

Manual for Managing Conflicts of Interest, Limitations, and Prohibitions in Local Self-Government



Title: Manual for Managing Conflicts of Interest, Limitations, and Prohibitions in Local Self-Government

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Publisher: OSCE Mission to Skopje

Translation and
proofreading: EUROLINGUA DOOEL SKOPJE

Graphic design: POLYESTERDAY

ISBN: 978-92-9271-525-0

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Table of Contents

I. Introduction	5
II. Conflict of Interest – International Standards	7
III. Conflict of Interest – National Legislation	9
IV. Conflict of interest and the forms in which it may arise	15
V. Prohibitions, Restrictions, and Actions in Situations of Conflict of Interest	18
VI. Other mechanisms to prevent conflict of interest	29
VI.1. Statement of property status and interests	29
VI.2. Building an open organisational culture for identifying and managing conflicts of interest	30
VII. Overview of the most common requests for opinions submitted to the SCPC regarding dilemmas and cases of conflict of interest in local self-government units	33
VIII. Conflict of interest as element of the integrity system in local self-government units	52
IX. Establishing and reporting on the implementation of the conflict of interest policy in local self-government units.	55

List of Acronyms

Law on Prevention of Corruption and Conflict of Interest	LPCCI
State Commission for Prevention of Corruption	SCPC
Local Self-Government Units	LSGU
Law on Local Self-Government	LLSG
Law on Labour Relations	LLR
Organization for Security and Cooperation in Europe	OSCE
Republic of North Macedonia	North Macedonia

I. Introduction

This Manual has been developed within the framework of cooperation between the State Commission for the Prevention of Corruption (SCPC) and the OSCE Mission to Skopje - to support the implementation of the integrity policy in local self-government units (LSGs). It is envisaged for the officials in LSGs; however, having in mind that it contains the standards, principles, and rules for preventing and managing conflicts of interest, as well as the legal regulations in this area in the Republic of North Macedonia,¹ it may be useful to any interested party.

According to Article 72 of the Law on Prevention of Corruption and Conflict of Interest (LPCCI), in the event of a suspicion of a conflict of interest, the official is required to seek an opinion from the SCPC. Therefore, the Manual uses cases from practice, presenting some of the opinions provided by the SCPC based on requests submitted by officials from LSGU from 2019 to June 2024. To make it easier to follow these examples and use them as guiding principles of the SCPC in relation to conflict of interest situations in LSGU, which will enable officials to recognise how to act when faced with similar dilemmas, the opinions are grouped by areas depending on whether they relate to elected or appointed persons in LSGU or to employees in municipal administration and public services established by the municipality.

Other materials² have also been used to supplement the legal framework and practice. In this way, the Manual aims to contribute to raising awareness of conflicts of interest in the performance of duties, public authorisations, and official duties, and how to recognise and prevent them in a timely manner, before consequences arise, for which, otherwise, appropriate misdemeanour and criminal sanctions follow.

A conflict of interest arises when an official must decide whether, in a specific situation, to prioritise their private interest or the interest of close persons over the public interest and the interest of citizens in performing their entrusted function, public authorisation, official duty, or position. Since this is essentially a moral dilemma that ultimately concerns a certain material or immaterial benefit, actions in situations where a conflict of interest arises largely depend on the ethical awareness and integrity of the official.

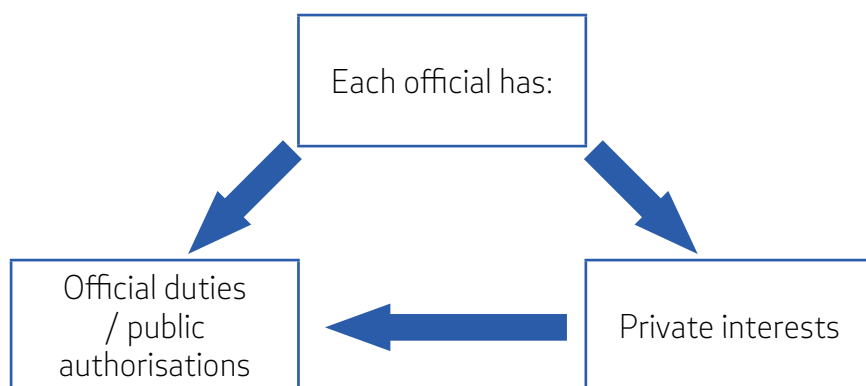
An official is a representative of the public sector, either at the central level or within local self-government, and this enables them to exercise a range of rights that are granted to them according to the constitution and laws. However, they also have a number of obligations and duties. Thus, the official is required to act conscientiously,

¹ The Law on Prevention of Corruption and Conflict of Interest; the Law on Local Self-Government; the Law on Employees in the Public Sector; the Law on Administrative Officials; the Law on Public Procurement; and other substantive and procedural acts in force in the North Macedonia, as well as international documents relating to conflicts of interest: [United Nations Convention Against Corruption \(UNCAC\)](#); [The twenty guiding principles of the Council of Europe for the fight against corruption](#); [Preventing and Managing Conflicts of Interest in the Public Sector, Good Practices Guide](#); [Guidance on the avoidance and management of conflicts of interest under the Financial Regulation](#); [Commission Notice, European Commission](#), etc. In the Manual, in addition to quotes, certain excerpts from these laws and documents are paraphrased to make them more accessible to the user.

² [Guidelines for drafting an internal act for managing conflicts of interest](#); [Guidelines for the application of the LSGU integrity policy](#), etc.

professionally, responsibly, honestly, efficiently, and impartially in their work. This means that they must not use their function, public authorisation, official duty, or position to perform an action that, according to the law, they are prohibited from carrying out, **nor should they subordinate the performance of a lawful action to their personal interest or the interest of another person.**

It should be noted that, from a legal perspective, acting contrary to the rules regarding conflicts of interest may, in a certain procedure, result in the nullity of a decision made in a conflict of interest situation, and simultaneously lead to a procedure for misdemeanour and/or criminal sanctions.



Source: Tools for Managing Conflicts of Interest in the Public Sector, Council of Europe, 2019.

The term “official” refers to all elected or appointed persons and employees in the public sector.³ For the purposes of this Manual, and specifically due to the area it pertains to, the local self-government, the term “official” refers to the mayor, councillors in the councils of municipalities and the City of Skopje, and persons appointed by them, as well as employees in the municipal administration and public services established by the municipality and the City of Skopje.

The objective of this Manual is:

- To enhance knowledge of the application of rules for preventing and managing conflicts of interest for officials in LSGU;
- To contribute, through practical examples, to further strengthening awareness of ethical conduct in accordance with moral values; and
- To inform external partners – commercial companies, civil society organisations, local media, and citizens about the rules for preventing conflicts of interest in domestic regulations.

³ LPCCI, Article 8, paragraph 2

II. Conflict of Interest – International Standards

Corruption is directly related to conflicts of interest, as in a situation where the private interest of an official prevails over impartial performance of the function, public authorisations, or official duties, it essentially means that the person has abused their position for personal gain. Recognising the serious threats posed by corruption, the international community has adopted several regional and global anti-corruption legal instruments.

The most significant universal document is the United Nations Convention against Corruption (UNCAC), which addresses multiple aspects: prevention and criminalisation of corruption, international cooperation, and the confiscation and return of assets gained through corruption. The Convention also urges member states to establish systems that promote transparency and prevent conflicts of interest.⁴ Furthermore, the Convention requires member states to implement measures and mechanisms for officials to submit declarations in which they report their external activities, employments, memberships, investments, property, gifts, or benefits that may lead to a conflict of interest,⁵ and to establish appropriate restrictions on officials for employment in the private sector after their mandate or public sector employment, when such employment is directly related to the functions and official duties they previously held.⁶

In addition to UNCAC, other international organisations have developed standards related to managing conflicts of interest and the risks they pose, such as:

- The OECD Recommendation of 2003 on Guidelines for Managing Conflicts of Interest in the Public Service,
- EU Directive 2914/24/EU on conflicts of interest in public procurement,
- Documents adopted by the Council of Europe, and others.

For example, Principle 10 of the Twenty Guiding Principles of the Council of Europe for the Fight against Corruption recommends that states promote further definition and clarification of the expected behaviour of public officials, such as through codes of conduct. The Council of Europe adopted a [Model Code of Conduct of Public Officials](#).⁷ Article 8 of the Model requires that public officials should not allow their private interests to come into conflict with their public position. It is the responsibility of the public official to avoid conflicts of interest, whether real, potential, or apparent.

All public officials have interests in their private life, such as financial interests, family and kinship relations, friendships, and relationships with current and former colleagues and associates. Over time, these interests appear, disappear, and change. Generally

⁴ UNCAC, Article 7(4)

⁵ Ibid, Article 8 (5)

⁶ Ibid, Article 12 (2)

⁷ Based on Recommendation Rec (2000) 10, the Model Code of Conduct for Public Officials was adopted by the Committee of Ministers of the Council of Europe, along with the [Explanatory Memorandum](#).

speaking, the existence of these relationships and financial interests is not problematic in itself. However, when a public official, within the scope of their official duties, must act in a particular case that may affect these interests, and allows their private interest to prevail in the decision-making process, a situation of actual conflict of interest arises. Until then, the conflict of interest is only potential. Therefore, international documents call on countries to establish mechanisms for proactively addressing and managing conflicts of interest in a way that promotes the public interest over private interests.

III. Conflict of Interest – National Legislation

In the domestic legal framework, there are several acts that regulate conflicts of interest, incompatibility of functions, prohibitions on performing activities during office tenure, and prohibitions and limitations after the termination of office or employment in the public sector, as well as the ethical conduct of public officials. The primary law that applies to all elected and appointed persons at both the central and local levels, as well as to employees in the public sector, which sets out measures for proactive and reactive approaches to preventing conflicts of interest, along with prohibitions and limitations related to conflicts of interest, is the Law on Prevention of Corruption and Conflict of Interest (LPCCI).⁸ The provisions for preventing conflicts of interest in the LPCCI are detailed in Section V of the Manual.

In terms of the area covered by the Manual, the following provisions are provided regarding conflicts of interest and the ethical conduct of public officials in some of the substantive laws, codes, and documents that also apply to local self-government.

1. Law on Local Self-Government

Article 44 of the Law contains rules for preventing conflicts of interest for members of the municipal council. Thus, a member of the council:

- shall not participate in the decision-making process for matters in which they, their spouse, child, or relative up to the side line second degree have a financial or other personal interest;
- shall be obliged to inform the council about matters for which they have a financial or other personal interest;
- shall not be employed in the municipal administration of the municipality in which they were elected, and if this occurs, their employment will be considered as resignation from the council from the day of employment;
- if employed in public services established by the municipality, shall not participate in the decision-making process for matters related to the public service in which they are employed.

Appropriate rules for preventing conflicts of interest are also regulated for the mayor.⁹ Specifically, the mayor:

⁸ Other acts where provisions on incompatibility of functions and conflicts of interest are defined include: the Constitution of the Republic of North Macedonia; the Law on the Assembly of the Republic of North Macedonia; the Law on Employees in the Public Sector; the Law on Administrative Officials; the Law on Public Procurement; the Law on Courts; the Criminal Procedure Code; the Law on Advocacy; the Law on Local Self-Government; Codes of Conduct for Members of Parliament, Government Members, Judges, Prosecutors, Administrative Officials, and Local Self-Government Officials, etc.

⁹ Law on Local Self-Government, Article 53

- shall not be appointed as a member of supervisory, managerial, or control bodies of commercial companies and public services
- shall not participate in the decision-making process for matters in which they, their spouse, child, or relative up to the side line second degree have a financial or other personal interest.¹⁰
- shall be obliged to inform the council about matters for which they have a financial or other personal interest, and in that case, the decision is made by one of the council members elected in the same manner as the president of the council.

2. Law on Public Sector Employees

The general principles of the Law on Employees in the Public Sector include principles of professional ethics, impartiality, objectivity, and conflict of interest. These principles require employees to maintain high standards of integrity, professional ethics, and care for protecting the public interest.

The performance of work tasks must be impartial and objective, without being influenced by political beliefs or personal financial interests. Employees in the public sector must safeguard the reputation and integrity of the institution in which they work. They must not allow their personal material or immaterial interests to conflict with the public interest and their status.

In addition to adhering to these principles, if employees assess that a given work task is not in accordance with the Constitution or the law, they are obliged to inform the person who assigned the task. If they are then given written instructions and believe that the execution constitutes a criminal act, they must immediately inform their direct superior and the SCPC. If employees fail to warn their immediate superior that the task is unconstitutional or illegal and proceed with its execution, they will be held accountable for carrying out the task, along with their direct superior.¹¹

3. Law on Administrative Servants

The Law does not contain specific provisions for preventing conflicts of interest; however, in the section concerning disciplinary violations,¹² the following are considered as more severe breaches of official duty, work discipline, the reputation of the institution, or the reputation of the administrative servant, among others:

- placing personal financial interests in conflict with the position and status of an administrative official
- accepting gifts or other forms of benefits
- misuse of confidential data.

¹⁰ This prohibition also applies in situations where the mayor performs the duties of the council, according to the Law on Local Self-Government, Article 77, paragraph 2, line 2

¹¹ Law on Public Sector Employees, Article 35

¹² Law on Administrative Servants, Article 73

In the aforementioned cases, a decision to establish a disciplinary violation may result in the imposition of one of the following disciplinary measures on the administrative servant:¹³

- A fine in the amount of 30% of the net monthly salary paid in the last month before the disciplinary violation, lasting from one to six months,
- Reassignment to a lower-level position, and
- Termination of employment when harmful consequences have occurred for the institution, and no mitigating circumstances have been found for the administrative servant who committed the violation.

4. Code of conduct of administrative servants

The Code represents a set of ethical norms, values, and rules of conduct for administrative servants, aimed at promoting good behaviour and conduct in the workplace as well as in private life. This also strengthens citizens' trust in the work of public sector institutions.

For the failure to comply with the provisions of this code, the administrative servant shall be subject to disciplinary action, in accordance with the Law on Administrative Servants.¹⁴

One of the core values for an administrative servant is to act impartially, without prejudice, and without the intention of achieving personal gain. In addition, they must also promote values such as truthfulness, honesty, and fairness by personal example and encourage other administrative servants to act in accordance with these values.

In terms of conflicts of interest, the administrative servant must not allow their personal interests to conflict with the public interest¹⁵ and must represent the rights and interests of all citizens and other entities in the community in their work.

Furthermore, the code mandates that the administrative servant must not misuse the information obtained during their work for personal advancement, credit, or to achieve other personal interests.¹⁶

Raising awareness and ensuring a higher level of adherence to ethical and integrity standards is not sufficient with the mere adoption and signing of the code of ethics by administrative servants, as well as elected and appointed persons. Continuous reminders and education on the provisions of the Code are necessary, including organising informational sessions, encouraging public discussions on practical cases, and highlighting the need for lawful and ethical conduct in public service. The primary role in this should be played by the person or team responsible for integrity in LSGU.

¹³ Ibid, Article 74

¹⁴ Code of Conduct of Administrative Servants, Article 4

¹⁵ Ibid, Article 12

¹⁶ Ibid. Article 14

5. Law on Public Procurement

Public procurement is one of the most significant areas carried out at both the central and local levels. Given that approximately 28.3% of the central budget¹⁷ is spent on public procurement annually, it is also one of the highest-risk areas for corruption. This is a result of the interaction between the public and private sectors, where situations of conflict of interest and abuse of official position often arise in order to gain personal benefits. To reduce the risks and proactively address the challenges of conflicts of interest in public procurement procedures, the Public Procurement Law refers to the application of provisions from the Law on Prevention of Corruption and Conflict of Interest. However, considering the specifics of public procurement, the law includes several provisions that relate to conflicts of interest, reporting corruption suspicions, and so-called “cooling-off” periods.

Thus, a special statement on the absence of a conflict of interest¹⁸ has been introduced, which is signed for each public procurement procedure by the president, the deputy president, the members and the alternates of the members of the public procurement commission, as well as the responsible person.

In the case of a conflict of interest among the aforementioned members of the public procurement commission, they are excluded from work in the commission and notify the responsible person thereof, and are replaced by other individuals. In the case of a conflict of interest with the responsible person, a separate decision is made to authorise another individual from the ranks of officials or managerial staff of the contracting authority to make the appropriate decisions and sign the contract, with notification to the governing body or the body responsible for controlling their work.¹⁹

The Public Procurement Law also stipulates the obligation for the public procurement officer or any other person engaged by the contracting authority, as well as any interested party who has information about corruption, to report it to the SCPC or the Public Prosecutor’s Office. This person’s employment must not be terminated, nor should they be transferred to another position because they reported corruption in public procurement, acting conscientiously and in good faith.

In order to prevent influence in the public procurement process, as well as the potential abuse of official data to favour a specific economic operator and expect a certain benefit in the future, the Law on Public Procurement (LPP) establishes a prohibition

¹⁷ [EC Progress Report of North Macedonia for 2024](#), page 55

¹⁸ Law on Public Procurement, Article 38: [Izjava_sudir_interesi.docx \(live.com\)](#)

¹⁹ Similar provisions for exclusion also apply to the president, deputy, or member of the State Appeals Commission in the following cases:

- if they are involved in any business undertaking with the party,
- if they are related to the party or its legal representative by blood in a direct line or side line up to the fourth degree, by marriage up to the second degree, are or have been in a marital or extramarital relationship, are an adoptive parent or have been adopted by them, or
- if there are other circumstances that call into question their impartiality.

In addition, **the parties can also request the exclusion** of the president, deputy, or members of the State Commission.

on engagement with the contractor.²⁰ A person from the contracting authority who has participated in public procurement procedures, where the total value of contracts awarded to a specific contractor in the last year before the termination of their function or employment is greater than 5% of the total value of all contracts concluded by the contracting authority during that period, or with related persons, **may not, for a period of two years following the termination of their function or employment with the contracting authority:**

- establish an employment relationship, enter into a contract for work, or otherwise be engaged with that contractor or entities related to the contractor
- directly or indirectly receive financial compensation or gain any other benefit from the contractor or entities related to the contractor, and/or
- acquire shares or stocks in the contractor or in an entity related to the contractor.

If any of the above shall occur, the contracting authority must inform the SCPC and the Public Prosecutor's Office thereof.

6. Code of Ethics of Local Officials

The Code was adopted in 2008 and represents a part of the Integrity Policy signed by the mayors of many local self-government units. It is intended for all elected and appointed persons (officials) in municipalities or the City of Skopje, as well as for the responsible persons in public services established by them. The Code covers principles such as: compliance with the laws, the public interest, accountability, protection of the reputation and property of local self-government, fulfilment of electoral promises, as well as provisions on anti-corruption behaviour and the prevention of conflicts of interest.

Thus, the Code refers to the basic principles for preventing conflicts of interest that should be applied when performing the function, public authorisations, and official duties at the local level:

- The official **serves exclusively the public interest**, not their direct or indirect personal interests, the interests of individuals or groups, nor the interests of political parties.
- If, in the course of their duties, the official has a **personal interest** in a matter in which they participate in the decision-making process, they must report it to the body deciding on the issue **before the procedure begins**, request **their exclusion from the decision-making process**, and in no way influence those who are making the decision.
- The official must not be in a position to **supervise their own obligations** in the local self-government, nor be engaged in activities that result in a **potential or actual conflict of interest**.
- **Discretionary powers** are used only in exceptional cases, in accordance with the laws and acts of local self-government. The decision made must necessarily

²⁰ Ibid, Article 35

contain a justification with a detailed explanation of the reasons for the decision, the legal provision on which it is based, and which circumstances and evidence were considered. The official shall not request, accept, nor allow anyone to accept or offer **a gift, service, hospitality**, or other personal benefit in connection with the performance of their function, except for gifts in accordance with the law.

- After leaving their position, the official **shall not be employed by private companies** over which, during their mandate, they exercised supervision or had a contractual relationship.
- The official **shall consistently comply with the regulations on the declaration of property status and interests.**

Immediately after the start of the mandate of elected and appointed representatives in LSGU, it is recommended that they familiarize themselves with the provisions of the code of ethics by organising a presentation and encouraging discussions to consider any potential amendments or additions to the code. The agreed-upon text should be delivered to each elected and appointed person for signing, thus ensuring that all local officials are informed of their obligation to respect the standards of ethical and lawful conduct in order to protect the public interest and prevent conflicts of interest.

In the Manual for Promoting the Principles of Democratic Governance in the Councils of Local Self-Government Units,²¹ a separate chapter addresses issues of ethics and integrity in the work of the municipal council. Special attention should be given to the following aspects:

- Setting standards and procedures for corruption prevention in various areas
It is important that standards are developed through an inclusive process, ensuring that all elected leaders are actively involved in developing policies regarding gifts, hospitality, representation, travel, actions when bribery is offered, etc.
- Extortion and threats from external sources – how should individuals resist and respond?
- Political pressure – how should a member of the council resist it, and how, where, and to whom should they report unethical behaviour?
- Methodology for risk assessment – what will be used to identify and address the risk of corruption in the municipal council? These aspects can also be included in the general strategy for risk management and corruption risks at the local level.

The Manual also recommends the establishment of a Commission for Assessing the Ethical Behaviour of Council Members, aimed at promoting ethical conduct in the municipality. This Commission can be tasked with submitting periodic reports to the Council and making conclusions and recommendations for action to strengthen the integrity of the Council as a body in the upcoming period.

²¹ [413075.pdf \(osce.org\)](https://www.osce.org/data/dm/governance/413075.pdf)

IV. Conflict of interest and the forms in which it may arise

In the course of performing their official duties, a public official is confronted with various situations on a daily basis where they may find themselves in a dilemma on how to resolve them. These dilemmas particularly arise when the official has to make decisions regarding matters in which they may have a certain private interest or the interest of someone close to them.²² In this context, interest refers to some benefit, i.e., the achievement of material or immaterial gain, advantage, or preference for oneself or for another person.

In the Law on Prevention of Corruption and Conflict of Interest (hereinafter referred to as: LPCCI), a conflict of interest is defined as “a situation in which a public official has a private interest that influences or may influence the impartial performance of their public authorisations or official duties.”²³

Essentially, various situations involving interests (private or those of close persons) frequently arise, along with dilemmas on how to resolve them, as public officials are involved in a range of relationships—familial, kinship, friendships, religious, ethnic, political, etc. These situations can relate to processes such as employment, promotions, awarding public procurement contracts, concessions, permits, inspection oversight, awarding financial aid, subsidies, etc. As long as these situations are resolved in an impartial and lawful manner by the public official, they do not jeopardise their work or the operation and reputation of the institution they represent, i.e., where they are employed, thus contributing to strengthening citizens’ trust. However, if at some point the official starts to consider that their actions or decisions may result in a private benefit or interest for themselves or a close person, the official is on the verge of abusing their official duty and position, public authorisation, or function. To prevent such situations, it is necessary to have preventive mechanisms in the LSGU to prevent all forms of unethical and unlawful conduct.

Forms of conflicts of interest

In practice, a conflict of interest can arise in three forms, or manifest types. These forms differ depending on which stage of the official’s process they occur and the nature of the conflict of interest. Thus, a conflict of interest can be:

1. Apparent / Presumed
2. Potential
3. Actual / Factual

²² LPCCI, Article 8, paragraph 4: The term “close persons” refers to individuals in a marital or extramarital relationship with the public official, relatives by blood in the direct line and side line up to the fourth degree, relatives by marriage up to the second degree, as well as any natural or legal entity with which the public official has a financial interest

²³ LPCCI, Article 2, paragraph 3

The **apparent** conflict of interest, also referred to as a **presumed** conflict of interest, is the form least given attention in practice, although it can ultimately lead to serious consequences for the reputation of the official and the institution they manage or in which they work.

Namely, this is a situation where it appears to others that there is influence or a conflict of interest concerning a specific official, even though this may not actually be the case. However, the mere perception of a conflict of interest can raise doubts about the impartiality of the official's work and the decisions made. An example of an apparent conflict of interest is when a person close to a public official holding a position or high rank in local government (such as a mayor, councillor, director, etc.) wins a tender for construction work. Although there is no legal prohibition or limitation preventing a close person from competing and winning such a tender, doubts may arise in the public that the official exerted influence in securing the contract. Even if the official did not exert any influence, the doubt among the public may still arise and persist. In these situations, what the public official can do is inform about the entire process, stating that they recused themselves at all stages of the process and did not exert any influence. However, the competent institutions should promptly review the entire procedure and inform the public of their findings. To prevent any potential influence and bias by the official in decision-making, the LPCCI introduces a restriction concerning family members²⁴, but not close persons. Specifically, a public official, while performing their function, public authority, or duties, may not establish business relationships with a legal entity that is owned by them or a member of their family.²⁵

It can therefore be concluded that an apparent conflict of interest, which the public perceives as real, cannot always be prevented; however, since it is a matter of perception, there are no sanctions for it. The key is building awareness and possessing the knowledge to act in such situations. The public official must be aware that they must adhere to the principles of transparency and accountability and explain all stages of the process.; otherwise, public trust in them and in the municipality or institution they manage or work for may be seriously undermined, even in cases where the official did not exert any influence in the process and carried out their duties honestly and conscientiously.

A potential conflict of interest is a situation where a public official has a private interest that could influence the impartial performance of their function, public authority, or official duties in the future. An example of a potential conflict of interest is the acceptance of a gift, hospitality services, or tickets for an event (such as a sports event, concert, conference, training, etc.), travel tickets, etc. Although it initially may seem that the gift does not influence the public official at that moment, it must always be considered that the person who gave the gift may, in the future, request a service related to work that the official is responsible for deciding on, or may influence others

²⁴ LPCCI, Article 8, paragraph (3): The term "family" in the context of the LPCCI refers to the spouse, cohabiting partner, children, parents, siblings, and other relatives with whom the public official lives in a common household.

²⁵ LPCCI, Article 51: A similar provision is embedded in the Law on Integrity and Corruption Prevention of Slovenia, which prohibits a family member of an official, such as a mayor or councilor, from competing in tenders issued by the municipality they represent, although they may do so in another municipality.

who decide on matters of their private interest. Therefore, a public official should never put themselves in a situation of financial or any other obligation or dependency on natural or legal entities, as they could later influence the performance of their official duties.

An **actual conflict of interest** occurs when there is a direct conflict between the official duties and powers of the public official and their private interests. For example, when the public official signs a decision or another act through which they or a close person of theirs gain a private interest or benefit (such as a decision on official travel, per diem amounts, or awarding a tender to a close person, employment or entering into a contract for work with a close person, etc.).

V. Prohibitions, Restrictions, and Actions in Situations of Conflict of Interest

Prohibitions and restrictions

The LPCCI regulates prohibitions and restrictions for public officials both during their term of office and after the termination of their function or employment. While the primary aim of these prohibitions and restrictions is to avoid situations of conflict of interest or bias in public officials that could arise from the accumulation of functions, the use of information and relationships gained during the performance of their duties, receiving gifts, etc., there is still a difference in how they are prevented and sanctioned. While conflicts of interest may arise daily in the work of a public official, and such situations must be properly managed to prevent negative consequences, prohibitions and restrictions are strict, and their violation is mandatory subject to sanction. Some prohibitions²⁶ and restrictions²⁷ apply to all public officials, while others apply only to elected or appointed persons.²⁸

The following presents the main aspects of the prohibitions and restrictions in the LPCCI. For specific actions in given situations, it is necessary to immediately consult the legal provisions.

Prohibition to perform other activities²⁹

This prohibition applies to the duty of elected or appointed persons to adhere to the rules of **incompatibility between the function** they perform and other functions or activities established by the Constitution and laws. Although, as mentioned earlier, conflicts of interest lie at the core of prohibitions and restrictions, such as the prohibition on performing other activities, which was introduced to prevent the so-called accumulation of functions and/or concentration of power, as well as conflicts of authority in decision-making and actions in situations where multiple functions are combined. In the absence of this prohibition, the official would frequently need to recuse themselves from decision-making when, from the position of one function, they must decide on matters within the jurisdiction of another function.

In addition to incompatibility, **prohibitions have been established on holding other functions in state institutions or companies**. Specifically, an elected or appointed person cannot simultaneously hold the position of a responsible person or a member

²⁶ The prohibitions in the LPCCI are regulated in Articles 44, 49, 50, 52, 55, 56, 57, 58, 59

²⁷ The restrictions in the LPCCI are regulated in Articles 45, 46, 47, 51,

²⁸ The LPCCI also lists other prohibitions, such as the prohibition on new investments and extraordinary payments, the prohibition on using unlawful and anonymous sources of funding during elections, etc.; however, these do not relate to situations of conflict of interest in terms of their content

²⁹ LPCCI, Article 44

of the governing body or supervisory board in a **public enterprise, public institution, or other legal entity that holds state capital**. Furthermore, an elected or appointed person and a responsible person in a public enterprise or other legal entity with dominant state capital cannot hold a position on the management board or any other governing body in a **company or other legal entity that engages in profit-generating activities**.

In addition to the prohibitions, this article also establishes **cases where there is no prohibition on earning additional income**. Public officials can earn income from scientific, educational, cultural, artistic, and sporting activities, as well as income from royalties, patent, and similar rights, intellectual and industrial property.

Restrictions on engaging in activities during the term of office³⁰

The restriction applies to elected or appointed persons, **with the exception** of those taking up a **position that is not professionally performed**, and **if such individuals manage a commercial company or institution as owners**, during their mandate, they are required **to entrust the management to another person or body, but not to members of their family**.

This means that **this restriction does not apply to members of municipal councils and the City of Skopje**.

However, **an elected or appointed person**, or a responsible person in a public enterprise, public institution, or another legal entity with state capital, **shall be obliged to** report to the institution or body in which they perform their function, **any legal entities they own, in which they hold shares or stakes, or hold a managerial position**. The body is required to **publicly disclose** this information.

In cases where a management body has been established in a company or institution, and the elected or appointed person holds managerial rights, the **transfer of these managerial rights requires the elected or appointed person to resign from membership in the management body**.

The elected or appointed person is required to provide **SCPC with the details of the person to whom the managerial rights were transferred, along with proof of the transfer**. The **person to whom the managerial rights are transferred** is considered someone with whom the public official has a financial interest, i.e., **it is considered a close person**.

Restriction on supervisory activities³¹

Persons who are close to the public official, **for whom there is a reasonable belief that an interest connects them, cannot exercise supervisory or control over their work**. Formulated in this manner, this restriction is primarily directed at the close person, but it also relates to the so-called **presumed conflict of interest**, as it may create a negative perception of impartiality in oversight. Furthermore, although the existence of an interest linking the official with the close person during a particular procedure needs to be proven,

³⁰ LPCCI, Article 45

³¹ LPCCI, Article 46

the official must not accept such supervisory or control oversight from a close person and must prevent it. This will demonstrate a high level of integrity and awareness of the potential biased behaviour of the close person while performing the oversight.

Restriction on engaging in activities after termination of office³²

This article contains provisions for a **so-called “cooling-off period”** after the termination of the function, public authority, or official duties, applicable to public officials, or excluding **elected or appointed persons and public sector employees**.

The restriction applies for a **period of two or three years**, depending on the engagement of the official after termination of the public authorisations or duties, that is following the termination of employment.

A three-year restriction applies in situations when the official intends to:

- work in a commercial company they supervised or had any contractual relations with during their public authorisations or duties, or
- acquire shares or stakes in a legal entity they worked for or supervised on any basis.

A two-year restriction applies in situations when the official intends to:

- represent an international or other organisation with which their previous institution has or will have a contractual or business relationship,
- represent a legal or natural entity before the body in which the one has performed public authorisations in cases for which they participated in decision-making in the capacity of an official,
- manage or audit a legal entity they were involved with in a supervisory or oversight role at least in the year before their public duties ended.

Membership in management and supervisory bodies³³

The **prohibition** on membership in a management or supervisory body in a company, public enterprises, agencies, funds, and other legal entities with dominant state capital, unless otherwise provided by law, applies to **elected or appointed persons**.

For public sector employees, membership in management or supervisory bodies **is restricted** to the possibility of being a member **of only one management or supervisory body** in the aforementioned legal entities.

Prohibition on the misuse of official data³⁴

During the performance of their functions, public authority, and official duties, a official **gains access to and possesses a range of official information**, but they **must not**

³² LPCCI, Article 47

³³ LPCCI, Article 49

³⁴ LPCCI, Article 50

use it to gain advantage or benefit for themselves or others. This obligation remains for **three years** after the termination of the function or duty.

On the other hand, the official **must not keep secret** any data that must be disclosed according to the law. In addition, the official **must not seek access** to data they know they are not authorised to obtain **or act negligently** in safeguarding data that is **considered confidential** according to the law.

Restrictions on cooperation with legal entities³⁵

This restriction applies to the fact that **in the performance of their functions, public authority, or official duties, a official cannot establish business relationships with a legal entity** that is

- owned by them or by a member of their family, or
- in which they or a member of their family hold shares or stakes, or
- founded by them or a member of their family, or
- in which the responsible person is a member of their family.

If the official acts contrary to the above, the **provisions on the nullity of the contract** from the Law on Obligations shall apply to the concluded contract.

Prohibition on using loans and other forms of state support³⁶

The prohibition is introduced **to avoid the potential influence** on an elected or appointed person for obtaining or using so-called state financial assistance. Specifically, a legal entity:

- whose founder or owner was or is an elected or appointed person, or
- whose founder or owner was or is a member of their family, or
- in which a member of the family of an elected or appointed person is a responsible person, or
- in which an elected or appointed person or a member of their family holds shares or stakes,

cannot be a beneficiary of a grant, loan, or financial support from the state or from a local self-government unit.

Prohibition on acquiring shareholding rights³⁷

The prohibition applies to the official regarding **the acquisition of shareholding rights** on any grounds and in any form in a legal entity over which they or the body in which they work or have worked, exercise or have exercised supervision, and it covers the **period of the mandate or duty**, as well as **three years after its termination**. The prohibition does not apply if these rights are acquired through inheritance.

³⁵ LPCCI, Article 51

³⁶ LPCCI, Article 52

³⁷ LPCCI, Article 55

Prohibition on influencing the employment of close persons³⁸

The prohibition is introduced **to prevent nepotism and cronyism in employing or promoting** in public sector institutions. Specifically, an official must not exert influence in the employment or promotion of a close person in the body in which they are elected or appointed, or in another state body or legal entity that has state capital, over which the body in which the person is elected or appointed exercises supervision.

In order to establish greater transparency and thus **proactively address potential nepotistic influences, an elected or appointed person or responsible person** in a public enterprise and other legal entities with state capital is required **to notify SCPC** of any election, appointment, employment, or promotion **of a family member** in a state body, **local self-government body**, public enterprise, or other legal entity with state capital, **within ten days** from the date of the election, appointment, promotion, or employment.

Prohibition on influencing the public procurement procedures³⁹

The prohibition applies to **officials from exerting illegal influence** in **public procurement** procedures, as well as when making decisions regarding the granting of **approvals, concessions, contingents, or permits** for conducting business or other profit-making activities.

Prohibition on receiving gifts⁴⁰

Receiving gifts is often associated with the **potential influence on the impartial execution** of the official's duties, public powers, or official positions, or the **creation of an obligation from the recipient to the giver of the gift**.

At the very least, receiving a gift from an official can create doubt about that person's impartiality in performing their duties or official roles. Therefore, officials are prohibited from receiving gifts, except in cases, amounts, and manners determined by the Law on the Use and Disposal of State-Owned and Municipal Property or the Law on Employees in the Public Sector. However, **receiving a gift**, unless it is a protocol gift that must remain in the institution of the official, **still presents a risk to the official as it may influence or potentially influence their impartiality, and thereby their integrity**. For this reason, although receiving a gift is allowed in certain situations, it is desirable for **the gift to be declined** in order **to avoid a potential conflict of interest**, and thus the possibility of it becoming a perceived or actual conflict of interest.

Institutions at **both the central and local levels** are required to submit a copy of the list of received gifts to the SCPC by March 31 of the current year for the previous year.

If the SCPC shall establish that an official **has received a gift that influences or may influence** the objective and impartial execution of their duties, public powers, or official

³⁸ LPCCI, Article 56

³⁹ LPCCI, Article 57

⁴⁰ LPCCI, Article 58

positions, they **will notify the competent authorities** thereof. **The gifts become the property of the state or the local self-government unit.**

Sponsorships and donations

An elected or appointed official or a responsible person in a public enterprise and other legal entity managing state capital, **in relation to the performance of public functions, powers, and duties, may not enter into a sponsorship contract in their own name.**

The prohibition also applies to a **legal or natural person** over which the official **exercises or has exercised supervision**, to be a sponsor or donor to a legal entity in which the official or a member of their family has an interest.

Prohibition on exerting influence on another person⁴¹

An official must not use **their position to influence another person** in a state body, public enterprise, public institution, or other legal entity to make or not make a specific decision, to do something, or omit to act, in order to gain a benefit.

In these cases, the employee, as well as any citizen, has the right to report this to the SCPC.

Perform discretionary powers⁴²

One of the reasons for abuses in the exercise of discretionary powers by an official is conflict of interest or corruption. Therefore, the official must make decisions conscientiously, taking into account all facts and circumstances of the specific case, as well as the principles of legality and fairness.

In the decision-making process, public sector institutions, including local self-government units (LSGUs), are required to consider all objective facts and make a decision that will achieve the purpose for which the authority was granted. Discretionary powers provide the official with the freedom to optimally achieve the goal of the law. However, the discretionary powers of public institutions can often border on citizens' rights and freedoms, the public interest, or some legal principles, and in case of improper application or abuse, serious (intentional or unintentional) harm can be caused. Therefore, methods have been developed in practice for more effective control to test their correct application, such as the proportionality test. The essence of the test is to determine whether the decision made is (1) legitimate, (2) appropriate, (3) necessary, and (4) proportional in a narrower sense. The test is applied in various procedures, such as administrative procedures, procedures in which political decisions are made, laws and bylaws (based on executive discretionary powers), or judicial procedures.⁴³

⁴¹ LPCCI, Article 62

⁴² LPCCI, Article 63

⁴³ [GUIDELINES ON THE APPLICATION OF DISCRETIONARY POWERS - 12 09 24_22.pdf \(cup.org.mk\)](#)

1 Legitimacy	Does the law and Constitution give the institution the authority to make the decision/action? What is the goal that needs to be achieved with this decision/action, and does the institution have the proper authority to achieve it? This is considered a preliminary check, and if this criterion is not met, no further checks are required.
2 Appropriateness	Does the decision/action have a real contribution to achieving the goal? Is the decision/action legally allowed?
3 Necessity	Is it possible to achieve the goal with a less restrictive decision/action? If the answer is yes, the measure taken shall be considered as inappropriate and the fourth step will not be taken.
4 Proportionality Stricto sensu	This step involves a balancing analysis to measure the benefits from the decision/measure taken against the losses from limitations of specific rights. More specifically, do benefits from the decision/measure exceed the shortcomings of the harm itself? The measure shall be considered suitable only if the benefits outweigh the burden imposed on the rights.

Although officials, while performing their function, official duties, and public authority, are allowed to make **certain decisions with discretion**, many analyses and examples from practice show that this power can be abused. **The reasons for using discretionary power** can be **familial, partisan, ethnic, religious, friendship-based, or purely lucrative, i.e., for personal gain**. This means that the underlying reason for the abuse is the **interest**, which can manifest as a personal interest of the official or as the interest of another individual. **A decision made based on discretionary power** must not be subordinated to any other interests but **exclusively to the public interest**. For example, when making a decision regarding employment, the choice must be made based on the best candidate who truly meets the requirements, as this is how the merit system of employment is realised. This creates trust in the public sector and institutions, i.e., management structures, that they are indeed working in the interest of the citizens and not for the fulfilment of personal, familial, partisan, or other interests. Every decision made based on discretionary authority must be based on rules, procedures, criteria, ethical norms, and be thoroughly explained. Under **no circumstances should the decision be justified solely by the fact that it is the public official's discretionary power**. **A natural or legal entity dissatisfied with a decision made based on discretionary power**, and believing that the decision was made due to corruption, may submit a **complaint to the SCPC**. The SCPC is required to review the complaint and inform the natural or legal entity of the proceedings within 30 days from the date of receipt.

Prevention and management of conflict of interest

For the effective prevention and management of conflicts of interest, it is important to define and implement appropriate activities to avoid the potential conflict of interest

from turning into an apparent or actual conflict of interest. It is necessary to establish a balance between:

- sanctioning cases where officials do not act in accordance with legal provisions or codes of conduct, and
- activities related to managing conflicts of interest and preventing the damage they cause, including negative effects on public trust.

Chapter 7 of the LPCCI covers both aspects, namely managing conflicts of interest and their sanctioning.

- Preventive measures:
 - acting in cases of conflict of interest,
 - reporting a conflict of interest situation,
 - recusal
- Reactive measures:
 - initiating a misdemeanour procedure
 - requesting the initiation of a disciplinary procedure
 - initiative for removal/termination
 - public warning measure.

Acting in case of conflict of interest⁴⁴

The actions of the official aimed at preventing the influence of private interests or bias in their work actually involve timely management of conflicts of interest.

In this regard, the official **must pay attention to potential conflicts of interest** in their work and take measures to avoid them.

The mere suspicion that they are entering a situation of conflict of interest obligates the official **to take all necessary measures to prevent the influence** of their private interests or the private interests of another person on the execution of their powers and duties.

Additionally, if the official does not know how to resolve a situation that leads to a conflict of interest, they are **obligated to seek an opinion from the SCPC**.

Reporting a conflict of interest situation⁴⁵

It is the duty of every public official **to report the existence of a conflict of interest situation** when they **participate in a discussion** of an organ or body where decisions are made on matters for which they or their close family members **have a private interest**, and to **recuse** themselves before the discussion and decision-making, but no later than before the decision-making begins.

⁴⁴ LPCCI, Article 72

⁴⁵ LPCCI, Article 73 and Article 74

Although the recusal, according to this provision, can occur before the decision-making starts, practice shows that by **participating in the discussion, the potential conflict of interest of the official already turns into a presumed** conflict of interest, which could later have negative consequences on the integrity of the decision made. Therefore, in order to maintain impartiality in the decision-making process, as well as trust in the official and the institution, the **recusal should take place before the discussion begins**.

For the process to gain legitimacy, the organ or body in whose session the official has reported a private interest **must acknowledge this and record it in the minutes**.

Any concealment of a private interest by the official constitutes a **breach of duty and grounds for initiating a procedure to establish accountability** and impose sanctions in accordance with the LPCCI.

To prevent the **risk of nepotism**, the LPCCI specifically regulates the situation when a public official participates in or decides on a procedure for election, appointment, or employment, or is involved as a member of the body conducting that procedure. Namely, the official is obliged to inform the managerial staff of the organ or institution about any such procedures that may cause a conflict of interest. The managerial staff is required to take all necessary measures to prevent the occurrence of a conflict of interest.

In these cases, if there is suspicion of a conflict of interest, the official and the managerial staff **may request an opinion from the SPCP**.

Recusal⁴⁶

Although the reasons and need for recusal have already been explained, the LPCCI emphasizes in a specific provision the duty of the official, when they become aware of any circumstances indicating the existence of a conflict of interest or a potential conflict of interest, to **immediately request to be recused and cease their actions**.

This highlights the obligation of the official **in any situation, not only when deciding on specific matters or in procedures for employment**, to stop their actions **immediately upon becoming aware of circumstances indicating the existence of a conflict of interest**, as well as situations of a potential conflict of interest, in order to prevent it from turning into a presumed or actual conflict of interest.

The provision also foresees the possibility for the **official to be recused** from performing a specific action by a decision of the body in which they were elected, appointed, or employed, and **upon the request of an interested party** who has learned of circumstances indicating the existence of a conflict of interest or a potential conflict of interest. The fact that the official can be recused upon the request of an interested party does not exclude the possibility for **any other natural person or employee in the body or institution** to report⁴⁷ the existence of conditions of a potential or actual conflict of interest for any official.

⁴⁶ LPCCI, Article 75

⁴⁷ LPCCI, Principle of Protection and Accountability, Article 7, Paragraph 1 – Everyone has the right to report suspicion or knowledge of corruption and to be protected in accordance with the law,

Procedure in front of the SCPC on establishing conflict of interest⁴⁸

LPCCI regulates the procedure initiated by the SCPC to determine the existence of a conflict of interest **in cases where there is suspicion**. The procedure is initiated:

- ex officio,
- at the request of a public official,
- upon a report from another person,
- at the request of the management person in the body or institution where the public official performs functions, public powers, or official duties, and
- upon an anonymous report.

In order to establish the factual situation in the case, the **SCPC sends requests for collecting documents, data, and information from natural and legal persons**, as well as **from the official**, who are obliged to submit the documents, data, and information they have **within 15 days**.

If the subjects do not respond within the specified period, the **SCPC proceeds with the procedure** and checks the allegations of a conflict of interest ex officio. The SCPC issues a **decision on the existence or non-existence of a conflict of interest** within 30 days after the mentioned subjects have responded, or after the verification of the allegations.

If the SCPC establishes the existence of a conflict of interest, it notifies the official and requests that they **resolve the conflict of interest** within 15 days from the delivery of the decision.

If the **official complies with** the request, the **SCPC terminates the procedure** and informs both the official and the complainant thereof.

If the **official fails to comply** with the request and fails to notify the SCPC within the stipulated time, the SCPC shall immediately **inform the competent authority** thereof:

- with a request **to initiate disciplinary proceedings**, if the official is not an elected or appointed official, or
- with an initiative for **dismissal/termination** of the performance of public powers or duties, if the official is an appointed or designated official, or
- with the **imposition of a public warning measure in accordance with Article 79 of LPCCI, if the official is an elected official through direct elections**.

The authority to which the initiative for initiating disciplinary proceedings or dismissal procedure has been delivered must make a decision on the initiative no later than 60 days from the date of delivery.

If the official elected through direct elections (President of North Macedonia, Member of Parliament, **Mayor, or Member of the Council of LSGU and the City of Skopje**) fails to comply with the request and fails to inform the SCPC within the specified time, the SCPC makes a **decision to impose a public warning** and **initiates a misdemeanour**

⁴⁸ LPCCI, Article 76-79

procedure. The public warning is published on the SCPC website and in public media outlets.

Obligations to inform the public about cases of conflict of interest⁴⁹

The SCPC **informs the public about cases of conflict of interest** that it has handled, but it is **obligated to protect the information** obtained during the procedure for determining the existence of a conflict of interest **against misuse for discrimination or degradation** of the official.

If necessary, the **information about the official** that the SCPC has obtained in the course of its work within its jurisdiction can be **made available to courts, inspection bodies, and other competent state authorities**. These data **must not be misused** for discrimination or degradation of the official, nor publicly released as if they are data established by a court or other competent authority.

⁴⁹ LPCCI, Article 80 and 81

VI. Other mechanisms to prevent conflict of interest

When implementing anti-corruption efforts, the best results are achieved by acting on two fronts: in the field of prevention and in the field of repression/sanctioning. This means establishing effective proactive and reactive actions. The proactive approach means acting before something happens, i.e., reducing the risks of corruption and conflict of interest. In other words, establishing mechanisms that will encourage the strengthening of responsibility, transparency, and accountability. But not only that, it also refers to strengthening the awareness of a positive approach to performing the function, public powers, and official duties, i.e., strengthening the integrity of the officials. In addition to the provisions for recusal, two more preventive aspects for preventing conflict of interest will be explained below.

VI.1. Statement of property status and interests

According to the United Nations Convention Against Corruption, countries should strive to establish measures and systems that require public officials to submit statements to the appropriate authority with information, including, inter alia, about their real and movable property, their external activities, employment and engagements, investments, gifts or benefits of significant value, from which a conflict of interest may arise in relation to their functions as public officials.⁵⁰

The Law on Prevention of Corruption, introduced in 2002, established the obligation for all elected and appointed officials to fill out a so-called property declaration, and with the Law on Prevention of Conflict of Interest from 2005, to fill out a declaration of interests. With the adoption of LPCCI in 2019, a single form – the Declaration of Property Status and Interests⁵¹ – was introduced, which, starting from 2024, is filled out and submitted electronically to the SCPC. Submitting this is a personal obligation of the official at the time of election, at the beginning and end of their term, as well as during the term, if the increase in their personal property or the property of a family member exceeds the amount of twenty average net salaries, as well as any change in their interests. The data on property and interests, except for the data protected by law, are published by SCPC on its website.

The interests that are reported relate to:

- Employment or other engagement of the person submitting the declaration of assets and interests;

⁵⁰ UNCAC, Article 8 (5)

⁵¹ LPCCI, Article 82. The Statement of Interests is submitted by: an elected or appointed person, a responsible person in a public enterprise, public institution or other legal entity that holds state capital, an administrative official from category A, etc.

- Ownership/management of companies/legal entities in the country or abroad;
- Membership in citizen associations and foundations in the country or abroad;
- Public powers, positions, employment, or other engagement for family members.

The goal of reporting the asset status and interests is:

- to monitor whether, during the term, there is a disproportion between income and the increase in the official's assets;
- the public availability of the data allows any individual or institution to report to the SCPC if the official has not provided complete and accurate data regarding their assets and interests.

All of this makes the official transparent and accountable regarding their asset status and interests to the public and institutions, but also responsible if they provide inaccurate or incomplete data. According to the LPCCI and internal procedures, the SCPC verifies the data submitted by the official. If discrepancies are found or if there is reasonable doubt that the assets have increased disproportionately compared to their regular income or the income of their family members, the SCPC initiates a procedure to examine the asset status of that person.⁵² If, in the process of examining the assets and asset status, it is not proven that the assets were acquired or increased as a result of reported and taxed income, the State Commission submits an initiative against that person for the initiation of a criminal procedure to the competent public prosecutor's office.

It can be concluded from the above that the statement of asset status and interests is primarily a preventive tool because the person who is required to fill it out is aware that if they provide incomplete or inaccurate information, or attempt to conceal data, they will be appropriately sanctioned.

VI.2. Building an open organisational culture for identifying and managing conflicts of interest

The proactive approach to managing conflicts of interest is not only based on establishing the appropriate standards within the legal framework, but these standards should also be supported by practical measures. The measures are aimed at encouraging and motivating officials to actively identify and properly manage situations of potential conflicts of interest. An open organisational culture is one where everyone can raise questions about how to identify and resolve situations of conflicts of interest before they become detrimental to the official and the institution. This means enabling employees to express their concerns, to have discussions among themselves and with integrity officers about ethical dilemmas, potential conflicts of interest, and other issues related to personal and institutional integrity.

⁵² LPCCI, Article 93

One way to encourage the building of an open organisational culture is through the introduction of a Common Assessment Framework⁵³ as a quality management tool in public sector institutions. According to the methodology of this tool, it is necessary to regularly involve employees in policies and processes related to improving performance. Obtaining feedback from various categories of employees will contribute to the timely identification of weaknesses and problems and the proposal of measures to improve the quality of work. The leaders in institutions are obliged to foster a culture of openness and receptiveness to new ideas, as well as to enhance employee satisfaction, thus actively contributing to reducing corruption risks in LSGUs.

Clear communication channels and feedback on dilemmas allow the institution to gain knowledge and determine where the risks of conflicts of interest exist and, in general, the risks to institutional integrity. The organisational culture that encourages open communication is based on two mutually reinforcing elements:

- commitment from leadership structures to provide timely advice for solving relevant issues
- trust in employees to raise questions about ethical dilemmas and doubts when they encounter them

However, challenges arise in practice when it comes to proactively managing conflicts of interest. Creating an open organisational culture in which employees freely present their dilemmas is a challenge for many public institutions. Typically, officials who face dilemmas or potential conflicts of interest do not approach managers or the designated integrity officer for advice. This may be due to insufficient awareness of what constitutes a conflict of interest and how to manage it, or a lack of clear procedures and reporting channels. The designated integrity officer, within their coordinating role for the implementation of the quality management system elements, needs to inform all employees and elected officials about the possibility and procedure for reporting conflicts of interest.

There are several approaches available to improve the organisational culture for managing conflicts of interest:⁵⁴

- Actively involving officials in developing the framework for managing conflicts of interest within the institution to establish a common understanding of the regulations for preventing conflicts of interest and the specifics of the institution;
- Training officials on the general principles and specific rules for managing conflicts of interest with practical examples that will help them improve their decision-making skills in situations involving ethical dilemmas;
- Establishing procedures and reporting channels to ensure timely guidance and advice for resolving situations of presumed and potential conflicts of interest before public officials are at risk of breaching regulations or finding themselves in a situation of actual conflict of interest;

⁵³ [Common Assessment Framework \(CAF\) – Quality Management in the Public Sector \(miao.gov.mk\)](https://miao.gov.mk)

⁵⁴ Preventing and Managing Conflicts of Interest in the Public Sector, Good Practices Guide, WBG, OECD, UNODC, 2020

- Elected and appointed officials and senior administrative officers should demonstrate commitment to these values, leadership, and integrity through personal example.

VII. Overview of the most common requests for opinions submitted to the SCPC regarding dilemmas and cases of conflict of interest in local self-government units

In situations where an official, in the performance of their function, public authority, or official duty, is required to make a decision, but begins to consider whether the decision could result in private benefit for themselves or for a close person, this indicates that they are facing an ethical dilemma. There are several questions that the official should ask themselves when morally evaluating the integrity in the case of an ethical dilemma:

- What decision should i make?
- Do I have moral difficulties in making this controversial decision?
- What do the laws, ethical codes, and rules say?
- What rights, interests, and biases towards certain individuals will be affected by this decision?
- What are the arguments for and against the decision?
- If I am still unsure, this decision is probably not morally correct.



Of course, these are questions that can be used in any dilemma situation, but when it comes to conflict of interest, the Law on Prevention of Corruption and Conflict of Interest stipulates that in case of suspicion of a conflict of interest, the official is obliged to request an opinion from the SCPC.⁵⁵

Since the adoption of LPCCI at the beginning of 2019 until June 2024, approximately 80 requests for opinions regarding situations of conflict of interest or legal restrictions and prohibitions for officials from local self-government units have been submitted

⁵⁵ LPCCI, Article 72 paragraph 3

to the SCPC. It should be noted that, in addition to officials, any interested party may also submit a request for an opinion. It is noticeable that over the years, the number of requested opinions has increased, which practically means that awareness is growing among officials, but also among the public, about the risks posed by a potential conflict of interest that may develop into a presumed or, more seriously, an actual conflict of interest. In order for these opinions to be used as guiding principles by the SCPC regarding conflict of interest situations in LSGUs, they are grouped by areas depending on whether they relate to elected or appointed persons in the LSGUs, or employees in the municipality (municipal administration) and public services established by the municipality. The most common requests for opinions relate to the following areas:

- exemption from decision-making at the sessions of the municipal council
- membership in governing or supervisory boards in public enterprises, public institutions, or other legal entities with state capital
- membership or holding management positions in civil society organisations or sports entities
- incompatibility of functions
- employment procedures in public services established by the municipality and in municipal administration
- public procurement, etc.

The table below presents the requests for opinions, systematized according to the **qualification of the subject of the request, the opinion provided** by the SCPC in relation to the legal provisions concerning the subject of the request, **and an example (or examples)** of a specific situation:

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
Does a council member of the municipality or the City of Skopje have the right to simultaneously hold a position of a responsible person or a member in the management or supervisory board in a public enterprise, public institution, or another legal entity that manages state capital?	<p>There is a legal obstacle LPCCI, Article 44 paragraph 1:</p> <p>An elected or appointed person, during the duration of their term, is obligated to comply with the rules of incompatibility of the function they perform with other functions or activities established by the Constitution and laws.</p> <p>LPCCI, Article 44 paragraph 2:</p> <p>The function of the President of the Republic, the Prime Minister of the Republic of Macedonia, ministers, members of parliament, council members, mayors, judges, public prosecutors, public defenders, ombudsmen, and other positions 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</p> <p>LPCCI, Article 44 paragraph 4:</p> <p>An elected or appointed person cannot simultaneously hold the position of a responsible person or a member of the management body or supervisory body in a public enterprise, public institution, or any other legal entity that holds state capital.</p>	<ol style="list-style-type: none"> 1. A member of the municipal council cannot simultaneously hold the position of director of the Inter-municipal Centre for Social Work under the Ministry of Labour and Social Policy 2. A member of the municipal council cannot simultaneously hold the position of Acting Director of a Public Health Institution 3. A member of the municipal council cannot simultaneously be a member of the school board in a primary or secondary school 4. A member of the municipal council cannot simultaneously be a member of the management board of a Public Health Institution Clinical Hospital 5. A member of the municipal council cannot simultaneously be a member of the management board of a Public Preschool Institution established by the municipality 6. A member of the municipal council cannot simultaneously be appointed as Assistant / Deputy Director of a Primary Municipal School (because according to Article 114, Paragraph 1 of the Law on Primary Education, the assistant director performs managerial and pedagogical duties). 	<p>In these situations, if a member of the municipal council has already been appointed to a management body or supervisory body, or as a responsible person, they must immediately resign from one of the functions.</p> <p>Failure to comply with the prohibitions of the Law on the Prevention of Corruption and Conflict of Interest constitutes an offense, and a misdemeanour sanction, namely a public reprimand, is imposed.</p> <p>LPCCI, Article 105 paragraph 1 line 1:</p> <p>(1) A fine in the amount of 300 to 500 euros in denar equivalent shall be imposed on an official in a public enterprise or other legal entity that holds state capital if:</p> <ul style="list-style-type: none"> - contrary to Article 44, they perform another function, duty, or activity that is incompatible with their function,

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
Can a member of the municipal council or the city of Skopje be employed in a public enterprise, public institution, or other legal entity that holds state capital?	No legal obstacles	<ol style="list-style-type: none"> 1. A member of the municipal council can be employed as the Head of the Legal and Financial Assistance Service in the Public Institution Inter-Municipal Social Work Centre at the Ministry of Labor and Social Policy 2. A member of the municipal council can be employed in the Regional Registration Office of the Central Register of North Macedonia 3. A member of the municipal council can be employed in a public enterprise established by the same municipality 4. A member of the municipal council can be the head of a regional unit of the Pension and Disability Insurance Fund (PIOM) 	<p>In these situations, in order to avoid bias when making decisions at the council session, the SCPC emphasizes the adherence to Article 72 paragraphs 1 and 2, Article 73, and Article 75 paragraph 1 of the LPCCI :</p> <p>Article 72</p> <p>(1) The official is obligated to be mindful of potential conflicts of interest in their work and take measures to avoid them.</p> <p>(2) In the case of suspicion of a conflict of interest, the official is obligated to take all necessary measures to prevent the influence of their private interest or the private interest of another person on the execution of their powers and duties and to inform their superior thereof.</p> <p>Article 73</p> <p>(1) If an official participates in the discussions of an organ or body where decisions are made about matters for which they or a close person have a private interest, the official is obligated to disclose the existence of their private interest and to recuse themselves before the discussion and decision-making, and at the latest before the decision-making begins.</p> <p>(2) The organ or body at whose session the person from paragraph (1) of this article has disclosed the existence of a private interest is obliged to acknowledge it and record it in the minutes.</p> <p>(3) Concealing the existence of a private interest by the official constitutes a violation of duty and grounds for initiating a procedure to establish responsibility and impose measures in accordance with this law.</p> <p>Article 75</p> <p>(1) When an official becomes aware of circumstances indicating the existence of a conflict of interest or a potential conflict of interest, they must immediately request to be recused and cease their actions.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
Can a member of the municipal council or the city of Skopje be employed in a privately owned legal entity	No legal obstacles	A member of the municipal council can be employed in a private company that is established and operates in the same municipality	While performing the duties of a member of the council, attention should be paid to situations of conflict of interest concerning the legal entity where the member is employed. LPCCI, Article 72 paragraph 1: The official is obliged to be mindful of a potential conflict of interest in their work and to take measures to avoid it

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
Can a member of the municipal council or the city of Skopje can be the owner/director and manage a commercial company or institution	No legal obstacles SCPC points out that it is necessary to act in accordance with Article 45, paragraphs 2 and 3 of the LPCCI: (2) Every elected or appointed official, responsible person in a public enterprise, public institution, or other legal entity with state capital, is required to report within 30 days from the day of assuming the function to the institution, or the body in which they perform their function, the legal entities they own, in which they have shares or stakes, or a managerial function. (3) The body referred to in paragraph (2) of this article is required to publicly disclose this information.	1. A member of the municipal council can be the owner and director of a private institution - a kindergarten 2. A member of the municipal council can be the owner of a private health practice 3. A member of the municipal council can work in a legal entity that is owned by them or by a close person	However, if a member of the municipal council is the owner/founder of a private health practice , a private institution such as a kindergarten, or another legal entity, they cannot receive financial support from the state or from the local self-government. LPCCI, Article 52: A legal entity whose founder or owner is or has been an elected or appointed person , or whose founder or owner is or has been a member of their family, or in which a member of their family is a responsible person, or in which the elected or appointed person, or a member of their family, owns shares or stock, cannot be a beneficiary of a grant, loan, or financial support from the state or a local self-government unit.

Subject of requested opinion	Opinion provided by the SPC	Specific example	Comment
Can a member of the municipal council or the City of Skopje compete with a legal entity owned by them in a tender in the municipality where they are a council member	There is a legal obstacle According to Article 51 of the LPCCI: (1) An official, in the performance of their function, public powers, or duties, cannot establish business relations with a legal entity that is owned by them or by a member of their family, or in which they or a member of their family hold shares or stakes, or which was founded by them or a member of their family, or in which the responsible person is a member of their family. (2) If the official acts contrary to paragraph (1) of this article, the provisions on the nullity of the contract from the Law on Obligations shall apply to the concluded contract.	The president or member of the council cannot participate with their own company as an economic operator in a tender for student transport in the same municipality where the municipality is the founder of the school. Similarly, they cannot apply with the same company as a subcontractor for student transport for that school.	
Can a member of the municipal or Skopje city council earn income from copyright	No legal obstacles LPCCI, Article 44 paragraph 6: An official can earn income from scientific, teaching, cultural, artistic, and sports activities, as well as from copyrights, patents, and similar rights, intellectual and industrial property, unless otherwise specified by law.	A member of the municipal council can be engaged for the analysis of tax policy in the municipality through a civil organisation under a copyright contract	In this case, the council member is required to pay attention to their potential conflict of interest. Therefore, if the municipality council discusses the completed analysis or any work related to which the council member was engaged through a copyright contract from a civil organization, due to the financial interest as their private interest which may influence their impartial conduct, the council member is obligated to withdraw before the discussion.

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>Can a member of the municipal council or the City of Skopje hold a position in a citizens' association or sports club</p>	<p>No legal obstacles</p> <p>It should be noted that LPCCI, Article 45, Paragraphs 2 and 3:</p> <p>(2) Every elected or appointed person, responsible person in a public enterprise, public institution, or other legal entity with state capital is required, within 30 days from the day of assuming office, to report to the institution or body in which they perform the function the legal entities they own, in which they hold shares or stakes, or have a managerial function.</p> <p>(3) The body referred to in Paragraph (2) of this article is required to publicly disclose this information.</p>	<ol style="list-style-type: none"> 1. A member of the municipal council can be the sports director of a Sports Activities Society – football club 2. A member of the municipal council can be the president or executive director of a citizens' association 3. A member of the council can be the owner/founder of a citizens' association 	<p>But if a member of the municipal council is the owner/founder of a football club or the founder of a civil association, they cannot be a beneficiary of financial support from the state or from the local self-government.</p> <p>LPCCI, Article 52:</p> <p>A legal entity whose founder or owner is or was an elected or appointed person, or whose founder or owner is or was a member of their family, or in which a member of their family is a responsible person or in which an elected or appointed person or a member of their family holds shares or stocks, cannot be a beneficiary of grants, loans, or financial support from the state or from a local self-government unit.</p>
<p>Can an official employed with a permanent contract in a state institution simultaneously hold a position as a member of the governing body of a public enterprise established by the municipality and as the president of a commission appointed by the Government of the Republic of North Macedonia</p>	<p>There are legal obstacles</p> <p>LPCCI, Article 44 paragraph 2:</p> <p>The function of President of the Republic, Prime Minister of the Republic of North Macedonia, Minister, Member of Parliament, Member of the Council, Mayor, Judge, Public Prosecutor, Public Defender, Ombudsman, and other functions elected or appointed by the Assembly of the Republic of North Macedonia, the Government of the Republic of North Macedonia, or the bodies of local government are incompatible with each other</p> <p>LPCCI, Article 44 paragraph 4:</p> <p>An elected or appointed person cannot simultaneously hold a position as a responsible person or member of the governing or supervisory body in a public enterprise, public institution, or other legal entity that has state capital</p>	<p>A member of the Board of Directors of a Public Utility Company appointed by the municipal council cannot simultaneously be the president of a Commission appointed by the Government of the Republic of North Macedonia</p>	

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>Can a person who is a close person of one of the candidates, or who has another private interest, participate in the procedure for the selection of a responsible person, member of the Management Board (MB), or Supervisory Board (SB) of a public enterprise, public institution, or other legal entity that holds state capital</p>	<p>No, because there is a private interest that will lead to a situation of actual conflict of interest.</p> <p>Therefore, the SCPC refers to: LPCCI, Article 72</p> <p>(1) An official in their work is required to be mindful of potential conflicts of interest and take measures to avoid them.</p> <p>(2) In the case of suspicion of a conflict of interest, the official must take all necessary steps to prevent the influence of their private interest or the private interest of another person on the exercise of their powers and duties and must notify their superior thereof.</p> <p>LPCCI, Article 73</p> <p>(1) If an official participates in a discussion in a body or organisation where decisions are being made on matters for which they or a close person have a private interest, the official must declare the existence of the private interest and exclude themselves from the discussion and decision-making, no later than before the decision-making begins.</p> <p>(2) The body or organisation in which the person referred to in paragraph (1) of this Article declared their private interest during the session must acknowledge this and record it in the minutes.</p> <p>(3) Concealing the existence of a private interest by an official constitutes a breach of duty and is grounds for initiating a responsibility establishing procedure and imposing sanctions according to this law.</p>	<ol style="list-style-type: none"> 1. In the process of selecting a principal for a municipal primary school, a member of the school board who is a close person of one of the candidates for principal cannot attend the candidate interviews. 2. A person applying for a public announcement for a member of the management or supervisory board of a public enterprise, who is employed by the municipality that is the founder of that public enterprise, cannot be a member of the selection committee for members of the management or supervisory board 	<p>The SCPC also refers to Article 2, paragraph 3 of the LPCCI, specifically the definition of a conflict of interest:</p> <p>A conflict of interest is defined as a situation in which an official has a private interest that influences or may influence the impartial performance of their public powers or official duties.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>In a recruitment procedure in the municipal administration following a public announcement for a specific job position, should the officials involved in the recruitment process be aware of potential conflicts of interest and promptly recuse themselves from the procedure if necessary</p>	<p>Yes, an official involved in a recruitment procedure should recuse themselves at the moment they become aware of a situation that would place them in a factual conflict of interest.</p> <p>SCPC refers to: LPCCI, Article 74</p> <p>(1) An official who participates in or decides on a procedure for election, appointment, or employment, or is involved as a member of the body carrying out that procedure, is obligated to inform the managing person of the body or institution, where the official exercises public powers, about all procedures that may lead to a conflict of interest.</p> <p>(2) After establishing the relationship of the official with the candidate for election, appointment, or employment, the managing person referred to in paragraph (1) of this article shall be obliged to take all necessary measures to prevent the occurrence of a conflict of interest.</p> <p>LPCCI, Article 75</p> <p>(1) When an official becomes aware of circumstances indicating the existence of a conflict of interest or a potential conflict of interest, they are obliged to immediately request to be recused and to cease their actions.</p> <p>(2) The official will be recused from performing a particular action by a decision of the body in which they are elected or appointed, or where they perform functions, public powers, or duties, and upon the request of an interested party who has become aware of circumstances indicating the existence of a conflict of interest or a potential conflict of interest.</p>	<p>The selection and recruitment committee has compiled a ranking list of the interviewed candidates for employment in the municipality and submitted it to the mayor to make a decision on the selection of the top three candidates. The mayor has submitted a request for recusal from further decision-making in the procedure for the subject matter because one of the proposed candidates is related to him.</p>	<p>The SCPC points out that the mayor should also act in accordance with Article 56, paragraph 2, if the candidate to be employed is a member of his family</p> <p>LPCCI, Article 56 paragraph 2:</p> <p>An elected or appointed official or a responsible person in a public enterprise and other legal entities that hold state capital is obliged to inform SCPC about any election, appointment, or employment, promotion of a member of their family in a state body, local self-government body, public enterprise, or other legal entity that holds state capital, within ten days from the date of the executed election, appointment, promotion, or employment.</p>

Subject of requested opinion	Opinion provided by the SPC	Specific example	Comment
Can an administrative servant in a municipality be engaged with a contract for work or sign a part-time employment contract with another employer	<p>No legal obstacles</p> <p>LPCCI, Article 44 paragraph 6:</p> <p>An official can earn income from scientific, educational, cultural, artistic, and sports activities, as well as income from copyright, patent, and similar rights, intellectual and industrial property rights, unless otherwise specified by law.</p> <p>LLR, Article 121:</p> <p>(1) An employee working full-time may, by exception, enter into a part-time employment contract with another employer, but for no more than ten hours per week, with prior consent from the employers where the employee is employed full-time.</p> <p>(2) A mandatory part of the employment contract according to paragraph (1) of this article is the agreement on the manner of exercising the rights and obligations arising from this employment relationship, considering the rights and obligations of the employee with the employer where they are employed full-time.</p>	An administrative servant in a municipality - a local economic development advisor can be engaged with a contract for work in a municipal organisation	
Can a responsible person in a public service established by the municipality enter into a part-time employment contract with another employer	<p>No</p> <p>Article 121 of the LLR applies to persons employed under that law and does not apply to elected and appointed persons</p>	The director of a secondary municipal school cannot enter into a part-time employment contract with a company that offers cosmetic services and earn additional income from that source	<p>The director can earn additional income according to LPCCI, Article 44 paragraph 6:</p> <p>An official may earn income from scientific, teaching, cultural, artistic, and sports activities, as well as from copyright, patent, and similar rights, intellectual and industrial property, unless otherwise specified by law.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>Can a person employed in the local administration simultaneously be a member of the municipal council or the city of Skopje</p>	<p>There is a legal obstacle</p> <p>Law on Local Self Government, Article 44 paragraph 3:</p> <p>A member of the council cannot be employed in the municipal administration of the municipality in which they were elected.</p> <p>Law on Local Self Government, Article 44 paragraph 4:</p> <p>From the day of employment in accordance with paragraph (3) of this article, it will be considered that the member of the council has resigned.</p> <p>LPCCI, Article 44 paragraph 7:</p> <p>An official employed in the local administration, if elected as a member of the municipal council or the City of Skopje, will have their employment suspended in accordance with the law from the day of verification of the mandate as a council member.</p>	<p>A person employed as a firefighter in the Public Firefighting Service (TPPE) will have their employment suspended from the day their mandate as a member of the council in the same municipality is verified.</p>	

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>Can a person employed in the local administration simultaneously be a member of the Management Board of a public service and/or hold a position in a civil society organisation</p>	<p>There is no legal obstacle Article 49 paragraph 2: An employee in the public sector can be a member of one governing or supervisory body in a company, public enterprises, agencies, funds, and other legal entities with dominant state capital.</p>	<p>An employee in the local administration in the position of advisor can simultaneously be a member of the MB of a public service and serve as vice president of a non-profit civil society association</p>	<p>Since it involves multiple engagements, the official must be cautious of potential conflicts of interest and take timely action to recuse themselves if they find themselves in such a situation, and they should also keep in mind the principle of integrity, as stated in Article 4 of the LPCCI:</p> <p>(1) Everyone is obliged to perform their duties, public authority, and official responsibilities conscientiously, professionally, responsibly, honestly, efficiently, and impartially.</p> <p>(2) The official must respect the principle of legality, the principle of equality, the principle of transparency, ethical norms, and professional standards without discrimination or favouritism towards anyone, by fully respecting the public interest.</p> <p>(3) The official, in performing their function, must be cautious of potential conflicts of interest and, in exercising public authority and responsibilities, must not be guided by personal, family, religious, party, or ethnic interests, nor by pressure or promises from their superiors or other individuals.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
Can a person appointed as a member of the supervisory board by a decision of the municipal council be engaged in the same municipality for performing certain tasks through a temporary employment agency	There is no legal obstacle	A person appointed by the decision of the Municipal Council to perform the function of a member of the supervisory board for controlling the material-financial operations of the public utility company (JCP) can be engaged in the same municipality for performing certain tasks through a temporary employment agency	The SCPC in the specific case refers to LPCCI, Article 72, paragraph 1: The official, in their work, is obliged to pay attention to potential conflicts of interest and to take measures to avoid them

Subject of requested opinion	Opinion provided by the SPC	Specific example	Comment
<p>Is there a conflict of interest/prohibition, or should a member of the municipal council or the City of Skopje be excluded when adopting acts related to public services established by the municipality where the council member is employed or where their close person is employed</p>	<p>There is a legal obstacle</p> <p>Law on Local Self-Government, Article 44 paragraph 1: A member of the council cannot participate in the decision-making process on issues where they or their spouse, child, or a relative up to the second degree in the side line have a financial or other personal interest</p> <p>Law on Local Self-Government, Article 44 paragraph 2: The member of the council is obliged to inform the council about the issues where they have a financial or other personal interest</p> <p>Law on Local Self-Government, Article 44 paragraph 5: A member of the council employed in public services established by the municipality cannot participate in the decision-making process on matters related to the public service in which they are employed.</p> <p>LPCCI, Article 72: (1) The official, in their work, is obliged to be mindful of potential conflicts of interest and to take measures to avoid them. (2) In case of suspicion of a conflict of interest, the official is obliged to take all necessary measures to prevent the influence of their private interest or the private interest of another person on the execution of their powers and duties and to inform their superior about it.</p>	<ol style="list-style-type: none"> 1. The president of the municipal council cannot participate in any phase of the decision-making process regarding an agenda item at the municipal council meeting that concerns a public enterprise where the director is the president's brother 2. A member of the municipal council cannot participate in an agenda item at the council meeting where acts are to be adopted that concern a public service where their close person (spouse, child, or relative up to the second degree in the side line) is employed 3. A teacher in a primary school who is a member of the municipal council cannot participate in the decision-making process for an agenda item at the council meeting that concerns the primary school where they are employed. Before any agenda item related to the primary school where they are employed, they must report it and exclude themselves from the discussion and decision-making. 	<p>In situations where there is an exclusion in the decision-making process during a council meeting for issues where a council member or their close person has a private interest, this implies the full exclusion of the council member from all aspects, including: presence, discussion, voting, and counting in the majority of votes from those present! This means that the decision is made with the majority votes of those who are present and who have not been excluded!</p> <p>LPCCI, Article 8 paragraph 4: The term "close persons" refers to individuals in a marital or common-law partnership with the official, blood relatives in the direct line and side line up to the fourth degree, relatives by marriage up to the second degree, as well as any natural or legal person with whom the official has a financial interest</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
	<p>LPCCI, Article 73</p> <p>(1) If an official participates in a discussion of an organ or body where decisions are being made about matters in which they or a close person have a private interest, the official is obliged to report the existence of the private interest and to recuse themselves before the discussion and decision-making, and no later than before the decision-making begins.</p> <p>(2) The organ or body at whose session the person from paragraph (1) of this article reported the existence of a private interest is obliged to acknowledge this and record it in the minutes.</p> <p>(3) Concealing the existence of a private interest by the official constitutes a violation of duty and is grounds for initiating a procedure to determine responsibility and impose measures in accordance with this law</p> <p>LPCCI, Article 75 paragraph 1:</p> <p>When the official becomes aware of circumstances indicating the existence of a conflict of interest or a potential conflict of interest, they are obliged to immediately request to be recused and cease their actions.</p>	<p>4. A member of the municipal council does not need to exclude themselves, nor is there a prohibition on participating in the decision-making process for an agenda item at the municipal council meeting that concerns a primary school where their brother's wife is employed. (This person does not fall under the category of close persons according to Article 44, paragraph 1 of the Law on Local Self-Government and Article 8, paragraph 4 of LPCCI).</p>	

Subject of requested opinion	Opinion provided by the SPC	Specific example	Comment
<p>Is there a conflict of interest or prohibition in cases where a member of the municipal council or the city of Skopje participates in discussions and votes on issues related to the municipality in which their close person is employed</p>	<p>There is a legal obstacle in the following case, in accordance with Article 44 paragraph 1 of the LLSG:</p> <p>A member of the council cannot participate in the decision-making process for issues in which they or their spouse, child, or relative up to the second degree in the side line have a financial or other personal interest</p> <p>Also, if the close person is included in the category of close persons according to LPCCI, Article 8, paragraph 4:</p> <p>The term "close persons" refers to individuals in a marital or common-law relationship with the official, blood relatives in the direct line and in the side line up to the fourth degree, relatives by marriage up to the second degree, as well as any natural or legal entity with which the official has a financial interest.</p> <p>In any case, it is necessary to take into account Article 75 paragraph 1 of the LPCCI:</p> <p>When an official becomes aware of circumstances indicating the existence of a conflict of interest or a potential conflict of interest, they must immediately request to be recused and cease their actions.</p>	<p>A member of the municipal council can participate in the decision-making process on agenda items at the municipal council meeting related to the municipality itself, provided that their close person, who is employed in the municipal administration, does not fall into the category of persons specified in Article 44, paragraph 1 of the Law on Local Self-Government (LLSG), as well as in Article 8, paragraph 4 of the Law on Prevention of Conflict of Interest (LPCCI).</p> <p>However, they must be cautious of a potential conflict of interest and take measures to avoid it.</p>	<p>According to Article 73, paragraph 3 of LPCCI: Concealing the existence of a private interest by an official constitutes a violation of duty and is grounds for initiating a procedure to establish responsibility and impose measures in accordance with this law.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>Is there a conflict of interest / prohibition, or should a school board member recuse themselves when their close person is employed at the same school</p>	<p>There is no legal prohibition for an official who is employed at a school to be a close person of a school board member at that school.</p> <p>However, according to Article 75, paragraph 1 of LPCCI:</p> <p>When an official becomes aware of circumstances indicating a conflict of interest or a potential conflict of interest, they are required to immediately request to be recused and stop their involvement in the process.</p>	<p>If an issue related to the work of a teacher, who is a close person of a school board member, is being discussed at a school board meeting, the member should immediately request to be recused and stop their involvement in the process.</p>	<p>According to Article 73, paragraph 3 of the LPCCI: Concealing the existence of a private interest by an official constitutes a violation of duty and grounds for initiating a procedure to establish responsibility and impose measures in accordance with this law.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
<p>Is there a prohibition on employment in the public services of the municipality or the city of Skopje for a close person of the mayor, a member of the council, or a responsible person in a public service</p>	<p>There is no legal obstacle</p> <p>However, the SCPC points to Article 62 paragraph 1 of the LPCCI:</p> <p>The official may not use their position to influence another person in a state body, public enterprise, public institution, or other legal entity, to make or not make a particular decision, to do something, to omit something, or to tolerate something, for the purpose of gaining a benefit.</p> <p>The Mayor and a member of the municipal council and the City of Skopje, or responsible persons, should act in accordance with Article 56, paragraph 2 of the LPCCI:</p> <p>An elected or appointed person or a responsible person in a public enterprise or another legal entity that manages state capital is obliged to notify the SCPC about any election, appointment, employment, or promotion of a family member to a state body, local self-government body, public enterprise, or other legal entity with state capital, within ten days from the day the election, appointment, promotion, or employment has been made.</p>	<ol style="list-style-type: none"> 1. A close person / daughter of the mayor can be employed as a psychologist through the Agency for Employment in a primary municipal school in the municipality where her father is the mayor 2. There is no conflict of interest / prohibition if a director who is elected later is a nephew from the brother of the secretary of the primary school, who was previously employed in the same school 	<p>In these situations, care must be taken regarding potential conflicts of interest according to LPCCI, Article 72, paragraph 1:</p> <p>An official, in their work, is obliged to pay attention to potential conflicts of interest and to take measures to avoid them</p> <p>It is also necessary to consider Article 4 of the LPCCI – the principle of integrity:</p> <p>(1) Everyone is obliged to act conscientiously, professionally, responsibly, honestly, efficiently, and impartially in the exercise of their function, public authority, and official duty.</p> <p>(3) The official, in the exercise of their function, must be attentive to potential conflicts of interest and, in the performance of public authority and duties, must not be guided by personal, family, religious, party, and ethnic interests, nor by pressures or promises from superiors or other individuals.</p> <p>As well as Article 56 paragraph 1:</p> <p>(1) An official may not exert influence for the employment or promotion of a close person in the body in which they are elected or appointed, or in another state body or public enterprise, public institution, or other legal entity that manages state capital over which the body in which the official is elected or appointed exercises supervision.</p>

Subject of requested opinion	Opinion provided by the SCPC	Specific example	Comment
Can a responsible person in a public service established by the municipality or the city of Skopje apply for an internal job announcement in the same public service they manage	There is a legal obstacle, as the responsible person performs the function professionally, which is why their regular position is suspended in the same institution where the internal announcement has been posted. LPCCI, Article 44 paragraph 3: For elected and appointed individuals whose functions are performed professionally, the employment relationship is suspended according to the law.	The acting director of a public kindergarten (JOU) cannot apply for an internal job announcement in the same public institution where their employment relationship is suspended during their tenure as acting director.	In this specific case, according to Article 143, paragraph 6 of the Child Protection Law, the position of acting director is performed professionally.
Is there a prohibition on a close person of a candidate for mayor or a member of the council to be the president or a member of the Municipal Election Commission (MEC)	This is a specific situation that is not explicitly regulated in the LPCCI in terms of prohibition or restriction. SCPC points out that the given situation is not specifically regulated in the LPCCI regarding prohibition or restriction. However, based on the analysis of the Electoral Code, Article 37 regarding MEC, which pertains to the competencies of the commissions in conducting local elections, and due to the need for objectivity and principled action in the work and execution of tasks by the MEC, the SCPC believes there is a potential conflict of interest.	Is there a conflict of interest or legal obstacle for the president of the Municipal Election Commission (MEC) to perform his function when his brother is a candidate for mayor . In this situation, the SCPC recommends requesting recusal from the mentioned function to prevent doubts about impartial fulfilment of legal obligations.	If this situation is not prevented, it will turn into a presumed / apparent conflict of interest , and in certain procedures, into a real / factual conflict of interest, which could have serious consequences for the integrity of the local elections in that municipality .

VIII. Conflict of interest as element of the integrity system in local self-government units

In 2020, a working group consisting of representatives from local self-government units, ministries, CSOs, the Union of Local Self-Government Units, the Chamber of Commerce, the Business Confederation, and representatives of international organisations in the country, led by the SCPC, developed the new concept of the integrity policy for LSGUs. The objective was to put the various elements of integrity into one framework and, through their introduction and monitoring, encourage a higher level of implementation of the legal obligations provided by the existing legal regulations. In no segment does the new integrity policy impose additional legal obligations on LSGUs. They are required to regularly report on an annual basis so as to monitor the level of fulfilment of the requirements related to the principle of integrity in different areas of the local administration work and the elected and appointed officials.

By November 2024, a total of 72 local self-government units have signed the new integrity policy.⁵⁶ It consists of eight elements of the integrity system, namely:

1. Public interest and prevention of corruption and conflict of interest
2. Professional and ethical work
3. Protected reporting
4. Human resources management
5. Efficient, economical, and effective work
6. Transparency, accountability, and participation
7. Quality management
8. Equal opportunities for women and men

Protection of public interest

According to the Law on Local Self-Government, matters of public interest of local significance are those of interest to the entire local community or its specific parts as established by law.

How does the prevention of conflicts of interest protect the public interest? Preventing conflicts of interest is an important step in ensuring that decisions are made objectively and in the best interest of the public. This includes adherence to ethical codes and regulations that specify when and how potential conflicts of interest should be avoided

⁵⁶ [Integrity system in the LSGUs – State Commission for Prevention of Corruption \(dsk.mk\)](#)

or disclosed, transparency and disclosure of potential conflicts of interest, taking measures to manage conflicts of interest, and establishing a practice of excluding individuals from making certain decisions or processes where their interests could affect their objectivity.

The protection of the public interest is essential for building a fair and transparent society, where the protection of the public interest and the prevention of conflicts of interest are interconnected principles that strengthen integrity, trust, and ethical behaviour in all areas of social activity, including at the level of local self-government.

Professional and ethical operations

Ethical behaviour is crucial for preventing conflicts of interest because it involves prioritising integrity, transparency, and fairness over personal gain or conflicting interests. By prioritising responsibilities, individuals who work professionally and ethically place their professional duties and responsibilities above personal interests. For example, an employee who behaves ethically will not make a decision that benefits a friend or family member if it contradicts the exercise of public authority or a professional duty, or if it is against the public interest of the majority of citizens in the local self-government unit. Adhering to the code of ethical and professional conduct helps prevent conflicts of interest by setting clear boundaries on what is acceptable and what is not, and it strengthens accountability.

Ethical behaviour fosters trust within teams, among colleagues, and with stakeholders. When people believe that decisions are made fairly, they are less likely to question the motives, thus reducing the potential for bias. Essentially, ethical behaviour serves as a guide to maintaining integrity and fairness, creating an environment where conflicts of interest are minimized because personal interests are separated from professional duties.

Transparency, accountability, and participatory approach

Transparency and accountability are key elements of integrity and powerful tools in the fight against corruption. Based on the equation:

Corruption = Monopoly + Discretionary powers – Transparency (accountability)⁵⁷

it can be concluded that improving transparency and accountability will directly contribute to reducing opportunities for corruption within an institution/authority. On the other hand, only by publishing timely and accurate information can citizens be enabled to participate in decision-making processes.

The Law on the Use of Public Sector Data⁵⁸ establishes the obligation of public sector bodies and institutions to publicly disclose the data they generate in the course of

⁵⁷ Robert Klitgaard: "Controlling Corruption", 1975

⁵⁸ Official Gazette of RM, No. 27/2014

performing their duties, in order to enable the use of this data by legal or natural entities to create new information, content, applications, or services, in an open data format according to the technical capabilities of the institutions.

Participation is one of the key principles of democratic governance, according to the principle of subsidiarity, meaning that local problems are best solved locally, and citizens are best aware of the priorities in the development of their municipality. According to Article 8 of the Law, the municipal bodies, the council committees, and the public services established by the municipality are required, without compensation, to inform citizens about their work, the plans and programmes that are important for the development of the municipality, and to provide access to basic information about the services they provide, in the manner and under the conditions regulated by the statute. From a practical standpoint, the municipality should involve citizens in all stages of its work – from establishing work priorities, designing local services, and assessing satisfaction with those services, aimed at improving their quality. The forms of citizen participation prescribed by the law are civil initiatives, citizen gatherings, and referendums, in the manner and procedure established by law. The municipality is also obligated to implement a participatory budgeting process, involving citizens in all phases of planning, decision-making, and implementing budget programmes.

In terms of the perspective of the integrity system, the principles of protecting the public interest, ethical and professional behaviour, transparency, accountability, and participation must be embedded in every segment of the work of the municipal administration, the mayor, the council, and public sector institutions at the local level. All of these, as elements of the integrity system, are interconnected, and therefore, improving operations in any of them will be positively reflected on the overall functioning of local self-government. Ethical behaviour emphasizes the need for transparency, which reduces the space for nurturing hidden motives or bias. Timely, proactive publication of accurate information will directly contribute to the timely detection and prevention of conflicts of interest.

IX. Establishing and reporting on the implementation of the conflict of interest policy in local self-government units

By signing the Integrity Policy by the Mayor, a declarative commitment is made that measures will be taken to strengthen integrity in local self-government in accordance with the principles of ethical, professional, transparent, inclusive, economical, and effective operations and non-discrimination. However, signing the policy and appointing an integrity officer does not mean that the obligation to introduce elements of integrity has been fulfilled. On the contrary, this should only represent the beginning of a continuous process in which both employees and elected/appointed officials must continuously strive to achieve a higher level of alignment with the integrity standards.

The conflict of interest is the most important pillar of an institution's integrity. It does not by itself represent corruption, but if it is not properly managed, it can lead to corruption. Therefore, proactive action is needed to introduce a conflict of interest management policy, which strengthens personal and institutional resilience against integrity breaches. The private interests of an official are a reality, but what needs to be done is to ensure that these interests do not dominate in the execution of public service, but rather ethical working and decision-making are ensured. The law, secondary legislation, and ethical codes cannot cover all conflict of interest situations. Therefore, officials must be prepared to recognise and resolve conflicts of interest when they arise. Recognizing a conflict of interest, and particularly reporting it, largely falls within the realm of ethics, and is often a matter of personal judgment and conscience, that is, their integrity.⁵⁹

For these reasons, continuous education for employees and officials on integrity standards is necessary, so that they themselves can recognize conflicts of interest and respond appropriately. Furthermore, the institution must establish effective control mechanisms, as well as mechanisms for managing and resolving situations of conflict of interest. Measures that can be taken in a municipality include:

- Identifying risks of conflict of interest
- Establishing effective mechanisms for recognizing, managing, and resolving conflicts of interest
- Raising awareness among employees and officials about situations of potential conflict of interest, the consequences of these situations, and ways to manage conflicts of interest

⁵⁹ "Smjernice za upravljanje sukobom interesa zaposlenika u javnom sektoru – Priručnik za upravljanje sukobom zaposlenika u javnom sektoru", Ministarstvo uprave Republike Hrvatske, 2017, page. 6.

In September 2024, SCPC, in cooperation with the OSCE Mission in Skopje, conducted a series of advanced trainings for integrity officers from local self-government units. The programme included the development of action plans for each of the elements of the integrity system. The participants in the programme, during group work, proposed the following measures for better management of conflicts of interest and protection of the public interest at the local level:

1. Development of an annual anti-corruption plan with management of corruption risks (supplemented with e-learning on integrity for every employee)
2. Transparent communication and sharing of integrity-related information with all employees (email, informal discussions regarding the establishment of documents on the website)
3. Adoption of Acts for additional work
4. Adoption of Acts for the protection of official information
5. Development of a methodology for allocating financial resources to citizen associations
6. Development and regular updating of a register of private interests (for potential situations that may arise)
7. Development of a procedure for sanctions for unreported conflicts of interest (disciplinary procedure and other sanctions)
8. Procedure for processing complaints related to reported conflicts of interest
9. Guidelines for managing conflicts of interest
10. Adoption of an internal act on conflicts of interest
11. Statement of acceptance of the ethical code
12. Adoption of an internal act on gifts, benefits, hospitality
13. Guidelines for internal reporting
14. Guidelines for receiving reports from whistleblowers

The local self-government unit should regularly and promptly inform the public about cases of ethics and integrity violations, the measures taken, and the results, following the principles of fair and appropriate conduct, and the protection of privacy and confidentiality.⁶⁰ This will strengthen citizens' trust in the integrity and accountability of local authorities.

The goal of monitoring the integrity system is to determine the effectiveness of the applied policies and procedures that enable consistent implementation of integrity standards, as well as to measure the results of the applied measures to reduce corruption risks. The monitoring and reporting process of the integrity system's implementation is coordinated by the integrity officer.

Reporting on the level of implementation of measures and activities arising from the local self-government's integrity policy is done annually – at the end of the calendar year for that year. Monitoring is conducted by SCPC electronically through the communication

⁶⁰ "Integrity Policy", SCPC, pg. 6

portal in which the integrity officers of local self-governments are registered. The level of application of the integrity system by the monitored local self-governments is calculated through a relative indicator – the percentage of fulfilment of all the foreseen obligations. This is a key parameter for measuring the implementation of the integrity system in the country and will allow for the measurement of progress at the local level.

According to the latest report,⁶¹ out of a total of 69 local self-government units that accessed the SCPC portal to respond to the monitoring questionnaire for the integrity policy in 2023, a total of 59% fulfilled the obligation to complete the questionnaire on the implementation of the integrity system (40 local self-government units responded, while 29 local self-government units partially or did not fulfil this obligation). The percentage of local self-government units categorized according to the level of fulfilment of obligations to strengthen the integrity system is shown in the following graphical representation.

Category	Percentage of institutions
Very good	0%
good	14%
average	11.3%
poor	17.7%
very poor	69.6%

This shows that in the following period, greater efforts are needed both from the management and mayors in local self-government units (LSGUs) and from integrity officers to ensure a higher level of implementation of the elements of the integrity system. The SCPC, on its part, should carry out more intensive communication and provide support to the integrity officers throughout the year, in order to achieve better results at the local self-government level.

61 [Report on the Integrity Implementation-2023.pdf \(dksk.mk\)](#)

