

Annex to the OSCE/ODIHR Opinion on Draft Provisions on Conflict of Interest

Provisions on conflict of interest. C. 702 Fiano, C. 1461 Macina and C. 1843 Boccia.

CONSOLIDATED TEXT ADOPTED AS A BASIS

CHAPTER I

GENERAL PROVISIONS

Article 1.

(General principles)

1. Holders of political office, as well as the president and the members of the independent guarantee, supervisory and regulatory authorities, in the exercise of their functions, are obliged to pursue exclusively the public interests entrusted to them and the general interest of the Republic. To this end, they are required to adopt the measures provided for by this law, aimed at preventing situations of incompatibility with the office held, as well as at avoiding the occurrence of conflicts of interest between the public office held and the private interest they may hold.

Article 2.

(Scope of application)

1. For the purposes of this Act, holders of political office shall mean:

a) holders of national government office: the President of the Council of Ministers; the Vice-Presidents of the Council of Ministers; Ministers; Deputy Ministers; Under-Secretaries of State; Extraordinary Commissioners of the Government, referred to in Article 11 of Law No. 400 of 23 August 1988;

b) holders of regional government office: the presidents of the regions and autonomous provinces, the members of regional councils and autonomous provinces;

c) members of parliament;

d) regional councillors;

e) holders of local office: the president of the province and the members of the provincial council, the metropolitan mayor and the members of the metropolitan councils, the mayor and the members of the municipal council of municipalities with more than 100,000 inhabitants.

2. The provisions of this law shall apply to members of independent authorities.

Article 3.

(Conflict of interest)

1. For the purposes of this law, a conflict of interest exists in all cases where the holder of one of the posts referred to in Article 2 has a private interest capable of jeopardising the impartiality necessary for

the fulfilment of the specific tasks of the office holder or of altering the market rules relating to free competition.

2. There is also a conflict of interests if the holder of the government posts referred to in Article 2 is in one of the situations of incompatibility referred to in Articles 5 and 6.

Article 4.

(Supervisory authority)

1. The competent authority for the implementation of the provisions of this law is the Competition Authority, hereinafter referred to as the “Authority”.

2. In order to carry out the functions assigned to it by the present law, the Authority may request data and information concerning the subject regulated by this law from any public administration body or from any other public or private entity, within the limits allowed by the relevant rules.

3. In order to carry out the investigations, verifications and assessments it deems appropriate, the Authority may avail itself of the cooperation of public administrations and bodies, of all existing public or private databases, including the databases of the tax information system, on the basis of specific guidelines issued by the Guarantor for the protection of personal data within 30 days after the date of entry into force of this law. Where necessary, the Authority may use the services of the Guardia di Finanza and of the other State Police Forces, at no cost for public finance. For the purposes referred to in this paragraph, the Authority may enter into dedicated agreements with the competent tax agencies and with the owners of the aforementioned public databases, as well as request pertinent and relevant information from private entities, in compliance with the Civil Code provisions on the protection of personal data, referred to in Legislative Decree no. 196 of 30 June 2003.

4. A regulation adopted by decree of the President of the Republic, on the proposal of the Minister of the Interior and the Minister for Public Administration, after consulting the Minister for the Economy and Finance and the Competition Authority, after due deliberation of the Council of Ministers, defines the provisions that guarantee that government office holders and all persons concerned shall have full knowledge of the investigative acts, the right to be heard and to minutes being taken in proceedings for the assessment and application of any sanctions. The regulation referred to in the first subparagraph shall be adopted within 60 days after the date of entry into force of this law. At least thirty days before the expiry of the time limit set for its adoption, the draft regulation shall be sent to the Chamber of Deputies and to the Senate for the opinion of the parliamentary committees responsible for the subject-matter, to be delivered within fifteen days after the date of issue. If the Government does not intend to comply with the parliamentary opinions, it shall send the texts back to Parliament with its observations and any amendments, and shall report to each House within ten days, after which the legislative decrees may in any case be definitively adopted by the Government.

5. Reasons shall be given for all measures taken by the Authority in the implementation of this Law.

6. The measures adopted pursuant to this law shall be made public and easily accessible by means of publication on the Authority's website, in an appropriate section devoted to conflict of interests, in compliance with the Civil Code provisions on the protection of personal data, on the basis of specific guidelines issued by the Data Protection Authority within thirty days after the date of entry into force of this law.

7. An appeal to the administrative judge with exclusive jurisdiction may be lodged against the Authority's investigations and measures, pursuant to Article 135, paragraph 1, letter *b*), of Legislative Decree no. 104 of 2 July 2010.

8. The Authority shall submit a six-monthly report to Parliament on activities carried out under this Law.

9. The Communications Authority ascertains that undertakings acting in the sectors of the integrated communications system referred to in Article 2, paragraph 1, letter *g*), of Law No. 112 of 3 May 2004, and which belong to a government office holder, his/her spouse unless legally separated, relatives up to

the second degree of kinship or in any case by a person who lives with him/her on a stable basis not for domestic work purposes, or are subject to the control of said persons, pursuant to Article 7 of Law no. 287 of 10 October 1990, do not engage in conduct which, in breach of the provisions of law No. 223 of 6 August 1990, Law No 249 of 31 July 1997, Law No 28 of 22 February 2000, and Law No 112 of 3 May 2004, provides preferential support to a government office holder. To this end, the Competition Authority shall transmit the declarations received from the government office holders and the persons referred to in the previous sentence to the Communications Authority.

10. The Communications Authority shall adopt the procedures, exercise the powers and apply the sanctions provided for in the legislative provisions referred to in paragraph 9.

11. In the event that conduct in violation of the provisions of paragraph 9 is ascertained, the Communications Authority shall send the undertaking formal notice to desist from the contested conduct and to adopt, where possible, the necessary corrective measures. In the event of non-compliance within the allotted time limit, the Communications Authority shall impose the sanctions envisaged by the legislative provisions referred to in paragraph 9 on the undertaking that has supported the holder of government office in a privileged manner. The fines referred to therein shall be increased by up to one third, depending on the gravity of the violation.

12. Following the investigations referred to in paragraph 9 or the possible imposition of the sanctions referred to in paragraph 11, the Communications Authority shall report to Parliament by means of a reasoned communication addressed to the Presidents of the Senate and of the Chamber of Deputies, if the undertaking acting in the communications sector has undertaken the conduct referred to in paragraph 9. The report shall indicate the contents of the privileged support and how it was provided to the government office holder in the exercise of his/her functions, the corrective measures imposed, the consequences of the privilege and any sanctions imposed.

13. This is without prejudice to the obligation for both authorities to report the facts to the competent judicial authority if they are of criminal relevance.

14. Both authorities shall correspond and cooperate with the administrations and their bodies, shall obtain the opinions of the other competent administrative authorities and the information necessary to perform the tasks provided for by this law, within the limits that may be imposed by the judicial authority.

15. During the proceedings referred to in this Article, the participation of the interested party in the proceedings shall be ensured pursuant to Law No 241 of 7 August 1990, as subsequently amended, without prejudice to the provisions of Article 14, paragraph 3, of Law No 287 of 10 October 1990.

CHAPTER II CONFLICT OF INTEREST

Article 5.

(General incompatibilities)

1. National government posts are incompatible with:

a) any public appointment or post, other than a parliamentary mandate, not held by reason of the government function performed;

b) any post, position or function, whatever the name, management tasks in public-law bodies, including economic ones, public or private undertakings, public-law entities, consortia, as well as special companies and institutions provided for in Article 114 of the consolidated text of the laws on the

organisation of local authorities, referred to in Legislative Decree No 267 of 18 August 2000, and in non-profit bodies subject to supervision and control by the state, regional or local government, with the exception of those held by reason of the government office held;

c) exercising any professional activity or self-employment of any kind, even if free of charge, in associate or corporate form, as a consultant or arbitrator, in favour of public or private entities;

d) any kind of public or private employment or work.

2. Incompatibility also exists when the posts, activities and, in any event, the functions referred to in paragraph 1 are performed or held abroad.

3. National government office holders may, within twenty days of taking office, renounce the posts and functions referred to in paragraph 1, without prejudice to the provisions of paragraphs 4 and 5. After taking up a national government post, an office holder may receive remuneration or allowances only for activities performed previously, and in any case only when such remuneration or allowances are determined as a fixed amount by law or by regulatory acts, or determined or determinable on the basis of criteria that have already been clearly established by an agreement signed by the parties, bearing a clear date prior to taking public office.

4. National government office holders who are on professional registers or lists are automatically suspended from the relevant registers or lists for the duration of their office.

5. Public and private employees who take office in national government shall be placed on leave or in a similar position provided for by their respective systems and in accordance with their respective regulations, with effect from the day they are sworn in or, in any case, when they actually take office, without prejudice to their professional and career status.

6. For the purposes of paragraphs 1 and 2 of this Article and Article 6, it is Article 2639 of the Civil Code that shall apply for the identification of the *de facto* administrator.

7. National government office holders may not, in the year following the termination of their office, engage in any business activity or take on any of the positions referred to in letters *b)* and *c)* of subsection 1, unless they have been authorised to do so by the Authority, which, having considered and assessed the activity previously performed as a government office holder and the individual professional position to be taken up in the case of self-employment, ascertains that there is no conflict of interest. The authorisation shall be deemed to have been granted if, within one month from the date of receipt of the request, the Authority has not expressed a negative opinion.

8. The ascertainment of a violation of the prohibition set forth in paragraph 7 entails the imposition of a fine amounting to no less than double and no more than four times the economic advantage obtained from the prohibited employment or professional or business activity or function. Economic advantage means the profit gained from the prohibited employment or professional or business activity or function.

9. The provisions of Article 8, paragraph 3 of Presidential Decree No. 361 of 30 March 1957 shall apply to magistrates appointed President of the Council of Ministers, Vice-President of the Council of Ministers, Minister, Deputy Minister, Under-Secretary of State, when they leave office.

10. The grounds for incompatibility provided for by other legal provisions stand.

Article 6.

(Incompatibilities arising from assets)

1. National government posts are incompatible with ownership, control or access, on the part

of office holders, their spouse or relatives within the second degree of kinship, or persons permanently cohabiting with the government office holder, except for the purpose of domestic work, even through intermediaries or trust companies, shareholdings exceeding 2% of the share capital of undertakings which:

a) carry out their activities under an authorisation or concession granted by the State, the regions or local authorities,

b) hold exclusive rights or operate under a monopoly;

c) operate in the fields of defence, credit, energy, communications, publishing, advertising or public works or carry out other activities of national interest.

2. For the purposes of this law, shareholdings below the thresholds referred to in paragraph 1 which give the holder control or a controlling interest, within the meaning of Article 2359 of the Civil Code, Article 7 of Law No 287 of 10 October 1990, or Article 93 of the Consolidated Law on Financial Intermediation, referred to in Legislative Decree No 58 of 24 February 1998, are also concerned. Moreover, for the purposes of this law, contractual agreements or statutory constraints which allow the exercise of control or the management and coordination of non-corporate entities are also concerned.

3. There is also incompatibility arising from assets when, after examining the declarations referred to in Article 7, the Authority finds a national government office holder with a clear concentration of assets and financial interests in the same market sector, which interferes with the impartiality required to carry out the specific duties assigned to the holder or distorts market rules relating to free competition.

4. For the purposes of determining the relevant capital within the meaning of paragraph 1, account shall not be taken of decreases in capital resulting from transfers, free or paid, made by an office holder to his/her spouse or relatives up to the second degree of kinship, or to persons cohabiting with him/her on a stable basis not for domestic work purposes, including through third parties or trust companies, if made in the eighteen months prior to taking office.

5. National government office holders, their spouse and relatives up to the second degree of kinship, as well as persons who live with them on a stable basis not for domestic work purposes, may not be awarded public procedures for concluding public contracts of community relevance for works, services or supplies in areas falling within the field of competence of the office held or in related areas. Contracts concluded in violation of the provision set forth in the preceding sentence shall be null and void, with the obligation to repay any remuneration received and ascertained to be related thereto.

Article 7.

(Reporting obligations)

1. Within twenty days of taking up a national government position, the holder of that position is required to submit a declaration to the Authority in which the following details are indicated:

a) being holder of office or activities referred to in paragraphs 1 and 2 of Article 5, even if they ceased during the preceding twelve months. The declaration may include concurring renunciation of the positions referred to in the previous sentence;

b) the last tax return;

c) all data relating to movable and immovable property entered in public registers and to assets which are owned or were owned in the preceding six months, including through intermediaries, including data relating to the ownership of sole proprietorships, shares in companies, associations or professional firms, trusts of which he/she is the settlor, beneficiary, trustee or guardian and to the financial instruments

provided for in Article 1, paragraph 2 of the Consolidated Law on Financial Intermediation, referred to in Legislative Decree No 58 of 24 February 1998;

d) any contracts or agreements entered into with third parties in order to take up, undertake or continue, after termination of public office, any employment or activity of any nature whatsoever.

2. The declarations referred to in paragraph 1 shall also refer to assignments and activities carried out abroad.

3. Any variation in the elements of the declaration referred to in paragraph 1 shall be communicated, by means of an appropriate supplementary declaration, by national government office holders to the Authority within twenty days of its occurrence, unless it refers to property transferred under Article 11 below.

4. Within 20 days of the expiry of the deadline for submitting the tax return, holders of national government offices are required to send a copy of the tax return to the Authority.

5. Within thirty days after the termination of their government office, holders of national government offices are required to submit to the Authority a declaration concerning any variation of the elements of the declaration referred to in paragraph 1 of this Article, which occurred in the period between the last supplementary declaration submitted pursuant to paragraph 3 of this Article and the termination of their public office, unless the aforesaid assets are conferred under Article 11 below.

6. The declarations referred to in paragraphs 1 2, 3 and 4 must also be submitted to the Authority, within the same time limits, by the spouse and by relatives up to the second degree of kinship, of government offices holders as well as by persons living with them on a stable basis other than for domestic work purposes.

7. The declarations referred to in subparagraphs 1 to 5 are made public and easily accessible through publication on the Authority's website in a special section dedicated to conflict of interest in compliance with the provisions of the Civil Code on personal data protection, based on the guidelines referred to in Article 4, paragraph 6. The declarations of the persons referred to in paragraph 6 are published on condition that they have given their consent. In the event that the aforementioned persons have not given their consent, notice of this is given on said website.

8. Attached to the declarations referred to in paragraph 1, there shall be a list of real estate and movable property entered in public registers which national government office holders declare to be effectively intended for their personal use or enjoyment or that of those referred to in paragraph 6.

9. The Authority, within thirty days after the expiry of the time limit referred to in paragraph 1, shall verify the truthfulness and completeness of the declarations, availing itself also, where necessary, of the databases and the information systems belonging to the tax authority, through the Guardia di Finanza. Within the same time limit, the Authority may request clarifications and additional information from the declarant, in full respect of the adversarial principle.

10. If the declarations referred to in paragraphs 1 to 6 are not submitted, are incomplete or untrue, the Authority shall immediately invite the persons concerned to submit, supplement or correct said declarations within ten days. If this time limit is not met or the declarations are incomplete or untrue, the Authority proceeds to:

- a) acquire all the elements it deems useful, according to the modalities set out in Article 14, paragraph 2, of Law No. 287 of 10 October 1990, availing itself, if necessary, of the Guardia di Finanza, on the basis of a specific memorandum of understanding which establishes the terms for this cooperation and the reimbursement of expenditure incurred by the Guardia di Finanza.
- b) if the declarations referred to in paragraphs 1 to 5 have not been made, it shall inform the President of the Republic, the Presidents of the Senate and the Chamber of Deputies and the President of the Council of Ministers or, if the declaration concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August 1988 and, in any event, the competent judicial authority, if necessary. Notice of non-compliance shall be published in the *Gazzetta Ufficiale* and from the day of publication, the interested party shall automatically cease to hold any public office, position or activity as per article 5, paragraphs 1 and 2. For the remaining positions, functions and activities referred to in Article 6, the provisions of Articles 10 and 11 shall apply according to the procedures defined in the regulation referred to in Article 4, paragraph 4.

11. In the event of untruthful or incomplete declarations as referred to in paragraphs 1 to 6, Article 76 of the Consolidated Text of the legislative and regulatory provisions on administrative documents, referred to in Presidential Decree no. 445 of 28 December 2000, shall apply. Failure to submit the declarations referred to in paragraph 6 shall be punishable by imprisonment from two to five years. Failure to submit the declarations referred to in paragraph 6 shall be reported in the section of the website referred to in paragraph 7.

12. The Authority shall proceed with the same powers provided for by letter a) of paragraph 10, if, even at a later date, within one year after the end of the term of office, elements emerge that make it necessary to make corrections, integrations or verifications to the declarations previously made. The Authority shall apply a fine ranging from a minimum of 10,000 euros to a maximum of 100,000 euros when, even at a later date, within one year after the end of the term of office, violations of the declaration obligations provided for in this article come to light, without prejudice to the application of paragraph 11. The Authority shall inform the President of the Republic, the Presidents of the Senate and the Chamber of Deputies and the President of the Council of Ministers or, if the declaration concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August 1988 and, in any event, the competent judicial authority, if necessary.

Article 8.

(Obligation to abstain)

1. Holders of the government offices indicated in article 2 who are in one of the situations indicated in article 3 are obliged to abstain from participating in any decision concerning the conflicting interest. The obligation of abstention for national government office holders concerns all activities of the Council of Ministers relating to said decision and extends also to preparatory and consequential activities, as well as to all activities that are coessential with government functions.

2. In order to ensure compliance with the obligation to abstain, the Authority monitors and verifies the effects of the actions of government offices holders with regard to any impact on the obligation to abstain.

3. Having examined the declarations referred to in Article 7, the Authority identifies and defines the sectors and areas in which national government office holders, in the exercise of the public functions assigned to them, may make decisions, adopt acts or participate in deliberations which, although intended for the general public or entire categories of subjects, are such as to produce, in the assets of the holder or of one of the persons referred to in article 7, paragraph 6, an economically relevant and differentiated, though not exclusive, advantage compared to that of most of the persons targeted by the provision. The Authority shall inform holders of a national government office of these sectors and areas and shall inform them of the existence of the obligation to abstain, without prejudice to the possibility for the Authority to apply the measures provided for in Article 11. As from the application of the measures referred to in Article 11, there shall be no obligation to abstain.

4. The Authority shall proceed pursuant to paragraph 3, even if it finds that a national government office holder, in the exercise of the public functions assigned to him/her, may take decisions, adopt acts or participate in deliberations intended for restricted categories of persons to which he/she or one of the persons referred to in Article 7, paragraph 6, belongs, such as to produce an economically significant advantage for the assets of said persons.

5. In the event of non-compliance with the obligation to abstain, the Authority shall inform the President of the Republic, the Presidents of the Senate and the Chamber of Deputies and the President of the Council of Ministers or, if the declaration concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August 1988 and, in any event, the competent judicial authority, if necessary. Notice of non-compliance shall be published in the *Gazzetta Ufficiale* and from the day of publication, the interested party shall automatically cease to hold any public office, position or activity as per article 5, paragraphs 1 and 2. For the remaining positions, functions and activities referred to in Article 6, the provisions of Articles 10 and 11 shall apply according to the procedures defined in the regulation referred to in Article 4, paragraph 4.

6. Before taking a decision or participating in a deliberation, national government office holders may ask the Authority for a ruling on whether the obligation to abstain exists in that specific case.

7. The Authority must issue a decision within five days of receipt of the request, after which the person concerned shall be exempt from the obligation to abstain. While awaiting the decision, the person

who referred the matter to the Authority is required to abstain.

8. The deliberations thanks to which the Authority establishes the cases in which a national government office holder is required to abstain are communicated by the Authority to the President of the Republic, the Presidents of the Senate and the Chamber of Deputies and the President of the Council of Ministers or, if the declaration concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August 1988, for the purpose of informing the Council of Ministers.

9. The non-participation of a national government office holder in the Council of Ministers in accordance with the provisions of this article is always communicated to the Authority who publishes the information in the section of the website provided for in Article 7, paragraph 7.

10. In the event of abstention, whether prescribed by the Authority or voluntary, the President of the Council of Ministers shall submit the act to the Council of Ministers, pursuant to Article 5, paragraph 2, c) of Law No 400 of 23 August 1988.

11. The obligation to abstain shall not apply, in any event, to acts referred to in Article 89 of the Constitution.

12. Acts performed by government office holders in breach of the obligation to abstain shall be null and void. The nullity shall also extend to the resolutions of the collegial bodies of which the office holder is a member, as well as to preparatory and consequential activities and all activities that are coessential with the functions of government.

13. If national government office holders have taken part in the adoption of an act in breach of the duty to abstain, the Council of Ministers may revoke the act or proceed in accordance with Article 2, paragraph 3, letter p), of Law 400 of 23 August 1988. Individual acts carried out in breach of the duty to abstain may be validated, in whole or in part, by the Council of Ministers, for reasons of general interest, within thirty days after the date of communication of the violation of the duty to abstain to the Prime Minister by the Authority. In the absence of validation, the act shall cease to have effect and the time limits for appeals provided for by the relevant legislation shall run from the expiry of the period referred to in the preceding sentence.

Article 9.

(Procedure for ascertaining the existence of grounds for general incompatibility and related sanctions)

1. Within thirty days of receiving the declarations referred to in Article 7 and, in any event, during the entire term of office of the government, the Authority shall ascertain, also ex officio, whether any of the grounds for incompatibility indicated in Article 5 exist and shall verify their effective removal.

2. If the Authority ascertains that the grounds for incompatibility referred to in Article 5 have not been removed, it shall immediately notify the party concerned, inviting him/her to express within ten days a choice between retaining the government office or maintaining the incompatible post. From the date of notification, the government office holder who is in one of the situations of incompatibility referred to in Article 5, paragraphs 1 and 2 is subject to the obligation to abstain as per Article 8.

3. The Authority informs the President of the Republic, the Presidents of the Senate and the Chamber of Deputies and the President of the Council of Ministers of the invitation to make a choice or, if the notification concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August 1988. Notification of the invitation is published in the *Gazzetta Ufficiale*.

4. In the event of failure to exercise the option referred to in paragraph 2 within the prescribed period, the Authority shall inform the President of the Republic, the Presidents of the Senate and the Chamber of Deputies, the President of the Council of Ministers or, if the failure to exercise the option concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August, and the person concerned. Failure to exercise the option is published in the *Gazzetta Ufficiale*. From the day of publication, the interested party shall cease to hold any office, function or public life activity pursuant to Article 5, paragraphs 1 and 2. For the remaining positions, functions and activities referred to in Article 6, the provisions of Articles 10 and 11 shall apply according to the procedures defined by the regulation referred to in Article 4, paragraph 4.

5. With effect from the date of publication, acts performed by the national government office holder shall be null and void, without prejudice to any further liability on his part. The nullity shall also extend to the decisions of the collegial bodies of which the office holder is a member, as well as to the preparatory and consequential activities and to any activity in any way coessential with the functions of government.

6. The individual acts referred to in paragraph 5 may be validated, in whole or in part, by the Council

of Ministers, in the general interest, within thirty days after the date of publication in the *Gazzetta Ufficiale* referred to in paragraph 4. In the absence of validation, the act shall cease to have effect and the time limits for appeals and challenges provided for by the relevant legislation shall run from the expiry of the time limit referred to in the previous sentence.

7. The ascertainment of a violation of the prohibition set forth in article 5, paragraph 3, second sentence, entails the application of a fine amounting to no less than double and no more than four times the economic advantage obtained from the prohibited employment or professional or business activity or position. Economic advantage means the profit gained from the prohibited employment or professional or business activity or position.

Article 10.

(Procedure for ascertaining the existence of grounds for incompatibility linked to assets and related sanctions)

1. Within thirty days of receipt of the declarations referred to in Article 7, and in any case, during the entire term of office of the government, the Authority shall ascertain, even ex officio, whether the grounds for incompatibility referred to in Article 6 exist and, in the cases referred to in paragraphs 1, 2 and 3 of said Article, after consulting, where appropriate, the competent sector authorities, shall submit to the national government office holder a proposal to apply one or more of the measures referred to in Article 11 or, if there are no other possible measures to avoid the conflict of interests, shall propose the sale of the relevant goods and assets. Assets which are in any case intended for the personal use and enjoyment of the government office holder and his/her family members, as per article 7, paragraph 8, are excluded from the proposal, subject to verification by the Authority.

2. Within the following ten days, the interested party may submit observations and remarks or propose alternative measures to the Authority. The Authority examines the observations and counterproposals and, if it deems them suitable to prevent conflicts of interest, it accepts them, with possible integrations and modifications, after hearing the interested party. In any case, the Authority shall adopt the final decision, by means of a reasoned act, within sixty days after receipt of the declarations referred to in Article 7 and shall grant the interested party a term, not exceeding three months, within which to implement the measures referred to in Article 11 or sell the relevant goods and assets.

3. The Authority shall inform the President of the Republic, the Presidents of the Senate and the Chamber of Deputies and the President of the Council of Ministers of the decision or, if the decision concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August of the Authority's decision. The Authority's decision is published in the *Gazzetta Ufficiale*.

4. In the event of failure to implement the measures referred to in Article 11 or sell the relevant assets within the prescribed time limit, the Authority shall inform the President of the Republic, the Presidents of the Senate and the Chamber of Deputies, the President of the Council of Ministers or, if the decision concerns the latter, the Minister who is the proxy under Article 8 of Law No 400 of 23 August, and the person concerned, of the Authority's decision. Failure to apply the measures set out in article 11 is published in the *Gazzetta Ufficiale*. From the day of publication, an ad acta Commissioner is appointed to implement the measures set out in article 11 according to the terms defined by said regulation adopted as per article 4, paragraph 4.

5. Acts performed by the government office holder shall be null and void, without prejudice to any further liability on his part. This nullity shall also apply to the decisions of collective bodies of which the government office holder is a member, and includes also preparatory and consequential activities, as well as all activities that are coessential with government functions.

6. The individual acts referred to in paragraph 5 may be validated, in whole or in part, by the Council of Ministers, for reasons of general interest, within thirty days after the date of publication in the *Gazzetta Ufficiale* referred to in paragraph 4. In the absence of validation, the act shall cease to have effect and the time limits for appeals and challenges provided for by the relevant legislation shall run from the expiry of the time limit referred to in the previous sentence.

Article 11.

(Rules governing the trustee mandate system)

1. In cases of incompatible assets, as provided for in Articles 8 and 10, the persons concerned shall confer all the assets indicated in the decision of the Authority to a single trust company authorised to operate pursuant to Law No 1966 of 23 November 1939, by means of a trustee without representation, appointed in accordance with the provisions of this Article.

2. The mandate by which the government office holder confers the assets referred to in paragraph 1 to a trust company must in any event include the following provisions:

- a) the duration of the trustee mandate shall not exceed that of the government office;
- b) the cost of the trustee mandate must be borne by the administered assets;
- c) the trustee mandate must be without representation and must include the duties of trustee registration and asset administration;
- d) the appointment of one or more experts, natural or legal persons, chosen by the principal from a list drawn up by the National Anti-Corruption Authority, must be provided for so they may supervise the management of the conferred goods and assets, operate for their enhancement and adopt the necessary decisions to this end, to be implemented by the trust company;
- e) compulsory asset disposal or transformation, to be implemented by the trust company under the terms and conditions defined by the experts.

3. The trust company and the experts referred to in subsection 2, letter *d*) of this article, if set up with legal status, may not be a company owned or administered, even in the preceding ten years, by the government office holder, even through an intermediary, or by the spouse, a cohabitant or a relative up to the second degree of kinship of the office holder. Furthermore, the trust company and the experts must not have concluded a contract, have or have had a debt or credit relationship with the government office holder, the spouse, cohabitants, relatives up to the second degree of kinship, in the preceding ten years. This prohibition also extends to the corporate group to which the trust company may belong. The choice of trust company is subject to the approval of the Competition Authority.

4. The trust company and the experts shall, by reason of their office, be obliged to ensure and maintain the utmost confidentiality with regard to the quality of the assets conferred by the government office holder and with regard to the beneficiaries. To this end, the trust company and the experts may not communicate the nature or the quantity of individual investments and divestments in any way whatsoever to the government office holder nor may they consult him/her on the related management. Any communication regarding management must be in writing and through the National Anti-Corruption Authority.

5. The trust company and the experts must refrain from any transaction that may result in a conflict of interest with their activities, i.e. any transaction involving or affecting the trust company itself, the experts, their associates, entities or companies belonging to the corporate group to which the trust company or the expert belongs, or an entity they legally represent.

6. The trust company and the experts must inform the National Anti-Corruption Authority of any attempts to interfere in the administration of the assets by the principal, his cohabitants or his relatives up to the second degree of kinship.

7. The principal shall only be entitled to know, on a quarterly basis, the quantitative amount of the assets withdrawn, as well as the performance of the management of the assets and any increases or decreases therein.

8. Creditors may enforce their rights on the transferred goods and assets. The government office holder may request the trust company, through the National Anti-Corruption Authority, to fulfil these obligations or may inform the trust company, through the National Anti-Corruption Authority, that it intends to object to the credit and may for this purpose provide the indications and information necessary to propose exceptions and action to protect the assets.

9. The trust mandate conferred on the trust company may not contain any clauses incompatible with

this Article and, to that end, shall be submitted to the Competition Authority for approval.

10. The National Anti-Corruption Authority shall supervise the activity of the trust company, in compliance with the requirements and obligations laid down in this Article and may issue the trust company such instructions as it deems necessary, which are mandatory.

11. Should the trust company or the experts fail to comply with the obligations set out in this article, the National Anti-Corruption Authority shall apply a fine to them, amounting to at least 5 per cent of the assets managed and at most 20 per cent of the same. The National Anti-Corruption Authority may also require the transferor to revoke the mandate given to the trust company or experts. In this case the trust company or experts whose mandate has been revoked shall no longer be allowed to operate pursuant to this article.

If the National Anti-Corruption Authority revokes the trust company or the experts, the principal shall, within thirty days, replace them according to the terms and in compliance with the requirements set forth in this article.

12. In the event of termination of the government office for any reason, the interested party shall automatically regain management of the assets and activities, unless otherwise agreed between the parties. Within thirty days after the date of termination of office, the trust company shall submit a detailed statement of its management to the government office holder and send a copy thereof to the National Anti-Corruption Authority.

Article 12.

(Provisions of a fiscal nature)

1. The principle of fiscal transparency shall apply to all transactions carried out by the trust company and all taxes relating to the transactions carried out shall be borne by the principal.

2. Capital gains realised through any disposal of securities held by government office holders carried out by the trust company in implementation of this law shall in any event be subject to the tax rates applicable to non-qualified shareholdings held by natural persons.

3. Any transfer of assets by means of the fiduciary mandate and their subsequent restitution to the interested party shall not generate capital gains or losses. All acts and contracts concluded for the purpose of the transfer and the subsequent restitution to the interested party shall be exempt from any direct or indirect taxation. The proceeds deriving from the transferred assets and activities shall be charged to the owner of the assets and activities, in accordance with the provisions of the regulations relating to the category to which they belong.

Article 13.

(Sanctions for undertakings)

1. If the breach of obligations or prohibitions referred to in this law perpetrated by a government office holder has resulted in an advantage, not necessarily financial, to the undertakings controlled directly or indirectly by him/her, or by the spouse, relatives to the second degree of kinship, as well as by persons cohabiting with him/her on a stable basis not for the purpose of domestic work, or if it has generated discretionary behaviour aimed at taking advantage of acts approved in conflict of interest, the Authority shall apply a fine not lower than double and not higher than four times the advantage actually gained by the undertaking itself, correlating it to the gravity of the conduct.

2. In the case of a company which carries out its activities under authorisation or concession by the State, the Authority may order the forfeiture of the concession act or any other act of assent on the part of the public administration governing the exercise of the economic activity concerned.

Article 14.

(Ineligibility of Members of Parliament)

1. The following amendments shall be made to the consolidated text of the laws on the election of

the Chamber of Deputies, laid down by Presidential Decree No 361 of 30 March 1957:

a) Article 7 is replaced by the following:

« Article 7. – 1. The following are not eligible:

a) presidents and councillors of regions and autonomous provinces;

b) presidents of the provinces;

c) mayors and councillors of municipalities and metropolitan cities;

d) directors and deputy directors of ministerial cabinets;

e) directors, deputy directors and heads of central directorates and offices of the State Police;

f) heads of local offices, including police headquarters, and officials of all ranks and grades of the State Police in the local district in which they serve or have served in the 300 days preceding acceptance of their candidature;

g) prefects and vice-prefects;

h) officers, generals and admirals of the State Armed Forces;

i) other officers of all ranks in the State Armed Forces, in the local constituency where they are serving or have served during the 300 days preceding acceptance of their candidature.

2. The grounds for ineligibility referred to in paragraph 1 shall also refer to the holding of similar offices, if any, in corresponding bodies in foreign States.

3. Without prejudice to the provisions of letters *f)* and *i)* of paragraph 1, the grounds for ineligibility referred to in paragraphs 1, letters *a)* to *e)*, *g)* and *h)*, and 2 shall not apply if the office held was terminated at least three hundred days before the end of the five-year term of the Chamber of Deputies.

4. Termination of office shall mean the actual abstention from performing any act pertaining to the office held preceded, in the cases envisaged in letters *a)*, *b)* and *c)* of paragraph 1 and in the corresponding cases specified in paragraph 2, by a formal resignation and, in other cases, by transfer, revocation of the appointment or of the order or placement on leave.

5. Acceptance of their candidature shall in any event entail disqualification from holding the positions referred to in points *a)*, *b)* and *c)* of paragraph 1.

6. The five-year term of the Chamber of Deputies referred to in paragraph 3 of this Article shall run from the date of the first meeting of the Assembly referred to in the second paragraph of Article 11.

7. In case of dissolution of the Chamber of Deputies more than 120 days before normal, the above grounds for ineligibility shall not apply if the office held was terminated within 60 days before the date of acceptance of their candidature. »;

b) article 8 shall be replaced by the following:

« Article 8. – 1. Ordinary, administrative, accounting and military magistrates, excluding those serving in the higher courts, even in the event of early dissolution of the Chamber of Deputies and by-elections, shall not be eligible for election in the constituencies subject, in whole or in part, to the jurisdiction of the offices to which they have been assigned or in which they have exercised their functions in a given period during the two years preceding the date of acceptance of their candidature. In any case, they are not eligible if they are not on leave of absence on the day of acceptance of their candidature.

2. The persons referred to in paragraph 1 who were candidates and were not elected may not hold office for a period of five years in the constituency in which the elections were held and may not hold office as a judge for preliminary investigations or for preliminary hearings or as a public prosecutor or any managerial or semi-managerial posts.

3. Persons referred to in paragraph 1 who have been candidates and have been elected may not return to hold positions on the staff of ordinary or special courts to which they belong. Upon expiry or termination of their term of office, the persons referred to in the preceding sentence shall be placed in an administrative position of their own administration or another, and they retain their remuneration »;

c) The following shall be inserted after Article 8:

« Article 8-bis. - 1. Editors and deputy editors of national newspapers shall not be eligible for election if they have held office in the six months prior to the date of acceptance of their candidature. The six-month period is reduced to sixty days in the event of early dissolution of the Chamber of Deputies »;

d) in Article 9, the words: « apart from the fees, » shall be deleted;

e) Article 10 shall be replaced by the following:

« Article 10. – 1. Persons who, in the 300 days preceding acceptance of their candidature, reduced to 60 in the event of the early dissolution of the Chamber of Deputies, are not eligible if:

a) they hold a position of legal representation or of a managerial, administrative, supervisory or controlling nature in a company or undertaking set up in any form, even if public or mixed partnership, carrying out its activities under an authorisation, accreditation or concession scheme, a licence or on the basis of documents of a similar nature issued or granted by the State, by a State public administration, by national public institutions or bodies or by a region or an autonomous province or by any body or entity of the public administration or which are bound to it for public works, services or supply contracts;

b) they are representatives, directors or managers of companies or undertakings seeking profits for private entities and subsidised by the State by means of continuous subsidies or guaranteed allocations or interest, where such subsidies are not granted under a general law of the State;

c) they are legal, administrative, or financial advisors who permanently provide their services to the persons, companies and undertakings referred to in points a) and b).

2. The grounds for ineligibility also apply to persons who control the companies or undertakings referred to in paragraph 1, through their spouse, persons living with them on a stable basis not for the purposes of domestic work or relatives to the second degree of kinship ».

2. In Article 62, paragraph 1 of the consolidated text of the laws on the organisation of local authorities, referred to in Legislative Decree No 267 of 18 August 2000, the words: « with a population of over 20,000 inhabitants » shall be deleted.

Article 15.

(Ineligibility of regional councillors)

1. In Article 2 paragraph 1 of Law No 165 of 2 July 2004, after the letter a), the following is inserted:

« a-bis) provision for grounds for ineligibility for those who have ownership or control, even indirectly, of undertakings which do business exclusively or predominantly under an authorisation or concession granted by the State or a region».

Article 16.

(Delegation of power to the Government to adapt the rules governing local office holders)

1. In order to prevent situations of conflict of interest for the persons referred to in Article 2, paragraph 1, *e*), power is delegated to the Government to adopt, within one hundred eighty days after the entry into force of this law, at the request of the President of the Council of Ministers, in agreement with the competent Ministers, after obtaining the opinion of the Unified Conference referred to in Article 8 of Legislative Decree no. 281 of 28 August 1997, and the opinion of the Consiglio di Stato, which shall be delivered within thirty days after the date of receipt of the draft decree, one or more legislative decrees to adapt the provisions of the consolidated text referred to in Legislative Decree No 267 of 18 August 2000, Legislative Decree No 39 of 8 April 2013, and Law No 56 of 7 April 2014 to the provisions of this Law.

2. The legislative decrees referred to in paragraph 1 shall be adopted in accordance with the following principles and criteria:

a) to define the tasks and functions of assessment, supervision, control and sanctioning exercised by the Competition Authority in relation to the competences attributed to the Authority by this law;

b) to identify situations of general and financial incompatibility, the relevant assessment procedure and the relevant sanctions by means of appropriate criteria according to the office held;

c) to provide for disqualification from office and nullity of the act adopted in cases of breach of the obligation to abstain laid down in Article 78 of Legislative Decree No 267 of 18 August 2000;

d) to exclude the application of said law in municipalities with a population of less than 100,000 inhabitants.

3. The outlines of the legislative decrees referred to in paragraphs 1 and 2 shall be sent to the Chamber of Deputies and the Senate at least sixty days before the expiry of the time limit set for their adoption, so that the parliamentary committees responsible for the subject-matter may express their opinion on them within thirty days of their transmission. If the Government does not intend to comply with the parliamentary opinions, it shall send the texts back with its own observations and any amendments and shall make statements before each House within fifteen days, after which the legislative decrees may be definitively adopted by the Government.

Article 17.

(Independent authorities)

1. For the purposes of this law, the members of the Transport Regulation Authority, the Competition Authority, the Communications Authority, the Regulatory Authority for Energy, Networks and Environment, the National Anti-Corruption Authority, the Right to Strike in Essential Public Services Guarantee Commission, the Pension Funds Supervisory Commission, the National Commission for Companies and the Stock Exchange, the Data Protection Authority, the Insurance Supervisory Authority and the top bodies of the Bank of Italy, hereinafter referred to as "independent authorities", are equated to national government office holders.

2. When the Authority communications pursuant to Article 7, paragraph 10, Article 8, paragraph 8, and Article 9, paragraphs 3, and 4, concern a member of an independent authority, the president of the authority concerned is informed. When the communication concerns the president of the authority, the authority official empowered to replace him in case of absence or impediment is informed.

3. Article 5, paragraph 7, shall apply with regard to regulatory or guarantor activities carried out as a member of the independent authority.

4. Article 8, paragraph 10, shall not apply to the members of independent authorities. In the cases referred to in Article 8, paragraph 13, the act may be revoked or cancelled by the relevant authority.

5. Article 10, paragraph 1, shall apply to shares in companies operating in the sectors supervised by the relevant authority.

6. Provisions laying down more restrictive measures than those laid down in this law shall remain in force for the members of independent authorities.

7. By decree of the President of the Council of Ministers, to be issued after obtaining the opinion of the European Central Bank, which is to be requested within thirty days after the date of entry into force of this law, the provisions of this law shall apply to the members of the governing bodies of the Bank of Italy and to the members of the Insurance Supervisory Authority.

8. The authority responsible for enforcing the provisions of this law in respect of the members of the Competition Authority is the National Anti-Corruption Authority, which operates with the same powers granted by this law to the Competition Authority.

Article 18.

(Governing bodies of the regions and autonomous provinces of Trento and Bolzano)

1. The regions and autonomous provinces of Trento and Bolzano shall regulate situations of conflict of interest of regional government position holders within six months of the date of entry into force of this law, in accordance with the principles laid down in this law, as well as in compliance with the principles laid down in Law No 165 of 2 July 2004, and by entrusting the powers of supervision, control and sanction to the Authority.

2. If the bodies referred to in the first subparagraph do not do so within the time limit, they shall receive 20 per cent less than the total State transfers to which they are entitled, other than those intended to finance the National Health Service, social and self-sufficiency policies and local public transport. The provisions set forth in the first paragraph shall also apply to those regions where elections are to be held within 180 days of the date of entry into force of this law. The regions referred to in the second sentence shall adopt the provisions referred to in the first paragraph within three months of the date of the first meeting of the new regional council or, if it is necessary to amend the statutes, within six months of said date.

3. The provisions of this Article shall apply to the special statute regions and the autonomous provinces of Trento and Bolzano in accordance with their statutes and their implementing rules.

Article 19.

(Delegation of powers to the Government for preventing and combating conflicts of interest in Public Administration)

1. Power is delegated to the Government to adopt, without new or additional charges for public finance, one or more legislative decrees aimed at increasing the level of prevention and contrast of conflicts of interest in public administrations, within three months after the date of entry into force of this law.

2. The legislative decrees referred to in paragraph 1 shall be issued in compliance with the following principles and guidelines:

a) entrusting the National Anti-corruption Authority with specific powers of intervention and sanction with regard to conflicts of interest regulated by Article 6-bis of Law No 241 of 7 August 1990 and Presidential Decree No 62 of 16 April 2013;

b) entrusting the National Anti-corruption Authority with specific powers of intervention and sanction in relation to the incompatibility provided for in Article 11, paragraph 8) of Legislative Decree no. 175 of 19 August 2016, regulating the procedure for ascertaining incompatibility and the transitional

rules;

c) broadening the scope of the definition of tasks and positions in regulated or financed private-law entities for the purposes of ineligibility under Legislative Decree No. 39 of 8 April 2013, including the private entity that owns the undertaking or the majority of the shares, and provide for a transitional provision for the application of the newly introduced rules to appointments and positions in progress at the date of its entry into force;

d) identifying additional positions, including in direct collaboration offices, which, in addition to those referred to in Article 1, paragraph 66 of Law of No. 19 of 6 November 2012, entail compulsory placement on leave of absence, taking into account the differences and specificity of the regimes and functions connected with the ordinary, administrative, accounting and military jurisdictions, as well as with the Avvocatura dello Stato (Attorney General's Office), the duration of the assignment, the continuity and burden of the work required to carry out the duties and the possible conflict of interest between the functions performed in the administration of origin and those performed by reason of the functions held on leave of absence;

e) providing for the non cumulability of administrative and control roles in more than one publicly controlled undertaking, by regulating the relevant supervisory and sanctioning mechanisms;

f) extend the scope of application of Article 53, paragraph 16 – *ter*, of Legislative Decree No 165 of 30 March 2001, to all public bodies, including economic ones, to bodies governed by private law under public control and to regulated and financed bodies governed by private law and carrying out activities of public interest;

g) implement transparency in relation to cases of conflict of interest, also providing for mandatory reporting or publishing and indicating related sanctions for the declarant and for the administration or private-law body in case of violation.

3. The legislative decrees referred to in paragraph 1 shall be adopted upon the proposal of the Minister for Public Administration, after obtaining the opinion of the Unified Conference referred to in Article 8 of Legislative Decree no. 281 of 28 August 1997, and the opinion of the Consiglio di Stato, which shall be delivered within thirty days after the date of transmission of each outline of legislative decree, after which the Government may nevertheless proceed. The outline of each legislative decree is subsequently transmitted to Parliament for the opinion of the parliamentary committees responsible for the subject-matter and the financial elements, after which the legislative decree may in any case be definitively adopted. If it does not intend to comply with the parliamentary opinions, the Government shall send the texts back to Parliament with its observations and any amendments, accompanied by the necessary additional information and reasons. The Committees responsible for the subject-matter may express their opinion on the Government's observations within ten days after the date of the new transmission. After this deadline, the decrees may in any case be adopted.

Article 20.

(Financial provisions)

1. In order to carry out the functions attributed to them by this law, the Competition Authority and the Anti-Corruption Authority are authorised to recruit on a permanent basis, by means of specific public competitions, respectively 30 staff, 10 of which with the title of *funzionario* and 20 with the title of *operativo* and 20 staff, 10 of which with the title of *funzionario* and 10 with the title of *operativo*. The staffing levels of the Competition Authority and the Anti-Corruption Authority shall be increased accordingly by 10 units with the title of *funzionario* and 20 with the title of *operativo* and 10 with the title of *funzionario* and 10 with the title of *operativo*, respectively.

2. The costs arising from paragraph 1, estimated at 3,602,000 euros for the year 2021, 3,944,030 euros for 2022 and 4,800,000 million euros per year starting from 2023, shall be covered by a corresponding reduction in the projections of the current special fund appropriations entered for the purposes of the 2020-2022 three-year budget, under the programme "Fondi di riserva e speciali" of the

mission "Fondi da ripartire" of the estimate of the Ministry of the Economy and Finance for the year 2020, thus partially using the appropriation relating to said Ministry for this purpose.

3. The Minister of the Economy and Finance is authorised to introduce the necessary changes in the budget by means of own decrees.

Article 21.

(Repeals)

1. Law No 215 of 20 July 2004 shall be repealed. The acts and measures adopted shall remain valid without prejudice to the effects produced and the legal relationships established on the basis of Article 9 of Law No 215 of 20 July 2004.

Article 22.

(Entry into force)

1. This Law shall enter into force on 1 July 2021.