

# Preportr

The "fight" with  
the conflict  
of interest



**The prevention of conflict of interest is one of the most important mechanisms for the prevention of corruption. The Agency for the Prevention of Corruption over the years has handled a large number of cases of suspected conflict of interest. Citizens and public officials have given their opinions about this process in two questionnaires that Preportr has carried out. Citizens say that officials deliberately hide the conflict of interest.**

## Preportr

**A**voiding the conflict of interest in the exercise of the public function of public officials is one of the competences of the Agency for the Prevention of Corruption. This agency's mandate includes the identification, prevention, treatment and resolution of conflict of interest cases. Over the years, this agency has handled a large number of conflict of interest cases, the epilogue of which is different. In most cases, the agency finds no conflict of interest in suspected cases.

In addition to the agency, a burden to avoid conflict of interest is also left to public officials whenever there are doubts. With the Law on the Prevention of Conflict of Interest in the Exercise of Public Function, it is stated that the officials themselves must avoid the conflict of interest if they have doubts that they are involved in a conflict of interest.

The prevention of conflict of interest is one of the important mechanisms for the prevention of corruption. Civil society organizations that have dealt with this issue have continuously suggested that there should be a strengthening of the mechanisms for the prevention of conflict of interest in the public administration.

In order to see the knowledge, challenges and problems from the public officials themselves as well as from the citizens about the conflict of interest, Preportr has carried out two questionnaires, one with citizens and the other with the public officials, who through this questionnaire have expressed their opinions about the conflict of interest. From these two questionnaires, Preportr received 134 responses.

In order to avoid the conflict of interest, the citizens said that the officials themselves should declare that they are in a conflict of interest, while they do not believe that these cases are handled properly, unlike the officials who believe that the cases are handled by the agency with professionalism.

Preportr has received and analyzed the data of the Agency for the Prevention of Corruption for the cases of conflict of interest that it had at work for the years 2019-2022. It has also provided data on the cases of conflict of interest for these years from the prosecution offices of Kosovo, but even after several weeks of waiting, it has not received an answer from the Judicial Council of Kosovo, to see what the decisions of the courts have been on these cases.





## Officials deliberately hide the conflict of interest

As part of this research, Preportr has published an online questionnaire through which it received responses from public officials regarding their views on the conflict of interest in public institutions.

According to the answers received, 70 percent of them think that the cases of conflict of interest are properly handled by the Agency for the Prevention of Corruption.

Asked if they have ever been investigated for a conflict of interest, 97 percent of them said no. On the other hand, according to public officials, the best way of sanctioning the conflict of interest would be to avoid the conflict of interest by the officials themselves.

Citizens were also asked about the conflict of interest, where 84 percent of respondents said that cases of conflict of interest are not handled properly, and that officials deliberately hide the conflict of interest.

Some of the reasons for which officials hide the conflict of interest, according to citizens, are to continue their benefits, to hold two or more positions, and because of obtaining assets in an illegal way.

According to the citizens, the best way of sanctioning the conflict of interest would be the higher efficiency of the institutions that deal with this issue, but also the avoidance by the public officials themselves.

Of the officials who responded to the questionnaire, 47 percent of them think that preventing conflict of interest helps fight corruption in the public administration.

More than half of the citizens who responded to Preportr's questionnaire, think that the fight against corruption in the public administration is done through the prevention of conflict of interest.

3.33%  
Don't know

6,67%  
No

Should the  
conflict of  
interest be  
avoided by the  
public official?

90%  
Yes

\*Questionnaire  
conducted with senior  
public officials

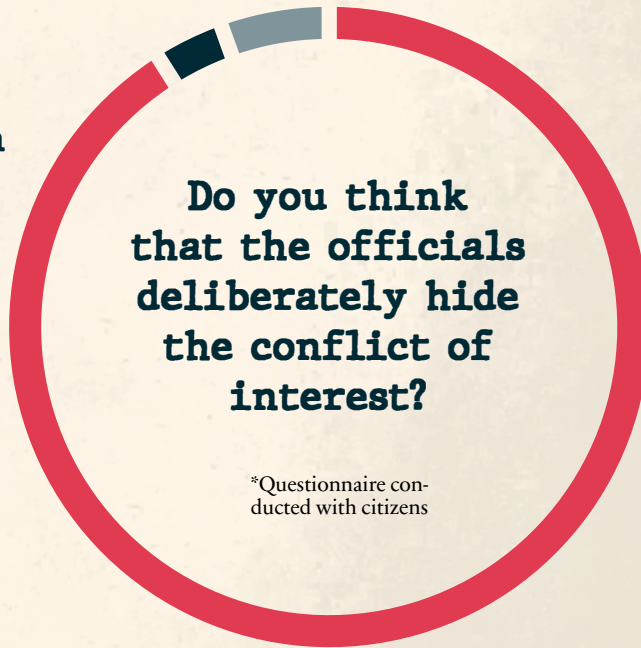


4.55%

No opinion

2.27%

No



Do you think that the officials deliberately hide the conflict of interest?

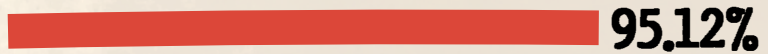
93.18%

Yes

\*Questionnaire conducted with citizens

### What do you think is the purpose that they can hide the conflict of interest

To continue benefits



95.12%

The assets were acquired illegally



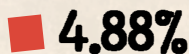
26.83%

To hold two or more posts



29.27%

Other



4.88%

\*Questionnaire conducted with citizens

\*\*Respondents had the opportunity to choose more than one option





## Cases handled in the agency and the prosecutor's offices

In the cases handled by the Agency for the Prevention of Corruption, related to the conflict of interest, statistics show that a very large number of them turn to this institution for opinions, advice, and answers. In the three years that have been the subject of treatment, also a large number of public officials whose cases have been treated, have avoided the conflict of interest.

During 2021, the Agency handled a total of 126 cases of conflict of interest, where 25 of them were carried over from the previous year.

The results of the 126 cases treated are: 13 cases have avoided the conflict of interest; 12 without conflict of interest; 2 were processed for investigation; 1 misdemeanor request, 77 opinions/tips/answers; and 21 cases are pending in the procedure.

During 2020, out of 160 cases handled by them, 70 have avoided conflict of interest, 19 cases without conflict of interest, 25 cases in proceedings, 2 cases forwarded for investigation, 1 request for misdemeanor and for 43 cases were given advice, opinion and answers.

During 2019, APC initiated and handled 167 cases of conflict of interest. The whole process has gone through a cooperation that APC has had with public institutions, responsible authorities, public servants, media, civil society, as well as through information obtained from legal sources. Of them, 26 have avoided conflict of interest, 7 cases without conflict of interest, 25 cases in proceedings, 3 cases forwarded for investigation, 2 requests for misdemeanors and 104 opinions, advice and answers.

Meanwhile, a smaller number of cases related to the conflict of interest are handled by the prosecutor's office. According to the statistics of the prosecutor's offices, during 2019, there were three cases admitted to work, which were resolved during that year.

In 2020, there were more cases at work, a total of 20. Of them, 19 were solved and only one remained unsolved.

In 2021, there were more cases inherited from the previous years, a total of eight cases, while five cases were admitted to work, of which only two were resolved, for one person an indictment was filed, for another person the investigations were stopped. At the end of 2021, 12 cases remained unsolved.



**Does the prevention of conflict of interest help the fight against corruption in public administration?**

A very small number of cases of conflict of interest accepted at work were recorded during the year 2022. For this period, a total of 3 cases were accepted at work in Kosovo prosecutors' offices for cases related to conflict of interest, while the largest number of cases were unresolved and inherited with a total of 14 cases.

During 2022, five cases were resolved, two people were charged with criminal charges, three people were indicted, while the largest number of cases remained unsolved, a total of 12 cases.

## Conflict of interest must be avoided by the official

The avoidance of conflict of interest by the officials themselves or the handling of cases of conflict of interest with priority by the responsible institutions is considered to be one of the pillars of the fight against corruption in the public administration.

The Law on the Prevention of Conflict of Interest in the Exercise of Public Function is quite specific with the cases when the official is in a conflict of interest during the exercise of his official duty. With this law, space is left for the official himself, if he suspects that there is a conflict of interest, to avoid it by obtaining an opinion on this matter from the competent bodies, such as the Agency for the Prevention of Corruption.

With this law, space is also given to other officials to report cases if they suspect that their colleagues are in a conflict of interest.

“Regardless of any other legal obligation, any person who has knowledge or reasonable suspicion of a conflict of interest of any official must notify the official’s employing institution or the Anti-Corruption Agency (hereinafter the Agency);” states Article 7 of this law.

The person who provides information based on the cases of conflict of interest according to this law enjoys protection in accordance with the law.

In case of violation of the provisions of this law, in the cases where the conflict of interest by the official does not constitute a criminal offense, sanctions are also foreseen that include fines ranging from 1000 to 15 thousand euros, depending on the articles of the law that have been violated, as well as the protective measure of the prohibi-

## "It is very important that the Agency for the Prevention of Corruption has professional capacities to deal with these cases"

Gëzim Shala, IKD

tion of exercise of public function with a duration of six (6) months to two (2) years.

Civil society organizations estimate that the prevention of conflict of interest is one of the most important mechanisms for preventing corruption in the public administration.

"Conflict of interest is a topic within the framework of topics aimed at fighting and preventing illegal and anti-democratic phenomena in the institutional sphere. As such, the regulation of the avoidance of conflict of interest constitutes one of the three fundamental pillars in the field of anti-corruption, in parallel with the Declaration of Assets and Confiscation of Assets", says a report of the organization Çohu! on the conflict of interest.

Gëzim Shala from the Kosovo Institute for Law says that the Law on the Prevention of Conflict of Interest in the Exercise of Public Function is a considerably advanced law, which, in addition to the forms of conflict of interest, has also defined various special rules aimed at preventing of the conflict of interest in the exercise of the public function.

"According to the provisions of this law as well as international standards related to the prevention of conflict of interest, the appearance of a conflict of interest is not something negative in itself, because in each case each public official may encounter situations where a conflict of interest appears", he says.

But, in terms of the legal provisions, the public official in each case, according to him, must avoid the conflict of interest, through an appropriate way, as provided in the law.

In order to avoid the conflict of interest, according to Shala, it is necessary to strengthen all mechanisms that enable the identification and treatment of all cases of conflict of interest.

"In this sense, it is very important that first the Agency for the Prevention of Corruption has professional capacities for dealing with these cases, as well as within the institutions, the mechanisms aimed at preventing conflicts of interest are strengthened", he adds.

In order for the law to be implemented properly, Shala thinks that it is important that public officials also increase their knowledge of the Law on the Prevention of Conflict of Interest in the Exercise of Public Function.



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