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TI BiH and Open Society Fund appeal for the prevention of attempts aimed at undermining the rule of law in BiH

Instead of making constructive changes to the existing Laws, it has become a recurrent praxis to try to introduce new solutions which apart from deteriorating the existing laws, through urgent procedures completely exclude the public from the law adoption procedures

Banja Luka, 15th June 2010- Transparency International Bosnia and Herzegovina (TI BiH) and the Open Society Fund (OSF) strongly oppose the recent initiatives to amend very important anticorruption laws, among which are the Law on the Conflict of Interests in BiH institutions, Law on financing of political parties in BiH and the Law on Civil service in BiH institutions. TI BiH and OSF believe that, instead of introducing constructive amendments to the existing Laws which would improve the legal framework, it is becoming a recurrent practice to attempt to introduce new solutions which, apart from deteriorating the existing laws, through urgent procedures completely exclude the public from the law adoption process.

According to the new proposal of the Law on Conflict of Interests in BiH public institutions, which was submitted for parliamentary adoption to be considered under urgent procedure, for the violation of the specific provisions of the Law on Conflict of Interests, instead of pronouncing the elected public official, member of the executive or any advisor unsuitable for candidacy to any public function for the period of 4 years after committing the criminal act, public officials would first have to pay a fine amounting between 1.000 KM and 10.000 KM and then would be given 60 days to remove the existing conflict of interest, if possible to remove the same.

It is clear that this proposal represents another attempt to weaken this extremely important anticorruption law, especially in view of the coming general elections.

Previous practice in the implementation of the Law on Conflict of Interests has been characterized by double standards and depended greatly on the influence and power of public officials who violated the provisions of this Law and who came under attack of the body competent for its implementation. However, this kind of problems should not in any way be solved by further derogating penal policy and prolonging the conflict of interests, but with constructive provisions which would preclude and most severely sanction the irregular political pressure on the Central Election Commission BiH, thereby upgrading the professionalism, impartiality and fairness of this institution.

Instead, the introduction of transitional fines, which are anyway symbolic compared to the illegal wealth that can be accumulated when there is a conflict of interest, would once again prove that public officials in BiH care exclusively about their own rights, while absolutely neglecting the rights of citizens who elected them.

Given the support provided by the Venice Commission to the removal of sanctions related to the unsuitability of candidacy of elected officials, although the human rights of public officials in BiH are on a far higher level than those of citizens and which are to the great extent violated by public officials who engage in corrupt practices, TI BiH and OSF fear that public officials will use this „green light“ to the fullest possible extent. Therefore, with

regard to this issue it would be of utmost importance to introduce distinctions in the envisaged sanctions between elected and other officials, to which the Law also applies.

The next example is the attempt to amend the *Law on financing of political parties* after announcing the elections, which is contrary to the basic principles of the fair democratic election game. These proposed drastic changes to the Law are not appropriate to be adopted in the form of amendments, but is necessary to try to pass this law. Otherwise, it seems to be a logic conclusion that the ruling political parties already have an objective to ensure great amounts of money for their personal needs, instead of focusing on the substantial law improvements.

Ultimately, the proposal of the new *Law on Civil Service in BiH institutions* enables civil servants to run for public offices at any level of government in BiH and to return to the same or similar position after the expiry of their mandate. Whereas the existing Law did not provide for civil servants in management positions to run for public offices, the new proposal makes this possible for all the civil servants, including those in leading positions. This is obviously an attempt to ensure lifelong positions and a participation in government to highly ranked civil servants.

Again, considering that 2010 is an election year and that the elections have already been announced, it is not appropriate that conditions and the law governing the terms and suitability of candidacy at the election be changed in this way, thereby additionally degrading the electoral process. If these changes are adopted, the concept of depoliticized civil service would be utterly undermined and the already fine line between the role of the civil service and the role of government would be completely removed.

TI BiH and OSF once again appeal to public and to the legislative and executive institutions to prevent the attempts aimed at undermining the rule of law in BiH and pledge the representatives of the BiH Parliamentary Assembly to take into consideration the interests of the public and not only of the ruling elites. Moreover, we shall remind that not even the existing laws have been properly implemented and that in case weaker and more damaging solutions are adopted, these laws will lose their purpose.

Therefore, TI BiH and OSF publicly appeal to the BiH Parliamentary Assembly to suspend the process of urgent adoption of amendments to the Laws on Conflict of Interests in BiH institutions, Law on the financing of political parties in BiH and Law on the Civil Service in BiH institutions and to initiate the public consultations and discussions after the elections in order to ensure the adoption of enhanced legal solutions.