanctions stipulated hereby for such violations.

Section 2

Public Official

(1) For the purposes of this Act, a public official shall mean:

- a) a member of the Chamber of Deputies of the Parliament of the Czech Republic (hereinafter only "Member of Parliament"),
- b) a member of the Senate of the Parliament of the Czech Republic (hereinafter only "Senator"),
- c) a member of the Government's Cabinet or a director of another central administrative body not headed by a government member¹⁾,
- d) the president of the Office for Protection of Personal Data,
- e) the president of the Office for Technical Standards, Metrology, and Central Testing,
- f) a member of the Czech Telecommunication Office Council,
- g) a member of the Presidium of the Securities Commission,
- h) a judge,
- i) a member of the Bank Council of the Czech National Bank,
- j) the president, vice-president, and members of the Supreme Audit Office,
- k) the Ombudsman,
- l) the director of the Security Information Service,
- m) the director of the Office for Foreign Relations and Information,
- n) a member of the Council for Radio and TV Broadcasting,
- o) a member of the regional assembly or the assembly of the capital city of Prague²⁾ (hereafter "region") who has been given a long-term leave to perform the public office,
- p) a member of the local assembly, the municipal assembly of a chartered town, or the assembly of the municipal district of the capital city of Prague³⁾ (hereafter "municipality") who has been given a long-term leave to perform the public office,
- q) a mayor of a municipality and members of the regional or municipal council who have not been given a long-term leave to perform the public office.

¹⁾ Section 2, Para 1 of Act No. 2/1969 Coll., on Setting up Ministries and other Central Bodies of the Government Administration of the Czech Republic, as amended.

²⁾ Section 32, Para 1 of Act No. 129/2000 Coll., on Regions, as amended.
Section 51, Para 2 of Act No. 131/2000 Coll., on the Municipality of Prague, as amended.

³⁾ Section 51 of Act No. 131/2000 Coll., on the Municipality of Prague, as amended.

(2) In addition to persons listed in Para 1, a public official for the purposes hereof shall also mean:

- a) a member of the Police of the Czech Republic and the Customs Service of the Czech Republic,
- b) a public prosecutor,
- c) a member of a statutory, management, supervisory, or control body of a legal person established by law,
- d) a head employee of a legal person established pursuant to *lex specialis* should he/she manage other head employees,
- e) a head public servant responsible, on individual levels of a public authority's organisational structure, for managing staff, assigning them tasks, and issuing binding work orders and for organising, managing, and supervising their performance,
- f) a head employee of the self-governing territorial unit conducting administrative tasks at a local office, municipal office, city hall of a chartered town, city hall of a chartered town with municipal districts, regional office, the city hall of the capital city of Prague, or municipal office of the municipal district of the capital city of Prague.

(3) A person under Para 2, Subparagraph a) shall be bound by provisions hereof solely should he/she, in the course of performance of official duties:

- a) give orders on behalf of a public-administration body to make financial transactions as guided by the Act on Financial Audit,
- b) take an active part in the preparation and performance of public contracts,
- c) make decisions in administrative proceedings on matters guided by governments decrees,
- d) take part in criminal proceedings.

Part II **Conflict of Interest**

Section 3

(1) Should there be a conflict of public and private interests, a public official shall not prefer his/her personal interest over the interests he/she is bound to protect and promote. For the purposes of this Act, private interest shall mean an interest securing personal advantage to a public official or preventing him/her from losing material or other benefits.

(2) A public official shall not expose public interests by:

- a) misusing his/her position, power, or information gained in the course of performing his/her official duties for any material or other gains to his/her own or somebody else's benefit,
- b) making use of his/her public authority to support and promote his/her personal interests, especially when related to occupation, employment, or business,
- c) giving consent to, for a consideration or in exchange for other benefits, the use of his/her name and surname and/or image for commercial advertising purposes.

Part III **Limitation on Activities of Public Officials Incompatibility of Public Office with other Offices or Positions**

Section 4

(1) A public official under Section 2, Para 1, Subparagraph c) to g) and i) to m), shall not:

- a) perform a business or any other individual entrepreneurial activity,
- b) act as a statutory body or be a member of a statutory, management, supervisory, or audit body of a legal person, unless stipulated otherwise by a special legal instrument,
- c) take part in an employment or service-provider relationship unless it is part of the performance of the public office.

(2) The limitation under Para 1 shall not apply to management of an official's own property or to performance of scientific research and related activities, teaching, publishing, writing, performing arts, or sports unless the above would be performed as a business.

(3) Public officials under Para 1 shall terminate activities prohibited hereby without undue delay immediately after assuming public office and no later than 30 days after such date. Should an official find the above stipulated deadline unmanageable for a reason independent of his/her free will, he/she shall inform the Registration Authority in writing of such facts and continue taking measures to terminate such activity. Provisions of *lex specialis* shall not be thereby affected⁴⁾.

Section 5

(1) Members of Parliament and Senators representing the state in managing, supervisory, or audit bodies of legal persons in which the government, government-controlled legal persons, the Czech National Bank, or all of the above may have a stake or voting rights shall not receive any payment for their performance therein.

(2) A public official under Section 2 Para 1, Subparagraph o) and p), representing his/her region or municipality in managing, supervisory, or audit bodies of a legal person in which the region or municipality may have a stake or voting rights, shall not receive any payment for his/her performance therein.

(3) A Member of Parliament or a Senator shall not accept any position of employment with or service to the Czech Republic, should these be appointments or decision-making positions in:

- a) a government ministry or any other public-administration body,
- b) an office of prosecution or in court,
- c) law enforcement⁵⁾, the Czech armed forces, the Supreme Audit Office, the Office of the President of the Czech Republic, the Office of the Chamber of Deputies of the Czech Republic, the Office of the Senate, the Land Fund of the Czech Republic or any other public fund, or the Office of the Ombudsman.

Section 6

A public official under Section 2, Para 1, Subparagraphs c) to g), and i) to q), and Para 2, Subparagraphs c) to f) shall not, for a period of one year after the termination of his/her office, become a partner or assume a position in statutory bodies of a legal person or become an employee of a business that, in a period of three years prior to the termination of his/her office, entered into a contract with the central or regional government, should it be an over-the-limit contract, and should such public official or the body in which such public official had acted decided on such contract.

Part IV

Disclosing Personal Interest, Activities, Assets, Income, Gifts, and Liabilities

Section 7

Affidavit

A public official shall, by way of an affidavit, declare his/her:

- a) personal interests (hereinafter "Personal-Interest Disclosure"),
- a) other activities (hereinafter "Activity Disclosure"),
- b) assets gained in the course of his/her position of a public official (hereinafter "Asset Disclosure"),
- c) income, gifts, and liabilities (hereinafter "Disclosure of Income, Gifts, and Liabilities").

⁴⁾ For instance, Section 45 of the Labour Code, as amended; Section 95 of Act No. 6/2002 Coll., on Courts, Judges, Lay Judges, and State Administration of the Courts, and on Modification of other Legislation (Act on Court and Judges), as amended; Section 21, Para 3 of Act No. 283/1993 Coll., on Offices of Public Prosecution, as amended.

⁵⁾ Section 1 Para 1 Act No. 361/2003 Coll., on Law Enforcement Service, as amended.

Section 8

Personal-Interest Disclosure

(1) A public official shall, in a meeting of a constitutional body or a central or regional public-administration body in which he/she is part of the debate, makes proposals, or has a voting right, declare his/her position vis a vis the subject matter of the meeting, should there exist a possibility that the results of the meeting might lead to his/her personal gain or harm, or should he/she have a personal interest in such matter. The above shall not apply should this interest or benefit be otherwise publicly known.

(2) The public official shall present his/her disclosure under Para 1 above in writing prior to the meeting or orally in the course of the meeting, but no later than before a vote in the meeting is taken. The disclosure shall be attached to the meeting minutes.

Section 9

Activity Disclosure

(1) A public official shall, correctly, truly, and in full, disclose if he/she:

- a) has a business or is otherwise involved in a gainful entrepreneurial activity, and disclose the nature of such business or activity, its details, and place,
- b) is a business partner or a member of bodies of a legal person engaged in business (hereinafter only "legal person engaged in business"), and disclose the name and business address of such business,
- c) is a statutory body or a member of a statutory, managing, supervisory, or audit body of a legal person engaged in business, and disclose the name and address of such business,
- d) is in employment, service, or has any other similar relationship unless it is in connection with his/her public office or service.

(2) Public officials shall make the disclosure under Para 1 above no later than June 30 of the following calendar year.

Section 10

Asset Disclosure

(1) A public official shall, correctly, truly, and in full, disclose that in the course of his/her public service he/she acquired the following:

- a) ownership or other rights in rem to real estate, the price for which such real estate or rights were acquired, and the manner in which they were acquired,
- b) ownership of movable assets, other rights, or values, including the manner in which they were acquired, provided the aggregate price of movable items, rights, and other such values acquired in one calendar year is greater than 500 000 CZK (the aggregate amount does not include items, rights, or values the price of which is less than 25 000 CZK per item),
- c) securities or underlying rights thereto in keeping with special regulations⁶⁾, provided the total purchase price of such securities or underlying rights at the time of acquisition is in excess of 50 000 CZK in case of a single issuer or 100 000 CZK in case of multiple issuers,
- d) interest in a company other than mentioned in Subparagraph c), provided the value of the interest is in excess of 50 000 CZK, or 100 000 CZK in case of interest in multiple companies.

(2) Asset Disclosure in keeping with Para 1 shall be made by the public official no later than June 30 of the following calendar year.

(3) In the Asset Disclosure in keeping with Para 1, the public official shall list assets acquired by his/her spouse and included in the marital property.

⁶⁾ Act No. 591/1992 Coll., on Securities, as amended.

Section 11

Disclosure of Income, Gifts, and Liabilities

(1) A public official shall, correctly, truly, and in full, disclose that

- a) during the performance of his/her office, he/she acquired monetary income or other material benefits, namely gifts (except for gifts listed in the Asset Disclosure under Section 10), remuneration, income from business or self-employment, dividends, or other income derived from interest or activities in a legal person engaged in business (hereafter “income or other material benefits”), provided the aggregate amount of income or other material benefits is in excess of 100 000 CZK in a calendar year (for the purpose hereof, monetary income or other material benefit does not include salary, remuneration, or other fringe benefits to which the public official is entitled in connection with his/her public office in keeping with special regulations⁷⁾; the aggregate amount is also exclusive of gifts valued at less than 10 000 CZK),
- b) he/she has outstanding financial liabilities, namely loans, credits, rent, liabilities derived from a lease-to-own contract, or bills payable, provided the aggregate amount of all liabilities is in excess of 100 000 CZK as of December 31 of the calendar year for which the disclosure is filed.

(2) In the Disclosure of Income, Gifts, and Liabilities, the public official shall state the amount, type, and source of each income under Para 1, Subparagraph a), and the amount and type of liability under Para 1, Subparagraph b), including the name of the creditor. The Disclosure of Income, Gifts, and Liabilities shall be made by the public official no later than June 30 of the following calendar year.

Section 12

(1) Disclosures under Sections 9 through 11 and under Para 2 shall be made by the public official during the entire term of office and within the time limits stipulated herein. In the event the public official ends the performance of public office, he/she shall file the disclosures under Sections 9 through 11 and under Para 2 within 30 days of such termination, reflecting the situation as of the date of such termination.

(2) If no such circumstance as set forth in Sections 9 through 11 occurs during the calendar year, the public official shall file a written disclosure to that effect no later than June 30 of the next calendar year.

(3) A written disclosure shall include a communication in electronic form filed through a public data network with a certified electronic signature⁸⁾.

(4) The disclosures under Sections 9 through 11 and under Para 2 shall be lodged with the Registration Authority (Section 14, Para 1).

(5) The disclosures shall be provided on a form the structure and format of which shall be decreed by the Ministry of Justice.

Part V

Registration and Maintenance of Activity Disclosures, Asset Disclosures, and Disclosures of Income, Gifts, and Liabilities

Section 13

Registry of Disclosures

⁷⁾ Act No. 236/1995 Coll., on Wages and other Benefits Related to the Execution of the Duty of a Public Official or a Judge, as amended.

Act No. 128/2000 Coll., on Municipalities, as amended.

Act No. 129/2000 Coll., on Regions, as amended.

Act No. 131/2000 Coll., on the Municipality of Prague, as amended.

⁸⁾ Act No. 227/2000 Coll., on Electronic Signature, as amended.

(1) The Registry of Activity Disclosures, Asset Disclosures, and Disclosures on Income, Gifts, and Liabilities (hereafter “the Registry”) is a collection of documents filed by public officials under Section 12, Para 4; the public official shall include in the disclosure his/her name, surname, the body he/she represents and in what capacity, and information required in keeping with Sections 9 through 11, and Section 12, Para 2. The Registry is maintained and administered by the respective Registration Authority (Section 14, Para 1).

(2) Everyone shall have a right to access the Registry free of charge, on the basis of a written request, and to make copies and extracts thereof. The written request has to include the name, surname, birth number, and address of the applicant. Copies and extracts are not certified by the Registration Authority and do not have the character of public documents.

(3) Everyone shall have the right to submit in writing to the Registration Authority maintaining the Registry (Section 14, Para 1) facts which imply that information contained in the disclosures in the Registry is untrue or incomplete; such submission may be made electronically via a public data network. Within 30 days thereof, the Registration Authority shall notify the person who has submitted the information about the way the information was handled; such a reply may be done electronically provided the submission came in an electronic form.

(4) Every access to the Registry shall be recorded in a report containing:

- a) identification of the entity requesting access,
- b) identification of the request,
- c) the subject matter of the query,
- d) the date and time when information was provided,
- e) identification of persons or technical equipment that provided the information.

(5) Everyone who wishes to access the Registry in electronic form at a central site through a public data network shall receive a user name and a password from the Registration Authority. The user name and password shall be issued on the basis of an application containing:

- a) the applicant’s name,
- b) the applicant’s surname,
- c) the number given to the applicant at birth,
- d) the applicant’s permanent place of residence.

It is prohibited to disclose to a third party the user name and password for access to the Registry in electronic form at a central site through a public data network.

(6) The Registration Authority shall, upon request, provide all documents maintained in the Registry and concerning a public official to the body having jurisdiction in proceedings and decision-making regarding a violation hereof by the said official.

(7) All data maintained in the Registry may be used and further processed solely for the purpose of establishing a possible conflict of interest in connection with performance of a public office by a public official. Processing of personal data contained in the Registry must not prejudice protection of personal data in keeping with special regulation⁹⁾.

Section 14

Administration of the Registry

(1) The Registry shall be administered by Registration Authorities, which are:

- a) the Mandate and Immunity Committee of the Chamber of Deputies of the Parliament of the Czech Republic (hereafter “Chamber of Deputies”) for public officials mentioned in Section 2, Para 1, Subparagraphs a), c) through g) and i) through n), with the exception of Senators,

⁹⁾ Act No. 101/2000 Coll., on Protection of Personal Data and on Modification of Related Legislation, as amended.

- b) the Mandate and Immunity Committee of the Senate of the Parliament of the Czech Republic (hereafter “Senate”) for public officials mentioned in Section 2, Para 1, Subparagraphs b) and h),
- c) the Ministry or other central body of government administration which is not headed by a member of the Cabinet under whose authority the public official mentioned in Section 2, Para 2, Subparagraphs a) through e) falls,
- d) the Director of the Regional Office for public officials mentioned in Section 2, Para 1, Subparagraph o) and Para 2, Subparagraph f), provided these are members of the regional assembly in the given region or employees of the Regional Office,
- e) the Director of the city hall of the capital city of Prague for public officials mentioned in Section 2, Para 1, Subparagraph o) and Para 2, Subparagraph f), provided these are members of the municipal assembly of the capital city of Prague or employees of the city hall of the capital city of Prague,
- f) the Secretary of a municipal office, city hall of a chartered town or city hall of a chartered town with districts, or office of a municipal district or municipal district of a chartered town with districts for public officials mentioned in Section 2, Para 1, Subparagraph p) and q) and Para 2, Subparagraph f), provided these are members of the assembly in their municipality or employees of their office or city hall,
- g) the Secretary of the local office or, in those municipalities where no secretary has been appointed, the Mayor, for public officials mentioned in Section 2, Para 1, Subparagraphs p) and q) and Para 2 Subparagraph f) provided these are members of the assembly in their municipality or employees of the local office.

(2) Administration of the Registry shall include:

- a) receipt and registration of disclosures made under Sections 9 through 11 and Section 12, Para 2,
- b) archiving of requests and applications filed with the respective Registration Authority under Section 13, Para 2, for the period of five years from the submission,
- c) archiving of disclosures filed with the respective Registration Authority under Sections 9 through 11, and Section 12, Para 2, for the period of five years from the termination of the public office,
- d) overseeing whether information provided in disclosures under Sections 9 through 11 and Section 12, Para 2, is complete and requesting additional information,
- e) receipt of submissions in keeping with Section 13, Para 3,
- f) providing documents under Section 13, Para 4 to bodies having the authority to proceed in such matters,
- g) creating reports of access in keeping with Section 13, Para 4,
- h) verifying requests and issuing user names and passwords for access to the Registry in electronic form on a central site of a public data network.

(3) Unless stipulated otherwise herein, members of the Registration Authority and other persons who come into contact with registered data shall keep strict confidentiality about facts derived therefrom unless it is information which is part of the Registry as such. Information about persons who relayed information indicating untrue or incomplete data contained in the disclosures maintained in the Registry is also subject to strict confidentiality. The confidentiality obligation does not apply to bodies having jurisdiction in the proceedings and decision-making regarding a violation hereof by the said official, or to courts.

Part VI

Liability of Public Officials and Proceedings

Section 15

Public officials are liable for violations based on fault of duties hereunder, unless such violation is qualified as a criminal offence.

Section 16

Bodies Competent in Decision-making Regarding a Violation Hereof

Courts in administrative proceedings shall decide on violation of duties hereunder by public officials.

Proceedings

Section 17

(1) Upon a motion to that effect, the court shall commence proceedings regarding a violation hereof by a public official (hereafter "Proceedings").

(2) The Registration Authority shall file the motion for the Proceedings to be commenced (Section 14, Para 1), provided it has established through proved facts or received information that there is probable cause to believe that a public official violated his/her duties hereunder. The Registration Authority maintaining the Registry regarding the public official against whom the motion is filed is considered to be the Registration Authority with appropriate competence.

(3) The motion to commence Proceedings may be filed by anyone who has probable cause to believe that the public official violated his/her duties hereunder.

(4) The motion to commence Proceedings must be filed within six months of the day when the Registration Authority or the person having the right to file the motion learnt about the facts implying a violation of the present Act and within five years of the occurrence of such facts, regardless of whether the term of office lapsed in the meantime.

Section 18

(1) The petitioner and the public official against whom the Proceedings have been initiated are parties to the Proceedings.

(2) The decision shall be based on the factual and legal situation at the time of the violation by the public official; later legislation shall be applied only if it is more favourable for the public official concerned.

(3) The decision may include stipulations for extending the time limit within which the obligations are to be met.

Section 19

(1) The court has the right to review whether information provided in the disclosures maintained in the Registry is accurate, true, and complete. To that effect it has the right to require cooperation from relevant government bodies, local self-governing authorities, and other legal persons and individuals, and to request from such entities the necessary information and explanation and/or confirmation that the information contained in the Registry corresponds with the facts. Upon written request of the court, these entities shall provide the court with cooperation. Necessary information and explanation shall be given to the court in a time frame stipulated by the court which, however, must not be shorter than 10 business days. Unless provided otherwise by special regulation¹⁰⁾, the information shall be provided free of charge.

(2) Should the Proceedings warrant review of tax information regarding the public official concerned, the public official shall be obliged to release the tax administrator from the confidentiality duty in connection with the matter in question. Should the public official refuse to lift the confidentiality duty, the information in connection with which the tax administrator is under a confidentiality duty is deemed to be incorrect.

(3) The Proceedings are to be completed even if the public official resigns or is dismissed from the office prior to the ruling of the court.

Section 20

If the court, in the course of the proceedings, establishes facts indicating that a crime was committed, it shall be obliged to inform the law-enforcement bodies.

¹⁰⁾ Section 38 Para 5 of Act No. 21/1992 Coll., on Banks, as amended.
Section 115 Para 5 of Act No. 256/2004 Coll., on the Capital Market.

Section 21

Publication of the Ruling

(1) The court shall provide the ruling, once it has become final, to the Registration Authority which administers the Registry concerning the public official in question even if the Authority is not a party to the Proceedings.

(2) The speaker of the Chamber of Deputies, the speaker of the Senate, the Prime Minister, the Mayor of the capital city of Prague, a mayor of a chartered city, a governor of a region, or a mayor of a municipality shall announce the ruling and its rationale at the next meeting of the Chamber of Deputies, the Senate, the Cabinet, or the regional or municipal assembly regarding the public official who is a member of that body or an employee of a self-governing territorial entity. Rulings regarding other public officials mentioned in Section 2, Para 1 shall be announced by the Prime Minister at a Cabinet meeting to which the public official concerned is invited. The same announcement shall be made if the motion against the public official was dismissed. Should the ruling concern the speaker of either of the chambers, the Prime Minister, the Mayor of the capital city of Prague, a governor, or a mayor, the announcement shall be made by their first deputy or another member of the assembly.

(3) The ruling and its rationale shall be published by that body of which the public official is a member or, in other cases, by the Cabinet within 15 days of the ruling becoming final. The ruling will be published in electronic form on the respective body's site on the public data network. The ruling must remain published for six months.

(4) Rulings mentioned in Para 1 and 2, if they concern public officials mentioned in Section 2, Para 1, Subsections p) and q), shall be posted on the official bulletin board of the municipality in the event the municipality does not have the technical means to publish electronically on the public data network. The ruling must remain posted for six months.

Section 22

Fine

(1) The court shall fine the public official up to 30 000 CZK for a failure to meet the deadline in keeping with Sections 9 through 11. The fine may be imposed repeatedly until the obligation is met.

(2) The court shall fine the public official up to 100 000 CZK if the public official

- a) gave inaccurate, incomplete, or untrue information in the disclosure submitted in keeping with Section 9 through 11 and Section 12, Para 2,
- b) made a reference to his position in matters that have connection with his personal interests, namely occupation, employment, or business,
- c) failed to file a Personal-Interest Disclosure (Section 6).

(3) The court shall fine the public official up to 500 000 CZK if the public official

- a) took advantage of his/her position, authority, or information acquired in connection with his/her public office to gain unlawful material or other benefit or advantage for himself/herself or another person,
- b) held office or performed activities which are hereby deemed incompatible with the performance of a public office by a public official,
- c) gave his/her consent for his/her name(s) and surname or his/her image in connection with the public office to be used for consideration or another benefit for commercial advertising purposes.

(4) In assessing the fine, the court shall consider the seriousness of the violation, the amount of personal benefit, and the degree of the public official's fault. .

(5) Revenues raised through fines imposed on public officials shall benefit the state budget. The fines shall be enforced and collected by the court which assessed such fines.

Part VII
Infractions

Section 23

An infraction is committed by an individual who

- a) uses or further processes data maintained in the Registry for a purpose other than to establish a possible conflict of interest of a public official under Section 13, Para 5,
- b) breaches the confidentiality obligation under Section 14, Para 3 in connection with facts he/she has garnered from data recorded in the Registry or in connection with persons who informed the Registration Authority about facts implying that the information contained in disclosures is untrue or incomplete,
- c) provides clearly untrue information in the motion for commencement of Proceedings in keeping with Section 17,
- d) discloses without authorisation a user name and password to a third party so that party can access the Registry in electronic form at a central site through a public data network.

Section 24

Infractions defined in Section 23 may incur fines of up to 100 000 CZK.

Section 25

(1) In assessing the fine, the seriousness of the infraction — namely the way in and circumstances under which it was committed, the significance and the effect caused by the infraction, the duration of the wrongful conduct, and whether the offender helped remove or alleviate the negative effects — shall be taken into consideration.

(2) Infractions set forth in Section 23, Subparagraphs a) and b) shall be heard by the Office for Protection of Personal Data; infractions set forth in Section 23, Subparagraph c) shall be heard in the context of delegated competence by the municipal office of the municipality with extended competence where the offender has his/her permanent residence.

(3) Fines imposed for infractions set forth in Section 23, Subparagraphs a) and b) shall be enforced and collected by the respective Customs Office; revenues shall benefit the state budget. Fines imposed for infractions set forth in Section 23, Subparagraphs c) shall be enforced and collected by the authority which imposed them; revenues shall benefit the municipal budget of the municipal office that imposed the fine.

(4) The fine is due and payable within 30 days of the day the decision thereon became final.

(5) In enforcing and collecting fines, special legal regulation¹¹⁾ shall apply.

Part VIII
Transitional Provisions

Section 26

If, as of the day of the effect hereof, a public official holds office or performs activities which are hereby deemed incompatible with the performance of a public office by a public official, he/she is obliged to terminate such activities within three months of the effect hereof and inform the respective Registration Authority to that effect. In assessing the incompatibility of offices of hitherto elected members of the Parliament, senators and members of regional assemblies, hitherto existing legal regulations shall be applied until the end of the term of their office.

¹¹⁾ Act No. 337/1992 Coll., on Administration of Taxes and Duties, as amended.

Part IX
Repealing Provisions

Section 27

The following shall be repealed:

1. Act No. 238/1992 Coll., on selected measures related to the protection of public interest and incompatibility of selected public offices (Conflict of Interest Act),
2. Act No. 287/1995 Coll., amending Act No. 238/1992 Coll. of the Czech National Council, on selected measures related to the protection of public interest,
3. Act No. 228/1997 Coll., amending Act No. 238/1992 Coll. of the Czech National Council, on selected measures related to the protection of public interest (Conflict of Interest Act), as amended by Act No. 287/1995 Coll.

(....)

PART SEVEN

EFFECT

Section 28

This act shall come into effect on January 1, 2007.

4. Blank Disclosure Form

Annex to the Ordinance No. .../... Coll., setting the form for submitting the affidavit as set by the Conflict of Interests Act

Affidavit

**The notice of other executed activities,
the notice of the property obtained under the office period and
the notice of earnings, gifts and liabilities submitted by the public
official according to the Act No. 159/2006 Coll. to regulate the conflict of
interest
(hereinafter referred to as “the Act”)**

I. General information

A. Personal data of the public official (§ 13 Para. 1 of the Act)

| | |
|---------|--|
| Name | |
| Surname | |

B. The body in which the public official takes a position

| | |
|-------------------|--|
| Name | |
| Registered office | |
| Position held | |

C. Period covered by the submitted affidavit

D. The time limit for the submission

of the affidavit

II.
The notice of other executed activities
(§ 9 of the Act)

I hereby confirm that within the period set in Part I Point C, I was

b) engaged in business or other independent gainful activity

| | | | |
|------------|--------------------------|--|--|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Field of business/ gainful activity | |
| | | Way and place of business or activity | |

c) the partner or the member of a legal entity dealing with business

| | | | |
|------------|--------------------------|------------------------------------|--|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Specification of the membership | |
| | | Company / name | |
| | | Registered office | |

d) the statutory body or the member of the statutory body, member of the managing,
supervisory or inspection body of a legal entity dealing with business

| | | | |
|------------|--------------------------|------------------------------|--|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Specification of the body | |
| | | Company / name | |
| | | Registered office | |

- e) engaged in other activity under the employment or similar relationship or under the service relationship other than the relationship in which I am engaged as a public official

| | | | |
|------------|--------------------------|-------------------------------|--|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Specification of the activity | |
| | | Company / name | |
| | | Registered office | |

III.

The notice of the property obtained during the office period (§ 10 of the Act)

I hereby confirm that within the period set in Part I Point C, I acquired to my exclusive ownership or to the common ownership of spouses (in this case specify under the same conditions also the property acquired by your spouse which belongs to the common ownership of spouses)

- f) ownership or other proprietary rights to the real estate

| | | | |
|------------|--------------------------|---------------------|--|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Type of real estate | |
| | | Type of ownership | |
| | | Price */ | |
| | | Way of acquisition | |

*/ The price of the real estate or the price of the other proprietary right for which the real estate or the right concerned were acquired

- g) proprietary rights to movable property, other rights of proprietary values exceeding the total price of CZK 500,000
(the summary shall not include items, rights or other proprietary values with the price lower than CZK 25,000)

| | | | | |
|------------|--------------------------|------|--------------------|--------------------|
| NO | <input type="checkbox"/> | | | |
| YES | <input type="checkbox"/> | Name | Total price in CZK | Way of acquisition |

| | | | |
|----|--|--|--|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |

- h) securities or the rights relating to them according to the Act No. 591/1992 Coll. to regulate negotiable instruments as subsequently amended if the total amount of the purchase price of the securities emitted by one emitter or the rights relating to them in the time of their acquisition exceeds the amount of CZK 50,000 or the amount of CZK 100,000 in case of multiple emitters

| | | | |
|-----|--------------------------|------|--------------------|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Name | Total price in CZK |
| | | 1. | |
| | | 2. | |
| | | 3. | |
| | | 4. | |
| | | 5. | |

- i) other share in the business company except of the share stated in Letter c) if the value of such share exceeds the amount of CZK 50,000 or the amount of CZK 100,000 in case of multiple business companies

| | | | |
|-----|--------------------------|--------------------------------|--|
| NO | <input type="checkbox"/> | | |
| YES | <input type="checkbox"/> | Value of the share in business | |

IV. The notice of earnings, gifts and liabilities
(§ 11 of the Act)

I hereby confirm that within the period set in Part I Point C

- j) I acquired monetary income or other property benefits, especially gifts, except for the gifts specified in the notice of property obtained during the office period according to Part II, remuneration, business income or the income from other independent gainful activities, dividends or other earnings from my participation or engagement in legal entities dealing with business if their total amount exceeded in the respective calendar year CZK 100,000

(for the purposes of this ordinance, the monetary income or some other property benefit means the remuneration or some other items which a public official is entitled to in connection with his office according to specific legal regulations; this summary shall not include gifts with the value lover than VZK 10,000)

| | | | | |
|------------|--------------------------|-----------|--------|---|
| NO | <input type="checkbox"/> | | | |
| YES | <input type="checkbox"/> | Type | Source | The amount of the income or proprietary benefit |
| | | 1. | | |
| | | 2. | | |
| | | 3. | | |
| | | 4. | | |
| | | 5. | | |

- k) I have outstanding financial liabilities, especially debts, credits, rental fee, liabilities resulting from the rental contract with the purchase right or bill liabilities the total amount of which exceeded CZK 100,000 by the December 31 of the calendar year covered by the affidavit

| | | | | |
|------------|--------------------------|-------------------|---------------|----------------------|
| NO | <input type="checkbox"/> | | | |
| YES | <input type="checkbox"/> | Type of liability | Amount in CZK | Name of the creditor |
| | | 1. | | |
| | | 2. | | |
| | | 3. | | |
| | | 4. | | |
| | | 5. | | |

On day

Statement of reasons

The draft legal regulation follows the Act No. 159/2006 Coll. to regulate the conflict of interests. The adopted Act is based on a number of basic features including the more extensive competence of the obligated persons, the more extensive scope of the set responsibilities of public officials, more detailed specification of the duties and restrictions of public officials, provision of a wider space for the public supervision, restricted execution of certain activities by public officials for a set period of time even after the termination of their office, the more detailed rules regulating the conflict of interests, specification of independent bodies which are to supervise the observance of the Act, and the extension of sanctions.

According to the Act, public officials are obliged to disclose their property situation during the time of their office and submit the annual affidavits. The obligation to submit the notice of property and the notice of earnings, gifts and liabilities regarding the persons holding public offices is expected to effectively contribute, in connection with the existing instruments, to the fight against bribery. These measures will be used to prove or disprove a potential suspicion of the illegal acquisition of property by the person concerned. Except for its repressive effect (a fine), this institute will be significantly important especially in terms of prevention. The very fact, that a person is obliged to disclose his/her proprietary situation, is a tool suppressing bribery behaviour.

In order to make the meeting of these duties of public officers easier and provide with easier and more transparent public supervision tools, we consider it useful to establish a single form. Therefore, § 11 Para. 5 of the Act No. 159/2006 Coll. to regulate the conflict of interests includes the authorization for the Ministry of Justice to issue a decree setting the structure and the format of such form.

The draft is not expect to raise any increased economic and financial requirements with respect to the national budget, other public budgets, business circles in the Czech republic, or bring any and social or environmental impact.