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OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1 RESTRICTIONS TO OUTSIDE EMPLOYMENT AS PART OF THE PRINCIPLES OF GOOD ADMINISTRATION

As part of the principles of good administration, citizens must be able to trust in the impartiality of the activities by the authorities and public officials. The activities must also be so transparent that they can be scrutinised and assessed from outside the administration from the perspective of citizens. Section 18 of the Public Servants Act (750/94) issues provisions on the restrictions concerning outside employment engaged in by public officials.

The restrictions concerned with outside employment of public officials aim to contribute to safeguarding the implementation of good administration. These instructions aim to draw the attention of ministries, agencies and departments to the provisions on outside employment in the Public Servants Act and compliance with these within one's organisation.

The objective is that all agencies know what secondary jobs their public officials hold. This aims to ensure that the appropriateness and permissibility of outside employment is always left to the discretion of the authority. The duty of the relevant authority, in practice the government agency that employs the official, or the relevant ministry is to make sure that the objectives set in these instructions are met.

Certain administrative branches also have special provisions on outside employment which are applied in addition to the provisions issued in the Public Servants Act.

These instructions repeal the previous instructions on the outside employment of public officials VM/1591/00.00.00/2010. The core principles of these instructions are the same as in the previous version. The instructions have been further specified by including a mention on positions of trust and administrative duties as possible outside employment subject to restrictions in a section on the concept of outside employment.

2 OUTSIDE EMPLOYMENT SUBJECT TO PERMIT AND NOTIFICATION

A public official may not take on or engage in outside employment whose duties require the use of working hours unless a permit has been granted for the purpose by the relevant authority based on an application by the official. An outside employment permit may also be granted

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for a fixed term and with restrictions. The outside employment permit may be cancelled when there are grounds to do so. (section 18(1) of the Public Servants Act)

For outside employment other than that specified in section 18(1) of the Public Servants Act, a public servant must file a notification of outside employment with the relevant authority. Based on the criteria issued under section 18(2) of the Public Servants Act, the authority may prohibit the acceptance of or engagement in such outside employment. (section 18(3) of the Public Servants Act)

In principle, working hours may only be used for the performance of public duties and, as a rule, any outside employment that requires the public official to be absent from his or her public position is prohibited. Outside employment requiring the use of working hours may only be allowed in an exceptional case.

Such situations may concern outside employment that is also beneficial for the employer. For instance, the secondary job may increase the official's proficiency in his or her public duties. Engagement in outside employment during working hours requires an outside employment permit.

For outside employment that occurs outside of working hours, a public official must file a notification of outside employment.

A notification of outside employment must also be filed for the engagement in outside employment during suspension, as the authorities must also be provided with a possibility to consider whether the outside employment poses a threat to the equal management of public duties in these situations, for instance.

3 THE CONCEPT OF OUTSIDE EMPLOYMENT

Under section 18(1-3) of the Public Servants Act, outside employment refers to a public position as well as paid employment and positions which the public official has the right to turn down, as well as a profession, source of livelihood, or business.

In addition, special provisions issued on outside employment in the acts and decrees of different administrative branches must be complied with. (section 18(4) of the Public Servants Act)

Outside employment subject to restrictions can be such as a public-service employment relationship or an employment relationship with an employer other than the government agency which employs the official, or some other employment relationship or the performance the duties of a private advisor.

Different positions of trust and administrative duties in enterprises or corporations may also come to constitute outside employment subject to restrictions. The criteria for outside employment may be met in case of a membership of the board of a limited liability company, cooperative or foundation, in which case attention must be paid to the provisions of the Limited Liability Companies Act (624/2006), the Act on Co-operatives (421/2013) and the Foundations Act (487/2015) on the duties and responsibilities of the boards in the assessment of the situation.

Work included in the public duties or positions of trust which the official may not refuse are not considered outside employment. Similarly, participation in the typical activities of an association or similar operations, such as work in the board of a housing company, is generally not considered outside employment subject to restrictions.

If the relevant authority assigns the public official to perform a duty or proposes him or her to a position, this is not considered outside employment requiring a permit or notification.

When considering the appointment of a public official to a position involving the influence of the state as a shareholder or other responsibility related to steering and monitoring, it must be taken into account that the public official may not be disqualified from his or her most central public duties due to the position as a representative except only occasionally or temporarily (section 18 b of the Public Servants Act).

Individual temporary duties are assessed on a case-by-case basis and, in case of uncertainty, the authority granting the

outside employment permit will consider whether or not the outside employment is subject to restrictions.

4 LIMITS TO THE DISCRETION OF THE AUTHORITY

The consideration of the issue of an outside employment permit must take into account the fact that the secondary job may not compromise the impartiality of the public official in his or her duty. The outside employment may also not threaten trust in the official's fairness in performing his or her task or hinder the management of the duty in any other way or cause apparent damage to the employer as competitive activity. (section 18(2) of the Public Servants Act)

The permissibility of the outside employment must be valued from the perspective of the public position and duties of the public official in question, taking into account how his or her engagement in outside employment will appear to outsiders.

A public official has the same fundamental rights as any other citizen. However, the position and duties of a public official may come to contribute to actual restrictions to these rights.

The consideration of the permissibility of outside employment must take into account how the outside employment of an individual official may affect the image of the activities of the government agency to outsiders. This particularly applies to senior officials, the police and soldiers who are also bound by a code of conduct during their leisure time. This may also apply to other public officials if so required by their position and duties. When assessing the permissibility of outside employment in these situations, it is particularly important to evaluate what kind of an impression will be created of the equal and impartial management of duties by the governmental agency and the public official. If there appears to be any conflict of interest, there is good reason to prohibit the public official from engaging in the secondary job.

Sections 27 and 28 of the Administrative Procedure Act (434/2003) contain general provisions on disqualification. According to section 28 of the Administrative Procedure Act:

An official shall be disqualified:

- 1) if he/she or a close person is a party to the matter;
- 2) if he/she or a close person assists or represents a party or a person due to gain specific benefit or suffer specific loss from the decision of the matter;
- 3) if specific benefit or specific loss from the decision of the matter is foreseen for him/her or a close person as referred to in subsection 2, paragraph 1;
- 4) if he/she is in service with or in a pertinent commission relationship to a party or a person due to gain specific benefit or suffer specific loss from the decision of the matter;
- 5) if he/she or a close person as referred to in subsection 2, paragraph 1 is a member of the board, supervisory board or a corresponding organ of, or the managing director or in a comparable position in, a corporation, foundation, state enterprise or institution that is a party or that is due to gain specific benefit or suffer specific loss from the decision of the matter;
- 6) if he/she or a close person as referred to in subsection 2, paragraph 1 is a member of the executive body or a corresponding organ of an agency or institution, where the matter pertains to the supervision or oversight of the agency or institution; or
- 7) if his/her impartiality is compromised for another special reason.

For purposes of section 28(1) of the Administrative Procedure Act, a close person is defined as:

- 1) the spouse of the official, a child, grandchild, sibling, parent, grandparent of the official, a person otherwise especially close to the official, as well as the spouse of the same;
- 2) a sibling of a parent of the official and the spouse of the same, a child of a

- sibling of the official and a previous spouse of the official; and
- 3) a child, grandchild, sibling, parent and grandparent of the spouse of the official, the spouse of the same, as well as a child of a sibling of the spouse of the official.

A comparable half-relative shall also be considered a close person. For purposes of this section, a spouse is defined as a partner in wedlock, a domestic partner and a partner in a registered partnership.

In addition to the Administrative Procedure Act, different special provisions are also applied. An official will be disqualified as intended by the provision when he or she is continually disqualified from performing his or her official duties due to the secondary job.

When there is a clear link between the official's duties and outside employment, trust in the impartiality of the management of the position might be compromised. The consideration of the permissibility of outside employment must pay attention to whether such a threat is likely when evaluating the issue objectively. No concrete threat to impartiality is required for prohibiting outside employment; instead, it is crucial whether the secondary job might threaten the trust in the impartiality of the official among outside parties.

Outside employment may harm the appropriate management of duties, for instance, due to the stress it causes, in which case it cannot be allowed.

Section 18 of the Public Servants Act also issues provisions on competitive activities. When considering the permissibility of outside employment, it is also vital to ensure that outside employment does not cause harm as competitive activity to the government agency that employs the public official. This provision is particularly concerned with the central government tasks performed in a competitive situation. These primarily include enterprises as well as the government agencies belonging to on-budget entities engaged in chargeable services.

Decisions made by the Supreme Administrative Court on the permissibility of outside employment are available on, among other sources, the websites of [the Supreme Administrative Court](#) and [Finlex](#).

5 PERMIT AND NOTIFICATION PROCEDURES

A public official must apply for an outside employment permit prior to engaging in outside employment. A notification of outside employment must be filed without delay with the authority in charge of issuing the outside employment permit (section 19 of the State Officials Decree).

The permit application and the notification must include details that identify key issues for the permissibility of outside employment. These include the quality of outside employment, the amount of work required by it, the duration of outside employment and the compensation paid for the outside employment.

The authority must provide a written decision on granting or refusing the outside employment permit. The outside employment permit may also be granted for a fixed-term or with limitations. The reasons for a negative decision must be supplied in accordance with section 45 of the Administrative Procedure Act. The statement of reasons shall indicate the primary circumstances that have affected the decision and the provisions and regulations that have been applied.

Making a decision on a notification of outside employment is not mandatory except in the case when outside employment is prohibited. The reasons for the decision must be supplied similarly as for a negative decision on an outside employment permit.

The Ministry of Finance has approved a [form for declaring private interests for senior](#)

[public officials](#). The form and instructions on filling it out are available at the website of the Ministry of Finance in the section [Guidelines and regulations](#).

The applications concerning the outside employment permit and the notification of outside employment are public documents unless they contain information under separate secrecy obligations. Decisions by the authorities on outside employment are similarly public with the restrictions described above.

6 THE AUTHORITY'S TASK IS TO PROVIDE INFORMATION ABOUT RIGHTS AND OBLIGATIONS

The authority is responsible for informing public officials of their rights and responsibilities as well as the consequences of violating or neglecting official duties already when providing induction training for new officials. The authority is also tasked with ensuring that the public officials employed by the government agency know what kind of conduct is expected of them and whether the code of conduct also applies to leisure time.

The appointments procedure, such as the interview of a candidate, provides a natural setting for bringing up the possible restrictions to outside employment connected to the open position. A person appointed to the public positions referred to in section 26 of the Public Servants Act must declare his or her financial and other private interests to the relevant ministry prior to the appointment. The person's outside employment must also be stated on the declaration. The authority in charge of the appointment decides whether or not the declared outside employment is in conformity with the duties of the public position. If not, the public official is provided with an opportunity to give up the secondary job, in which case it will not stand in the way of the appointment.

In the context of granting an outside employment permit or deciding on the acceptability of outside employment subject to notification, the authority's duty is to set possible restrictions to engagement in outside employment and inform the public official of these. This also includes avoiding any misunderstandings of the role that may be undertaken by the person in his or her outside employment.

7 OFFICIAL DUTY FOR APPLYING FOR A PERMIT OF FILING A NOTIFICATION

Public officials have the duty to apply for an outside employment permit or file a notification of outside employment. If a public official fails to do this, he or she is violating his or her official duties. In such situations, the authority has the means at its disposal to intervene in the conduct of the public official. The authority also has a possibility to cancel the permit for a reasonable cause.

According to section 24 of the Public Servants Act, a written warning may be issued to a public official violating or neglecting his or her official duties. According to section 25 of the Public Servants Act, a public official may be dismissed due to the fault on the part of the public official on particularly serious grounds. Furthermore, according to section 33 of the Act, a

public-service employment relationship may be terminated immediately if the public official severely infringes or neglects his or her official duties. In addition to the consequences in accordance with the Public Servants Act, the neglect of the provisions on outside employment may also result in criminal liability or liability for damages.

A permit issued by the authority does not eliminate the personal responsibility of the public official for compliance with the provisions on outside employment.

8 APPEAL

An appeal to the decision on outside employment may sought in accordance with the procedure laid down in the Administrative Judicial Procedure Act (section 57 of the Public Servants Act). A notice of appeal is appended to the decision by the authority.

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