

---

OPEN SOCIETY INSTITUTE  
**LOCAL GOVERNMENT AND PUBLIC SERVICE REFORM INITIATIVE**

Nador utca 11, H-1051 Budapest, Hungary

Tel: (36 1) 327-3104, Fax: (36 1) 327-3105, [lgprog@osi.hu](mailto:lgprog@osi.hu) <http://lgi.osi.hu/>

---

**LOCAL GOVERNMENT POLICY PARTNERSHIP PROGRAM**

*Call for authors of country reports for the*

**“Regulations on conflict of interest at local governments” project**

### **1. Goals and objectives**

The “Local Government Policy Partnership” (LGPP) is a joint program of the Department for International Development (UK) and Local Government Initiative, Open Society Institute (Budapest). The objective of this cooperation is to produce comparative policy studies on selected local government issues. Beneficiaries of the policy proposals are national government ministries, local government associations, research and training institutions. The partner countries are Czech Republic, Hungary, Poland and Slovakia, but depending on the topics more countries are involved in some projects.

Analytical papers with policy proposals are produced by the participating country teams, under the professional coordination of the editor and project manager. Country studies should respond on the local problems, the primary target audiences are the national and local policy makers. But at the same time the country studies should be comparable, providing information for general conclusions and policy proposals for other countries in the Central Eastern European region. Information on previous LGPP projects are available at <http://lgi.osi.hu/lgpp/>.

The project will cover the period of July, 2002 and March, 2003.

The budget of the LGPP program allows only policy research using the already available information for secondary analysis. The approximately 30 pages long policy papers should focus on the present practices and respond on the governments’ needs in the selected countries.

### **2. Background**

There is growing concern in CEE countries over the emergence of conflicts of interest in the management of local governments and their service organizations. These have led to attempts in some countries to strengthen the legal regulation of such conflicts.

There are two broad issues, which are subjects of conflict of interest legislation:

I. The classical conflict of interest cases, which might be subjects of *constitutional rules* and *general legislation*. They are based on principles, like separation of powers,

restricted employment of public employees in the private sector, etc. Formal rules and regulations can specify these general requirements.

II. The other group of conflicts have two dimensions:

A/ The first is the *use of power* by officials to promote the private interests of themselves, their relatives or commercial enterprises in which they participate. This might, for example, involve the award of municipal contracts, permits or licenses. Legal safeguards might prohibit full time officials from engagement in commerce, or require all officials to disclose private interest in any issue under consideration and withdraw from participation in related decisions.

B/ Within this group the second conflict is more subtle and does not necessarily involve personal corruption. It concerns the potential conflict between the roles of a local government, on the one hand, as defender of the public interest in the quality and efficiency of municipal services and, on the other hand, as the owner or founder of local service providers such as a school or heating company and employer (direct or indirect) of its staff. It is the type of *institutional conflict* which makes it difficult for municipalities to reduce teaching staff number when pupil numbers decline or install metering which would reduce consumption of heating supplies. Legal regulations might prohibit staff of municipal companies or institutions from membership of elected councils or mayors from membership of municipal company boards. These conflicts can be identified as conflict of roles or conflict of obligations.

### **3. Conflicts of interest: subjects, areas, procedures**

The objective of this project is to analyze the legal and regulatory framework on conflict of interest situations both of local elected officials and civil servants/administrative employees. National laws and local codes of conduct should be assessed, by identifying the conflict areas, assessing their importance and advising policy makers on changing regulations and procedures. The analysis and the proposals should focus on local level. In the country reports authors should refer to issues discussed in the section 2. of this Terms of Reference.

#### ***a) Subjects of regulations***

There are two basic groups, who might be subjects of legislation and regulation on conflicts of interest: (i) *elected* representatives and officials: councilors (local government elected representatives); mayors; committee chairpersons and (ii) *civil servants* and public employees: leading local government officials; civil servants/administrative employees at local governments; public employees in a managerial position.

Obviously conflict of interest regulations are relevant for any other spheres of the public sector, because procedures for managing public issues should follow similar

rules (e.g. in parliaments, at national governments, chambers of commerce, political parties, advocacy organizations).

## ***b) Potential areas, where conflicts might emerge***

### I. Issues typically covered by the general legislation

1. ***Duplication of powers in context of post conjunction*** might cause problems for mayors, so the regulations should address the problem, whether elected representatives can be members of councils and parliament at the same time. Regulations should be clear whether they can be presidents of the republic, judges at the constitutional court. General requirements on the separation of powers prohibits, that mayors cannot be judges, prosecutors, military and police employees. It is conflicting also, when mayors are councilors or mayors at another municipality.

2. Councilors and mayors might be in a conflict situation, when they are civil servants at a national government agency or regional units of those central government organs, which supervise or manage the administrative matters of the particular local government. It might raise problems also if the councilor is a civil servant at the same municipality.

3. ***Employment condition*** of mayors are critical for ensuring the financial integrity of these elected representatives. Usually they are not allowed to take any permanent jobs, other than academic, education, editorial, artistic work or authorship. Employment conditions for some leading elected officials might be even more strictly regulated. In the case of *civil servants* (local administrative staff) the *employment conditions* should be regulated: under what conditions and what type of jobs can civil servants take.

4. The legislation on ***economic conflict of interest situations*** should specify the relationship between mayors, councilors and publicly owned enterprises. There are two areas of regulations: how can elected representatives take (i) managerial positions at publicly owned companies (at their subsidiaries) or at financial institutions and (ii) board membership. At local level the councilors' and mayors' involvement in budgetary institutions or any other public institutions (e.g. public funds) as managers should be subject of regulations.

5. The ***privatization and concession*** agreements might also cause conflicts of interest. The question is what are the conditions for taking any leading managerial position or board membership (only with a delay).

6. Similarly the position of elected representatives vis-a-vis entities ***winning public contracts*** should be restricted (the area of public procurement).

7. Regulations on ***declarations on income and property***. Regular and publicly available - might be good instruments to follow the changes in elected representatives' financial position. The scope of this regulation might cover the relatives. Limits on getting gifts and presents might be also specified by the legislation.

8. The ***independence of the media*** might be at risk when mayors take chief editorial positions at regional or local newspapers, television or radio.

9. Economic conflicts might also be arisen in the public sector, when managerial, auditing and controlling relationship are created between **relatives**.

10. Civil servants' involvement in *party politics* might cause conflicts, as well. The regulations should clarify the civil servants' exposure at political party events and the procedures for running as candidates during the campaign period.

## II. Specific, “soft” areas of potential conflicts

At local and national governments there are various situations, when the objectivity and impartiality of the public actors are endangered. These conflict of interest regulations cannot be easily built into the general legislation, but they are as important areas of the public life, as the more or less strictly regulated issues.

**Personal interest and involvement** in decisions, like zoning, tax relieves, economic subsidies, public contracts (procurement, service provision) and any misuse of insider information are the critical areas. The communities and the public bodies should develop their own codes of ethics and codes of conducting businesses, because in this area the narrow legal approach is not the most efficient form of regulation. The other area is, where the *institutional interest* of councilors is in conflict with the goals of the local service organizations, budgetary institutions or municipal companies.

### ***c) Forms of influence: legislation and procedures***

1. The general legal environment provides the basic framework, through the hierarchy of laws and regulations.

Basic legislation specifies *constitutional principles* preventing conflict of interest and *laws* identify specific conditions and procedures. These laws provide only the necessary legal conditions, but they are not sufficient tools for prevention.

2. *Enforcement* mechanisms mostly depend on the discretion of the local councils, which are sometimes authorized to give special permissions and exemptions. These cases could be part of the legislation or they are procedures and internal rules developed locally.

3. Procedures on declaring and *managing personal involvement* in public decisions, regulated by the national legislation or by local codes of conduct.

## **4. Working methods and expected outputs**

The authors of the country reports are asked to give a *general overview* of the legislation and regulation on the conflict of interest situations in the public sector, focusing on local governments:

1. **Constitutional principles** preventing conflict of interest (legal analysis concerning constitutional principles preventing conflict of interest in local government – basic framework (rule of law, lawfulness, judicial fairness, rule against bias, openness and transparency, protection of legitimate trust and vested rights).
2. **Legal basis** of conflict of interest counteracting

- the legal and administrative rules - laws identifying specific conditions - substantial prerequisites of conflict of interest;
  - the legal and administrative procedures - laws identifying specific conditions and procedures – procedural instruments preventing conflict of interest: ways of undertaking activities in case of conflict of interest;
  - accountability and responsibilities for activities causing conflict of interest
3. **Other means** counteracting with conflict of interest. The internal regulations on conflict of interest (statutes, by-laws, codes of ethics, codes of conduct) - the influence of public office organizational structure and regulations for the potential conflict of interest;
  4. The country papers should formulate detailed *proposals* for policy makers at national and local governments in both comprehensive potential areas of conflict of interest situations: (i) what type of general legal regulations should be developed – conclusions *de lege ferenda* and (ii) how procedures on which specific situations should be designed and built into the public life – conclusions *de lege ferenda*.
  5. Beyond the description of legal and administrative rules and procedures some *evidence* on the scale of the problems will be collected. It should be based on secondary analysis of surveys, labor statistics of councilors and individual cases.

## 5. Timing of the planned project

1. Submission of proposals.  
*July 31.*
2. Selection of country teams  
*LGPP partners, August 31.*
3. Launching workshop with the country teams  
*Editor, LGI, September 30.*
4. Draft country reports  
*Experts, November 30.*
5. Revisions, final country reports  
*Experts, January 31.*
6. Draft summary report  
*Editor, February 28.*
7. Regional conference  
*Editor and LGI, March 30.*
8. Publication of final reports.  
*LGI, April 30.*

## 6. Application procedures

The bids may be submitted by individual authors or by teams (in the latter case the leading author must be clearly identified). Submitted proposal should include:

- Highlighting the most important issues concerning preventing the conflict of interest in the country (maximum 3 pages).
- CV(s) of the author (authors) indicating their experience and skills required to perform the study.
- Proposed budget for the study.<sup>1</sup>

Applications should be submitted to LGI via e-mail ([lgprog@osi.hu](mailto:lgprog@osi.hu), with “LGPP: regulating conflict of interest” in the subject line) and regular mail (OSI/LGI; Nador utca 11, Room 310, Budapest, H-1051, Hungary).

**Deadline: July 31, 2002**

Preferred countries are Albania, Bosnia and Herzegovina, Bulgaria, Czech Republic, Croatia, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Serbia and Montenegro, Slovakia, Slovenia, Ukraine. Partners of the LGPP Program reserves the right to accept or to refuse proposals and to limit the number of countries participating in the project.

---

<sup>1</sup> The budget may include honorarium for the authors, costs of possible data collection, translations and any administrative expenditures. Costs related to the participation at workshops and the publication costs will be covered by LGI separately.