

Slovenia – Legal Annex

- 1. Constitution, Adopted and entered into force on 25 June 1991 (Official Gazette of the Republic of Slovenia Nos. 1/91-I and 19/91).**
- 2. Prevention of Corruption Act, adopted on 19th December 2003, entered into force on 30th January 2004**
- 3. Rules of Procedure of the Commission for the Prevention of Corruption, 1st September 2004**
- 4. Blank Disclosure Form (see in separate files)**

Law(s) reviewed but not containing relevant articles for this study:

- Rules of Procedure of the National Assembly

- 1. Constitution, Adopted and entered into force on 25 June 1991 (Official Gazette of the Republic of Slovenia Nos. 1/91-I and 19/91)**

Article 82
(Deputies)

Deputies of the National Assembly are representatives of all the people and shall not be bound by any instructions.

The law shall establish who may not be elected a deputy, and the incompatibility of the office of deputy with other offices and activities.

The National Assembly confirms the election of deputies. An appeal may be made before the Constitutional Court, in accordance with the law, against a decision of the National Assembly.

- 2. Prevention of Corruption Act, adopted on 19th December 2003, entered into force on 30th January 2004**

Prevention of Corruption Act (ZPKor) –

Official Gazette RS, No. 2-71/2004 (page 200) - 15 January 2004

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Entry into force: 30 January 2004

MEANING OF TERMS IN THIS ACT

Article 2

For the purpose of this Act the following definitions shall apply:

– "Functionaries" under this Act shall be deputies, members of the National Council, President of the Republic, Prime Minister, ministers, state secretaries, Constitutional Court judges, judges, state

prosecutors, Governor of the Bank of Slovenia, Human Rights Ombudsman, functionaries serving in the National Assembly, the National Council and with the President of the Republic, government functionaries, functionaries serving at the Constitutional Court, Court of Auditors, the Bank of Slovenia and with the Human Rights Ombudsman, functionaries in other national bodies and functionaries in self-governing local communities (hereinafter: local communities).

Chapter III: RESTRICTIONS AS REGARDS PROFITABLE ACTIVITY, RECEIVING OF GIFTS AND OPERATIONS

INCOMPATIBILITY

Article 19

(1) A functionary holding office professionally (hereinafter: professional functionary) may not perform occupational or other activity for the purpose of obtaining income independently or in an employment relationship.

(2) Notwithstanding the provision of the preceding paragraph, a professional functionary may perform pedagogical, scientific, research, artistic, cultural and publicist work.

Article 20

(1) A professional functionary may not conduct the activity of management, supervision or representation in companies, undertakings, economic interest associations, chambers implementing public authorisations, institutes, cooperative societies, funds or agencies.

(2) Notwithstanding the provision of the preceding paragraph, a professional functionary may, as a representative of the body, be a member of a board of a public institute or public agency or a member of the supervisory board of a public undertaking, public fund or company where the state or local community holds a business stake, shares or other rights on the basis of which it participates in the management or capital.

Article 21

A functionary not holding office professionally may not perform the activity of management or representation in a public institute, public company, public fund or public agency if his/her office entails the conduct of supervision of their work.

Article 22

A functionary, who prior to commencing the office performed an activity or held an office which is incompatible with the holding of office under this Act, must cease the activity or office no later than within eight days after election or appointment, or after the confirmation of his/her office.

Article 23

(1) If, after the expiry of the deadline referred to in the preceding Article, the functionary continues to perform the activity or hold an office which is incompatible with the holding of office under this Act, or if he/she starts to perform such an activity or hold such office, the Commission shall warn him/her and determine in the warning a deadline by which he/she must cease to perform such activity or hold such office. The deadline determined by the Commission may not be shorter than 15 days, nor longer than three months.

(2) If the functionary referred to in the preceding paragraph continues to perform incompatible activity or hold incompatible office despite the warning of the Commission and after the expiry of the deadline determined by the Commission, the Commission shall submit to the responsible authority a request to initiate the procedure for termination of office.

(3) If the responsible authority establishes that the functionary performed or continues to perform incompatible activity or hold incompatible office in contravention of this Act after the expiry of the deadline determined by the Commission pursuant to the first paragraph of this Article, it shall commence the procedure for termination of office. The responsible authority shall inform the Commission of its final decision.

PROHIBITION AND RESTRICTIONS OF RECEIVING OF GIFTS

Article 24

(1) A functionary shall not accept gifts or other benefits (hereinafter: gifts) relating to the holding of the office, except for protocol gifts and occasional gifts of low value.

(2) Gifts by representatives of other countries and international organisations given in the course of visits or other occasions, and other gifts given in similar circumstances, shall be regarded as protocol gifts.

(3) Gifts not exceeding the value of SIT 15,000 or gifts whose total value in a year does not exceed SIT 30,000 if they are received from the same person shall be regarded as occasional gifts of low value.

(4) Prohibitions or restrictions referred to in this Article shall also apply to family members of the functionary.

Article 25

(1) The functionary shall record the accepted gifts and their value in a list of gifts kept with the body where the functionary holds office.

(2) If it is determined that the accepted occasional gift exceeds the value referred to in the third paragraph of the preceding Article, the gift shall become the property of the state or local community. Protocol gifts shall become the property of the state or local community irrespective of their value.

(3) The accepted gifts referred to in the preceding paragraph shall be handed over to the body where the functionary holds office.

(4) The manner of handling the gifts referred to in the second paragraph of this Article and the keeping of a list of gifts and other implementing issues relating to the restrictions and duties referred to in Articles 24 and 25 of this Act shall be laid down by the Commission and the regulation shall be published in the Official Gazette of the Republic of Slovenia.

Article 26

(1) The public and other bodies which are obliged under the law to keep lists of gifts shall submit copies of the lists for the previous year to the Commission by 31 March of the following year.

(2) Should the Commission establish, while examining the list, any deviations from legal criteria, it shall inform the body which submitted the list thereof.

(3) On the basis of selected information, the Commission shall draft a public catalogue of gifts accepted in the preceding year and shall publish it on its web pages.

Article 27

(1) Should the Commission determine in a specific case that an functionary has violated the provisions of Article 24 or 25 of this Act, it shall inform the body where the functionary holds office thereof.

(2) The body where the functionary holds office must submit to the Commission a report on the measures taken against the functionary no later than within 30 days of the reception of the Commission's notification.

RESTRICTIONS OF OPERATIONS

Article 28

(1) Contracting authorities operating under the public procurement regulations must not operate with business entities in which the functionary or his/her family member indirectly or directly holds a business stake, shares or other rights on the basis of which he/she participates in the management or the capital of the business entity in an amount exceeding 20%, via public contracts except for low-value contracts if the estimated value of the individual or monthly contract is lower than one-twelfth the value stipulated in the act on the implementation of the national budget.

(2) Contracting authorities operating under the public procurement regulations must not operate via a public contract with business entities in which a person who is a member of a management body or a supervisory body of the contracting authority is:

- a member of a management body,
- a holder of a business stake, shares or other rights on the basis of which he/she participates in the management or the capital of the business entity in an amount exceeding 20%.

(3) The restrictions referred to in the preceding paragraph shall be applied *mutatis mutandis* for family members of the members of management or supervisory bodies of contracting authorities operating under the public procurement regulations.

(4) A contract on awarding public procurement concluded in contravention of the provisions referred to in the preceding paragraphs shall be null and void.

(5) The Commission may permit the contracting authorities operating under the public procurement regulations to operate with business entities referred to in the first paragraph of this Article if it determines that the functionary cannot influence the adoption of a decision on an award of public procurement. The Commission must make a decision on a case referred to in the preceding sentence prior to the completion of a procedure on the award of the public procurement or prior to the selection of the most favourable or the most appropriate bidder.

(6) The Commission shall currently publish a list of business entities with which the contracting authorities referred to in the first, second and third paragraphs of this Article must not operate on the basis of the provisions of this Act and the list of business entities referred to in the preceding paragraph in the Official Gazette of the Republic of Slovenia and on its web pages.

(7) The restriction referred to in the first paragraph of this Article shall not apply to operations on the basis of contracts on the award of public procurement, which were concluded prior to the functionary's commencement of office.

(8) The restriction referred to in the second and third paragraphs of this Article shall not apply to operations on the basis of contracts on the award of public procurement, which were concluded prior to the appointment or election of a person into the management or supervisory body.

Article 29

The restriction referred to in the first paragraph of the preceding Article shall also apply after the cessation of office until the functionary receives wage compensation to which he/she is entitled after cessation of office.

Article 30

(1) Business entities referred to in Article 28 of this Act shall not be entitled to state aid.

(2) The provision referred to in the preceding paragraph shall not apply to state aid relating to elimination of the consequences of natural disasters or emergencies.

Article 31

The provisions of this Chapter shall not apply to issues, which are otherwise stipulated by law for certain functionaries.

Chapter IV: SUPERVISION OF THE FINANCIAL SITUATION OF FUNCTIONARIES

Article 32

(1) The Commission shall supervise the financial situation of functionaries.

(2) If the Commission determines during a supervision procedure laid down by this Act an obvious discrepancy between the submitted data on the financial situation of a functionary and the actual situation, it shall notify the body in which the functionary holds office and other competent bodies thereof in accordance with law.

(3) The bodies referred to in the preceding paragraph must notify the Commission of their measures and decisions no later than within three months of the receipt of the notification referred to in the preceding paragraph.

Article 33

The body where the functionary holds office must notify the Commission on the functionary's commencement of office or cessation of office no later than within seven days of the commencement or the cessation of office.

Article 34

The Commission shall supervise the financial situation of the functionary on the basis of data he/she submits in a special form, which shall be laid down by the Commission upon a prior consent of the Commission of the National Assembly and published in the Functionary Gazette of the Republic of Slovenia.

Article 35

Within one month after commencing office, the functionary must submit to the Commission data on:

- the office he/she holds professionally or not professionally,
- other offices he/she holds or activities he/she performs,
- the activity he/she performed directly prior to the commencement of office,
- his/her financial situation.

Article 36

(1) Data on the financial situation of the functionary shall contain data on his/her entire property and income, i.e.:

- on real estate,
- on movable property of high value,
- on business stakes and shares in companies and other securities,
- on funds deposited in banks, savings banks and credit and savings institutions,
- on debts, assumed guarantees and other liabilities, and
- on annual income which is the basis for the personal income tax.

(2) Movable property whose value exceeds SIT 2,000,000 shall be regarded as movable property of higher value referred to in the second indent of the preceding paragraph.

(3) The Commission may request the functionary to enclose appropriate evidence supporting the data referred to in the first paragraph of this Article.

Article 37

(1) The functionary shall submit a decision on personal income tax presenting the data on annual income referred to in the sixth indent of the first paragraph of the preceding Article every year.

(2) When submitting the decision on personal income tax, the functionary must notify the Commission of every change in the financial situation referred to in the first to fifth indents of the first paragraph of the preceding Article which exceeds one-half of the amount of the cash transaction as stipulated by the provisions on compulsory reporting contained in the act regulating the prevention of money laundering.

(3) The Commission may request the functionary to submit data referred to in the first to fifth indents of the first paragraph of the preceding Article. The functionary must submit data to the Commission within 15 days of the receipt of the request.

(4) If the comparison of the submitted data and the actual situation gives rise to reasonable grounds that the functionary transfers his/her property or income to family members for the purpose of evading supervision under this Act, the Commission of the National Assembly may, at the proposal of the Commission, also request the functionary to submit the data referred to in the preceding Article for family members within one month after the receipt of the request.

Article 38

The provisions of Articles 35 to 37 of this Act shall apply to a functionary whose office ceased and who receives wage compensation to which he/she is entitled after cessation of office.

Article 39

(1) Should the functionary fail to submit the data referred to in Articles 35 to 37 of this Act within the deadlines stipulated by this Act, the Commission shall warn him/her and determine an additional deadline for meeting the obligations, which may not be shorter than 15 days from the day of service of the warning.

(2) If, after the expiry of the deadline referred to in the preceding paragraph, the functionary still fails to submit the requested data, the Commission shall notify the body where the functionary holds office or the body responsible for deciding and paying the wage or wage compensation.

(3) In the case referred to in the preceding paragraph, the wage or wage compensation shall be reduced by one-tenth, but not more than the amount of the minimum wage, for each month following expiry of the deadline referred to in the first paragraph of this Article until the notification of the Commission that the functionary has submitted the requested data.

(4) If the functionary fails to submit the requested data within three months after the expiry of the deadline referred to in the first paragraph of this Article, the Commission shall notify the body responsible for the initiation of procedure for termination of office thereof, or another responsible body in accordance with law.

(5) If the responsible body establishes that the functionary failed to submit the requested data, it shall commence the procedure for termination of office or other procedures in accordance with law and it shall notify the Commission of its decision.

(6) If the functionary whose office has been terminated fails to submit the requested data within three months after the expiry of the deadline referred to in the first paragraph of this Article, the wage compensation shall be suspended.

Article 44

(1) Any gifts, except for memorial symbols, such as plaquettes, badges, small flags and similar, which are received according to the general regulations by the functionaries and public officials of the Commission relating to the work of the Commission shall become the property of the Republic of Slovenia, with the Commission being in charge of them.

(2) The list of gifts accepted by the functionaries and public officials of the Commission shall be a public document published on the notice board.

(3) The method of handling gifts accepted in connection with the work of the Commission that become the property of the Republic of Slovenia shall be determined by the Commission by a regulation published in the Official Gazette of the Republic of Slovenia.

Chapter VII: PENAL PROVISION

Article 47

(1) A fine of between SIT 500,000 and SIT 10,000,000 for committing a violation shall be imposed on a legal entity, except for a direct budget user, which, as a contracting authority operating under the public procurement regulations, awards a public contract to a business entity referred to in the first, second and third paragraphs of Article 28 of this Act.

(2) A fine of between SIT 50,000 and SIT 150,000 for committing a violation shall be imposed on a responsible person of the contracting authority operating under the public procurement regulations if he/she commits the act referred to in the preceding paragraph.

3. Rules of Procedure of the Commission for the Prevention of Corruption, 1st September 2004

Article 26

(1) The Commission shall collect data on the following from the functionaries for whom the law so stipulates:

- Offices held professionally or non-professionally;
- Other offices held or activities performed;
- Activities that they performed immediately prior to the commencement of the office;
- Their financial situation.

(2) In the cases and in the manner determined by the act the Commission may collect data on the financial situation of the family members of the functionaries.

Article 27

(1) The data referred to in the preceding Article shall have the character of personal data and shall be kept in accordance with the act governing the protection of personal data.

(2) The collected personal data shall be destroyed by the Commission after it is no longer necessary for the work of the Commission in accordance with the law.

Article 30

(1) Should the Commission establish that the functionary failed to submit the data referred to in Article 26 of these Rules of Procedure within the appointed time and in the manner determined by the ZPK or these Rules of Procedure, it shall warn the functionary thereof and determine an additional period of time to fulfil the obligations, which shall not be shorter than 15 days from the day of service of the warning.

(2) Should the Commission establish that upon the expiry of the deadlines determined by the ZPK or the functionary continues to perform an activity or hold an office that is not compatible with his office, or if he starts performing such activity or holding such office, it shall warn him and determine a period of time within which he must cease to perform the activity or hold the office, which however shall not be shorter than 15 days or longer than three months.

(3) The warnings referred to in the preceding paragraphs of this Article must be served on the functionary personally by analogous application of the provisions of the act governing criminal procedure.

Article 31

(1) If, upon the expiry of the additional deadline referred to in the first paragraph of the preceding Article, the functionary fails to submit all the required data, after 7 days the Commission shall notify the body where the functionary holds office or the body responsible for determination and payment of wage or wage compensation thereof including the requirement to reduce the wage or its compensation.

(2) If the functionary fails to submit all the required data within 3 months after the expiry of the deadline referred to in the preceding paragraph, the Commission shall notify the body responsible, or another responsible body in accordance with the law, to initiate the procedure to terminate the office within seven days.

(3) If, within 30 days of the notification of the Commission, the body referred to in the first or second paragraphs of this Article fails to reduce the wage or its compensation, fails to stop paying the compensation, fails to initiate the procedure to terminate the office or another procedure in accordance with the law, or fails to notify the Commission thereof, the Commission shall invite the head of this body to its session.

Article 34

(1) On the basis of a review of the data submitted by the functionaries, including a comparison with previously sent or otherwise obtained data, at its session the Commission shall discuss the reports by the functionaries for whom incomplete or unclear data has been established, obvious discrepancies between the submitted data and the actual situation, or substantial changes in the financial situation of the functionaries.

(2) Notwithstanding the preceding paragraph, a minimum of three members of the Commission may request a discussion of the submitted data of any functionary at any time.

4. Blank Disclosure Form