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L A W

ON THE AGENCY FOR THE PREVENTION OF CORRUPTION AND THE COORDINATION OF THE FIGHT AGAINST CORRUPTION

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Pursuant to Article IV 4.a of the Constitution of Bosnia and Herzegovina, at the 69th session of the House of Representatives, held on 30 December 2009, and at the 40th session of the House of Peoples, held on 30 December 2009, the Parliamentary Assembly of Bosnia and Herzegovina adopted the following

L A W
ON THE AGENCY FOR THE PREVENTION OF
CORRUPTION AND THE COORDINATION OF THE
FIGHT AGAINST CORRUPTION

PART ONE – GENERAL PROVISIONS

Article 1
(Scope of the Law)

The present Law shall govern: the concept of corruption, the establishment and legal status of the Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption (hereinafter referred to as: the Agency), the method and forms of corruption prevention, the Agency's operation principles, the scope of work and responsibilities of the Agency, the activities and tasks, method of management, cooperation and public relations.

Article 2
(Definition of corruption)

For the purpose of this Law, corruption shall mean any abuse of power entrusted to a public servant or a person holding a political position at the State, entity, cantonal levels and the level of Brcko District of Bosnia and Herzegovina, city or municipal levels, which may result in private gain. It may also include, in particular, any direct or indirect soliciting, offering, giving or taking of bribe or any other inappropriate gain or privilege or possibility thereof, which destroys the adequate exercise of any duty or conduct that are expected from the bribe recipient.

Article 3
(Definitions of terms)

Terms used in this Law shall have the following meaning:

(a) *Public servants* shall include:

1) any person holding a legislative, executive, administrative, prosecutorial or judicial

office, whether appointed or elected, whether the office is permanent or temporary, remunerated or non-remunerated, regardless of the person's rank;

2) any person holding a public office, including an office in a public authority or a public company or performing public service;

3) any other person defined within the legal system of Bosnia and Herzegovina as a public office holder, public servant or civil servant;

(b) *Conflict of interest* – means an instance in which elected officials, executive office holders, advisors and/or other officials with public authorizations have private interests that affect or may affect legality, transparency, objectivity and impartiality in the performance of public duties, or where private interests are prejudicial or may be prejudicial for public interests.

(c) *Public property* – means movable and immovable property, including also public funds allocated to political parties by the State, entities, cantons, Brcko District of Bosnia and Herzegovina, cities or municipalities.

(d) *Budget* – means the Budget of the Institutions of Bosnia and Herzegovina and the International Obligations of Bosnia and Herzegovina

PART TWO – ESTABLISHMENT OF THE AGENCY

CHAPTER ONE - RESPONSIBILITIES AND PRINCIPLES OF THE AGENCY'S OPERATION

Article 4 (Establishment of the Agency)

This Law shall establish the Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption in order to prevent the impact of corruption on the development of democracy and respect for the fundamental human rights and freedoms, as well as the impact undermining the economic development of Bosnia and Herzegovina, and all other forms of impact on social values, as well as for coordination of the fight against corruption.

Article 5 (Purposes of the Agency's establishment)

(1) The Agency shall be established for the following purposes:

a) to identify and eliminate any causes of corruption;

- b) to deter persons from committing corruption-related criminal acts;
- c) to provide and promote a legal framework for corruption prevention;
- d) to encourage the civil society participation in preventing corruption;
- e) to raise public awareness and create an attitude of intolerance against corruption;
- f) to educate and raise awareness of the society about the causes and effects of corruption impact and about active participation in its prevention;
- g) to promote transparent and accountable operation of authorities and institutions in Bosnia and Herzegovina.

Article 6 (Status of the Agency)

- (1) The Agency shall be an independent and autonomous administrative organization, reporting about its operation to the Parliamentary Assembly of Bosnia and Herzegovina.
- (2) The funds required for the Agency's operation shall be provided from the Budget.
- (3) The Agency's head office shall be identified by the Council of Ministers of Bosnia and Herzegovina within the period of three (3) months following the day of entry into force of this Law.

Article 7 (Anticorruption principles)

All public service institutions in Bosnia and Herzegovina shall base their operations on the following anticorruption principles:

- a) Equal treatment and non-discrimination. Everyone is entitled to equal access in the performance of an activity of public interest as well as to equal treatment by public servants, free from corruption.
- b) Prohibition of corrupt behavior. When carrying out their duties, public servants may not seek or accept any illicit gain for the performance of their duties.
- c) Transparency and public control. Performance of all public functions will be transparent and subject to public scrutiny.
- d) Protection provided in cases of "corruption reporting". No person shall be punished nor in any way suffer any consequences for reporting, in good faith, what is considered by him or her an act of corruption or irregularities in the prescribed procedures. Where a person that has reported any potentially corrupt behavior or improper conduct observed in the performance of public services, suffers the consequences of such reporting, the person shall be entitled to an indemnity or

compensation as determined through a special procedure with the competent authority, whereon the Agency will enact a separate regulation.

Article 8 **(Principles of the Agency's operation)**

(1) Within the scope of its operations, the Agency shall comply with the following anti-corruption principles:

- a) *Legality* – the corruption prevention measures shall be implemented in compliance with the Constitution and laws of Bosnia and Herzegovina by ensuring respect for human rights and fundamental freedoms.
- b) *Transparency and public scrutiny* – its operation will be transparent and subject to public scrutiny.
- c) Equal treatment and non-discrimination. Everyone is entitled to equal access in the performance of an activity of public interest as well as to equal treatment by public servants, free from corruption.
- d) *Interaction* – the effectiveness of corruption prevention measures shall be ensured through coordination of the activities of all bodies in charge of corruption prevention, exchange of information among them and their mutual cooperation.
- e) *Continuity* – the establishment and implementation of efficient measures for corruption prevention through their continuous oversight and review.

(2) In addition to the principles referred to in paragraph (1) of this Article, in its operation the Agency shall also apply the following principles: efficiency, cost-effectiveness, accountability and transparency.

Article 9 **(Operational scope of the Agency)**

The Agency shall be responsible for corruption prevention in the institutions of both the public and private sectors in regard to:

- a) the office holders in legislative, executive and judicial authorities at all levels;
- b) the public servants and employees and police officials in government institutions at all levels;
- c) the members of management, authorized and other persons in business companies, public enterprises, public institutions and private enterprises;
- d) the members of bodies and other authorized persons in political parties
- e) the authorized persons in cultural and sports institutions, foundations, associations and non-governmental organizations.

Article 10
(Responsibilities of the Agency)

The Agency shall be responsible to:

- a) Develop the Anti-Corruption Strategy, and develop the Corruption Prevention Action Plan;
- b) Coordinate and monitor the implementation of the Strategy and the Action Plan, and provide opinions and guidelines on the matter of implementation of the Strategy and the Action Plan;
- c) Coordinate the work of the public institutions in preventing corruption and conflict of interest, and make analyses of the final decisions of the competent authorities in charge of processing conflicts of interest in order to look into the instances of corruptive practices, inform the competent institutions about the situation detected, as well as take all necessary measures as provided by law;
- d) Monitor the instances of conflict of interest, provide recommendations for the strategy of managing the conflict of interest on a case-to-case basis, and issue the guidelines for the policy of managing the conflict of interest in government institutions;
- e) Prescribe a uniform methodology for collection of the data about financial situation of public servants;
- f) In coordination with the competent authorities, analyze the delivered data in order to detect the instances of corrupt practices, and take necessary measures as provided by law.
- g) Collect and analyze statistics and other data, and inform all relevant stake-holders in Bosnia and Herzegovina of the results of the inquiry;
- h) Take action upon receiving the submissions that contain indications of a corruptive conduct pursuant to the applicable regulations;
- i) Coordinate the work of the institutions with public authorities in combating corruption;
- j) Monitor the effects of laws and bylaws aimed at preventing corruption and provide opinions and guidelines on the issue of their implementation, initiate activities in relation to amending the current legislative arrangements and harmonize them;
- k) Cooperate with the national scientific and professional organizations, public

- media, and NGOs on the issue of corruption prevention;
- l) Cooperate with international organizations, institutions, initiatives and bodies;
 - m) Establish and maintain the database containing the data collected in accordance with this Law;
 - n) Develop educational programs on the issue of prevention of corruption and fight against corruption, and monitor their implementation;
 - o) Issue publications to inform the public about the corruption situation;
 - p) Inform the competent institutions and the public of the obligations contained in international legal acts and give recommendations for their realization in relation to corruption prevention;
 - q) Prescribe a uniform methodology and guidelines for making integrity plans and providing assistance to all public institutions in their implementation; and
 - r) Perform other activities relating to corruption prevention.

Article 11
(Forms of action)

When carrying out the activities falling within its responsibility, the Agency shall: issue anti-corruptive measures, make recommendations and guidelines, give opinions and raise initiatives.

CHAPTER TWO – APPOINTMENT AND DISMISSAL OF THE AGENCY’S DIRECTOR

Article 12
(Management of the Agency)

- (1) The Agency shall be managed by the Director of the Agency.
- (2) The Director shall have two Deputy Directors.
- (3) The Director shall represent the Agency, develop the annual work plan of the Agency and the proposed Budget and shall put them forward to the prescribed procedure.
- (4) The Director of the Agency shall manage and direct the performance of activities falling within the responsibility of the Agency, ensure its lawful operation and spending

of the Agency's funds.

(5) The Director of the Agency shall decide about the rights, obligations and duties of those employed within the Agency, as provided by law.

(6) The Director of the Agency shall also perform other activities and tasks as provided by law.

Article 13 (Appointment of the Director)

(1) The Director shall be appointed by the Parliamentary Assembly of Bosnia and Herzegovina at the proposal of a special Selection and Operational Monitoring Committee of the Agency, by way of open competition, as provided by the Law on Ministerial Appointments, Appointments of the Council of Ministers and Other Appointments of Bosnia and Herzegovina, following the actions of scrutiny undertaken during the appointment of the members of the Council of Ministers of Bosnia and Herzegovina.

(2) The Director of the Agency shall be appointed for the term of five (5) years with the possibility of yet another reappointment.

(3) The Director shall be appointed from among the experts recognized in the relevant field.

(4) The Director of the Agency may be appointed from among persons who, in addition to meeting the general requirements for the work in government institutions of Bosnia and Herzegovina, hold a university degree, have at least five years of work experience at the managerial positions in the relevant field and high professional and moral standing.

(5) The procedure of electing a new Director of the Agency shall be initiated six months prior to the end of the term of office for the incumbent Director.

Article 14 (Incompatibility with the Director's position)

(1) The Director may not perform any other functions, whether remunerative or non-remunerative, in any business company, political party or non-governmental organization, nor be a shareholder or a stockholder in a controlled company, nor be a member of a governing body, nor exercise control over a company, whether directly or indirectly.

(2) The Director of the Agency shall not occupy any position in other public and private services, political parties, nor perform any work in any national or international organizations or local government authorities.

Article 15
(Dismissal of the Director)

- (1) The procedure for dismissal of the Director will be initiated once the Director:
- a) Has resigned;
 - b) An indictment has been confirmed against him/her;
 - c) Has performed an activity or functions that are incompatible with the position of the Director, or has otherwise violated the incompatibility provisions referred to in Article 14 of this Law;
 - d) Has permanently lost the ability to perform his/her activity due to sickness or death;
 - e) Has violated the Code of Conduct of the Agency during the exercise of his/her duties.
- (2) The proposal to dismiss the Director, in accordance with law, will be submitted by the Selection and Operational Monitoring Committee of the Agency.

Article 16
(Deputy Directors of the Agency)

The provisions of this law relating to the Director of the Agency shall also be applicable to the Deputy Directors.

CHAPTER THREE – THE SELECTION AND OPERATIONAL MONITORING COMMITTEE OF THE AGENCY

Article 17
(The Selection and Operational Monitoring Committee of the Agency)

- (1) The Selection and Operational Monitoring Committee of the Agency shall be made of nine members: three representatives on behalf of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, three representative on behalf of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, two representatives of the academic community and one representative of the non-governmental sector.
- (2) The Committee shall be appointed by the Parliamentary Assembly of Bosnia and Herzegovina.
- (3) The Committee shall enact its Rules of Procedure.
- (4) The Committee's members shall be appointed for a four-year term of office.

(5) Three months before the end of the term of office for the appointed members of the Committee, the competent institutions shall initiate the process of appointment of new members.

Article 18
(Responsibilities of the Committee)

(1) The Committee shall be responsible to:

a) initiate the procedure for appointment of the Agency's Director;

b) receive reports on the Agency's operations at least twice a year.

(2) The Committee may not interfere with the everyday operations of the Agency, nor may it request any information about individual cases.

(3) The Committee's sessions shall be open to the public.

Article 19
(Administrative and technical assistance to the Committee)

The Agency shall provide the required administrative and technical assistance to the Committee referred to in Article 17 of this Law.

CHAPTER IV – INTERNAL ORGANIZATION OF THE AGENCY

Article 20
(Rules of the Internal Organization of the Agency)

(1) The Rules of Internal Organization of the Agency shall be enacted by the Director, with the prior consent obtained from the Council of Ministers of Bosnia and Herzegovina.

(2) The Code of Conduct for the employees in the Agency shall be enacted by the Director, with the prior consent obtained from the Council of Ministers of Bosnia and Herzegovina.

Article 21
(Employment law-related status of the Agency's employees)

(1) The salaries and compensations of the Agency's employees shall be defined by the Law on Salaries and Compensations in the Institutions of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina" nos. 50/08 , 35/09 and 75/09).

(2) The Agency's employees occupying the positions at an expert level shall have the status of civil servants, who are otherwise subject to the application of the Law on Civil Service in the Institutions of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", nos. 12/02, 19/02, 8/03, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07 and 43/09). Other employees occupying the positions at the administrative support and technical levels shall be considered as technical and administrative staff and shall be subject to the application of the Law on Labor in the Institutions of Bosnia and Herzegovina ("Official Gazette", nos. 26/04, 7/05 and 48/05).

CHAPTER FIVE –COORDINATION OF THE CORRUPTION PREVENTION POLICIES

Article 22 (Obligation to develop policies)

The entities, cantons and the Brčko District of Bosnia and Herzegovina shall adopt and develop an anti-corruption strategy as well as the action plan in accordance with the general principles defined in the National Anti-Corruption Strategy.

Article 23 (Obligation to designate bodies in charge of preventing corruption)

(1) The entities, cantons and the Brčko District of Bosnia and Herzegovina may designate a new or an existing administrative structure that will be in charge of preventing corruption, developing and implementing the anti-corruption strategy and the action plans in the relevant entity or the Brčko District of Bosnia and Herzegovina as appropriate.

2) The designated structures shall closely cooperate with the Agency in order to ensure a timely and efficient implementation of the coordinated anti-corruption policies.

CHAPTER SIX – COOPERATION WITH OTHER BODIES AND ORGANIZATIONS

Article 24 (Mandatory cooperation with the Agency)

1) In the performance of the tasks falling within its responsibility, the Agency shall cooperate with other institutions and agencies at all levels, public services and other bodies with public authorizations.

2) The institutions and agencies at all levels, public services and other bodies with public authorizations shall have the obligation to cooperate with the Agency, and furnish all required data and information at the request of the Agency.

**Article 25
(Public Relations)**

1) In the performance of its activities and tasks, the Agency shall continuously inform the public on all aspects of corruption.

2) The Agency shall publish its reports, analyses and other acts on the website of the Agency or inform the public by other means.

PART THREE – FINAL PROVISIONS

**Article 26
(Bylaws)**

(1) Within the period of 90 days following the entry into force of this Law, the competent institutions shall make the required appointments and establish the bodies provided under this Law.

(2) Within the period of 90 days following the date of appointments, the Director of the Agency shall enact a rulebook on internal organization and other bylaws.

**Article 27
(Entry into Force)**

This Law shall enter into force on the eighth day following the day of its publication in the “Official Gazette of Bosnia and Herzegovina” and shall be published in the official gazettes of the entities and the Brcko District of Bosnia and Herzegovina.

BiH Parliamentary Assembly, no. 464/09
30 December 2009
Sarajevo

Chairman of
the House of Representatives
of the Parliamentary Assembly of BiH

Dr. Milorad Živković, *manu propria*

Chairman of
the House of Peoples
of the Parliamentary Assembly of BiH
Sulejman Tihić, *manu propria*