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CSO Management as a subject of Conflict of interest regulation:

The recent developments in the Macedonian
anticorruption policy

Major Corruption Challenges and Measures for Counteraction in Southeast Europe
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1. Introduction

- **Motive for the analysis** are questionable measures proposed in The Macedonian State Program for prevention and repression of corruption and prevention and reduction of conflict of interest (2011-2015)
- Declaration of assets and interest by CSOs' members
- What is a common practice in other countries?
- Is there an example of proposed provision of the Law?
- Is it recognized as the risk by the international institutions and it's documents?

2. Conflict of interest regulation in international documents

- OECD definitions:
 - ✓ **Conflict of Interest: Conflict between the public duties and private interests of a public official**
 - ✓ **Public officials:** include people who hold a legislative, administrative or judicial office (either appointed or elected); any person exercising a public function, including for a public agency or a public enterprises (e.g. a state owned enterprise); any official or agent of a public international organization
- UN convention against corruption 2005 - commitment
- In regulating conflict of interest, the main focus is put on **the public official**, as a person that has both public and private interests.

2. Conflict of interest regulation in international documents

- **OECD example:** A public official having affiliations with other organizations (e.g. a senior public official sits on the board of a non-profit organization that receives funding from the official's agency)
- **OECD Specific Recommendation:** Anticipate potential conflict-of-interest situations when public organizations involve persons representing businesses and the non-profit sector through boards or advisory bodies.

Conflict of interest regulation and CSO management in comparative perspective

- No country forbids public officials to participate in the work of CSOs' bodies, but put restrictions in cases which may lead to conflict of interest or abuse of the position
 - ✓ Bulgaria: Public officials have no right to participate in decision making processes (distribution of public and EU funds, giving permits etc.) associated to the CSOs to which they are related
 - ✓ Bosnia and Herzegovina: public officials may not participate in the work of CSOs financed from a public funds more then 5.000 EUR
 - ✓ Croatia: Public officials may not participate in managing bodies of more than two CSOs

Conflict of interest regulation and CSO management in comparative perspective

- No country obliges members of CSOs' bodies (management, council executive) to submit Declaration of interest and Declaration of assets
- Only in Bulgaria there was attempt in March 2013 to put such Article in Law on Public Disclosure of persons occupying state, public and other positions in the public and private sectors, but it didn't pass in the Parliament

Conflict of interest regulation and CSO management in Macedonia

- First time regulated by separate Law on prevention of conflict of interest in 2007
 - ✓ Article 20 of the Law limited right to public officials to membership in the management and governance bodies of CSOs
 - ✓ Provision repealed by the Constitutional Court as it was limiting the Constitutional right to Freedom of Association
- Personal Assets Declaration regulated with Law on repression of corruption

Conflict of interest regulation and CSO management in Macedonia

- The State Programs for prevention of corruption in 2011 introduced activities:
 - ✓ again in collision with the Constitutional right to Freedom of Association,
 - ✓ that shows no confidence in civil society, in its sincere intention to serve as catalyst of solving social problems, but as the source of corruption on its own
- Identified risk for corruption and conflict of interest: Distribution of public funds
- Proposed solution: Declaration of Assets and interest by the CSO members

Main findings and Conclusions

- Conflict of interest in most of the countries (5/7) is regulated by separate Law, and refers to public officers on all level of the governments and in some cases to public officials in international bodies (EU)
- Declaration of interest and Declaration of assets is submitted by public officials and in some cases by the managing position of the public companies and private companies of national interest (companies for distribution of electricity)
- Participation of Public Officials in not forbidden, but limited in specific, predefined situations

Issues to be discussed

- Does state recognize CSOs by as the partners in fight against corruption and/or as source for corruption?
- How to decrease the possible risk of misuse of public funds through the CSOs, that may be challenging specifically for EU funds decentralized for distribution to State institutions?
- How civil society should contribute to avoid “the risk of being captured”?

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Thank you !

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