



## CONFLICT OF INTEREST AND THE FIGHT AGAINST IT ON THE EXAMPLE OF UZBEKISTAN

Javlon Zoilboev<sup>1</sup>

<sup>1</sup> Tashkent State University of Law  
Sayilgoh street, Tashkent, Uzbekistan

E-mail: j.zoilboyev@tsul.uz

jzoilboyev@gmail.com

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### ABSTRACT

*The theoretical basis and the role of a conflict of interest in the exercise by government bodies of their functions are highlighted in this work. The legal basis and priority directions of reforms, issues of improvement of legal regulation, the implementation of decency principle and restrictions related to the elimination of conflicts of interest in the public administration system of the Republic of Uzbekistan are explained considering the peculiarities inherent in the legislation of the Republic of Uzbekistan. Along with this, the experience of developed countries and comparative analysis is given. A general conclusion was made on the findings of the study, while these conclusions were mainly made in the field of prevention and combating conflict of interest.*

**The study analyzes** the causes, consequences of conflict of interest, which is a serious obstacle to the activities of public administration bodies, considered one of the bases of corruption, the struggle against it by the state, to eliminate conflict of interest in the Republic of Uzbekistan as a result of a comparative study of the experience of foreign countries. It is the development of promising proposals aimed at improving the organizational and legal framework.

### Objectives of the research work:

Based on the purpose of the study, the following objectives were formulated:

- the concept of conflict of interest in public administration, showing its place in the origin of a corrupt situation;

- to indicate the legal regulation of the Institute of conflict of interest;

- studying the experience of foreign countries in the framework of this topic;

- demonstrate ways to eliminate conflict of interest;

- to show the reforms conducted in this regard in Uzbekistan;

- To provide suggestions and recommendations on improving the legal and organizational issues of eliminating conflicts of interest.

### INTRODUCTION

Public administration is one of the most complex types of social interaction, the structure and content of these



interactions is associated with many contradictions due to the specificity of their interaction with all social relations, which in this area leads to many contradictions, including conflicts of interest. Conflict of interest in civil service as one of the actual social problems of the theory and practice of Public Administration between public and legal duties and private interest of the public official it is expressed in dependence, which means that his private interests can affect the performance of his official duties or duties illegally. The unresolved nature of these types of conflicts leads to the fact that the civil service does not develop and, as a result, the inefficiency of influence on economic and social processes can decrease confidence in the authorities of the state.

Currently, the expression "conflict of interest" is closely associated with the civil service as a feature of processes and phenomena in the field of public administration. Conflict of interest, this is a situation in which personal (direct or indirect) violence affects or may affect the performance of a person's career or service obligations to the extent that it is necessary, and between personal violence and the rights and legitimate interests of citizens, organizations, society or the state, there is or may raise resistance. Personal interest, in turn, means the opportunity to receive income in the form of money, another property, property-related services, including property rights, the results of the work performed or any benefit to a civil servant and persons who are closely related to him (parents, spouses, children, brothers, sisters, as well as brothers, parents, children, spouses and children of spouses), citizens or organizations, corporate.

## **SCIENTIFIC RESEARCH.**

As we see, the main terms that determine the content of conflict of interest in the activities of public administration bodies are the terms "interest" and "personal interest". These invasions are of direct interest to us, because they are a certain type of generalizing concept, without which it is impossible to determine the social essence of such a phenomenon as a conflict of interest in the activities of Public Administration.

There is no doubt that the most important category for the consideration of the essence of conflict of interest in the activities of Public Administration bodies is "interest". D.I.Dedov puts forward the idea that "conflict of interest" always arises from the dependence on the interests of a person, First on their personal interests, on interests, contrary to the interests that are protected by law, "he said [1]. Many researchers believe that when considering the concept of "conflict of interest," the category "interest" should be taken as the initial definition. Thus, the main factor in the conflict of interest is personal interest, and the personality of civil servant is in the center of the interaction. Material benefits are the main feature of personal interests, which are usually directly related to the object and satisfaction of developing needs. This material benefit is an aspect that may conflict with all subjects of the relationship in the system of Public Administration. Material interest is expressed in a financial or proprietary form, as well as in the results of property rights, property-related services and work performed.

Social Interest reflects the system of social relations of an individual with various small and large social groups. The more closely they cover the individual, the stronger the personal interest in the



realization of these interests. In this respect, first, it is necessary to separate the family, since this group is distinguished by the closest ties and direct cooperation that form the circle of mutual responsibility and affection. Another group of friends who have a strong direct connection to the personality of civil servants can become friends. Here, however, note that personal interest in the context in which we are considering can arise only when their goals are common. If we are talking about large social groups, which may be in the general interest of the civil servant of the authorities, we must emphasize colleagues in the workplace, including former, political and religious organizations, etc.

It follows from the foregoing that conflict of interest is a situation that affects or may affect the performance of a person's career or service obligations to the extent necessary, and that between personal dignity and the rights and legitimate interests of citizens, organizations, society or the state, there may be or may be resistant [2].

From foreign lawyers: Astanin, A.D. Ilyakov, O. V. Kazachenkova, S. E. Chanov, A. Dementiev, S. Kachushkin, A.V. Gorekin, A.M. Gorennaya, E. V. Talapina, S.N. It can be seen that the essence of the conflict of interest of Yuzhakov is revealed in the content: "Any corruption offense is based on a conflict of interest. A competent entity operating in the system of public administration means that the state has certain powers and that these powers can be used to realize personal interests, including property interests" [3]. In this regard, it is worth noting that for the emergence of corruption, of course, it is necessary that it is of interest. This interest arises from the abuse of a certain authority.

A group of scientists attempts to meet their personal needs by removing obstacles by applying the state will to conflict of interest (N. Obozov, H. Heckhausen, W. Urey and others) will comment [4].

If we talk about the situation of conflict of interest reflected in our legislation, then first of all we need to focus on the law of the Republic of Uzbekistan "On Combating Corruption". According to the law: "conflict of interest – a personal (direct or indirect) conflict of interest is a situation that affects or may affect the performance of a person's official or official duties to the necessary extent, as well as the occurrence or occurrence of resistance between personal and legitimate interests and rights and legitimate interests of citizens, organizations, society or the state" [5]. The introduction of this norm is also directly related to legal changes at the international level, in particular, the introduction of the concept of "conflict of interest": comes from the UN Convention on Combating Corruption and is related to the international obligations of the Republic of Uzbekistan [6]. However, the term "conflict of interest" is not used in this UN Convention, but its essence is explained by "conflict of issues," and other concepts and is considered close to each other.

Corruption and conflict of interest are contrary to the interests of the state and society, because of which the economy, political life and social, in short, lead to the crisis of all spheres. In most cases, the support of projects unnecessary and unprofitable in most cases, leads to the fact that the implementation or the delay of those that are useful to many is contrary to the law. Even if legitimate civil projects are implemented, the costs of compensating for



the corrupt “tax” undermine the quality of work.

According to Vito Tanzi, “Corruption is the observance of the print type of length of the right, which is aimed at achieving an advantage either for itself or for persons belonging to this behavior”<sup>[7]</sup>. We must understand from this that in the place of corruption there will certainly be an authority, a right of power. This means that the subject is given more rights than other persons.

Also, a number of Uzbek scientists have suggested their ideas about corruption. In particular, the doctor of political science Bakhtiyar Omonov noted “corruption is a state without borders, it is made up of a clear “scheme” (scheme) of cheating, bribery and money laundering”<sup>[8]</sup>. According to the scientist, corruption in itself covers a number of crimes. Negative acts. For example, cheating and bribery. It is worth noting that bribery in many respects arises from a conflict of interest.

According to The conducted research, when representatives of more than 60 top management bodies from more than 150 of Asia's countries and the Pacific were taken as respondents, they noted that corruption in the mass services, in the public services, is the main obstacle to ensuring this legitimacy. Also, judging by the information provided by the representatives of these countries separately, corruption has been rated as a serious obstacle to the economy, political growth and social development of the state<sup>[9]</sup>.

Conflict of interest was also included in the composition of corruption crimes I. Ismoilov, analyzing corruption crimes, argues that it is difficult to give a full assessment of such a crime, from the perspective of the law, Corruption is the

illegal use of public office for selfish purposes<sup>[10]</sup>. But the use of public office for personal gain does not always become a corruption crime. Additionally, the concept of “State position” should also be clarified. Even in the interpretations of international organizations, it is impossible to create a single concept of this.

According to Zufarov, the eruption means “undermining public interests both in terms of personal life and in terms of corporate profits”<sup>[11]</sup>.

The scientist Akhrorov said “In the literature, the issue of corruption is treated differently. He has no single concept, he can embody several crimes. Even based on the recommendations of international organizations, it is impossible to create a common understanding of this”.

Because of our research, we give the following authorship definitions: **conflict of interest** a situation in which personal (direct or indirect) subordination affects the proper performance of a person's career or service obligations and, as a result of satisfaction of personal interest, undermines the rights and legitimate interests of citizens, organizations, society or the state<sup>[12]</sup>.

**Corruption** - is the illegal use of a person for obtaining material or intangible benefits to satisfy any interest(s) other than the interest (s) of society and the state from his career, service position, as well as to present such benefits illegally.

Several reasons cause conflicts of interest, the enumeration of which can not be excluded from the profit. Specially,

- the fact that the norms of law can be interpreted differently;
- low legal literacy of the population;



- the turbulence of the political situation in the country;
- violation of the principle of unity of executive power;
- the sluggish participation of the population in the control of the state;
- the fact that the revenue of service workers in the public sector is less than the income that can be found in the private sector;
- The high rate of inflation;
- The fact that the top management bodies of the country are disconnected from the population.

These reasons undermine the public's trust in state bodies and officials. Additionally, this leads to poverty in the country's economy, social sphere, science, and culture.

What activities are being conducted in Uzbekistan to prevent conflicts of interest in the activities of Public Administration bodies?

One of the issues that have given the most attention in the Republic of Uzbekistan is precisely corruption and conflict of interest. In particular, according to the index of perception of corruption of the international organization Transparency International, since 2010, Uzbekistan has been gradually improved its indicators from year to year. According to the international indices in the Republic of Uzbekistan, the current state of corruption is assessed as follows:

- 158th place in 2018;
  - In 2019, in 198 countries, in the system of 100 points, 25 points, 153 places;
  - In 2020, gaining 26 points, 146 place.
- And in 2010 year he was on 172-th place with 16 points.

According to Transparency International Anti-Corruption Barometer for 2016 year, only 18% of respondents in Uzbekistan reported that they gave the report, and only 23% of them noted corruption as one of the three most serious problems in the country. According to the population survey, the most corrupt representatives of the sphere – yol-Patrol employees (17% of respondents recognized that they were given Pura), education and medical workers (16% of respondents recognized this). On the question of what prevents respondents from reporting corruption, 39% said that they do not know the answer to this question, and the second most common answer was “because of fear of negative consequences” (17 %).

## **IMPLEMENTED MEASURES.**

With the initiative of Dear President Sh. Mirziyoev in January 3, 2017, the law of the Republic of Uzbekistan "On combating corruption" was adopted. The adoption of this law – combined the forces and capabilities of state bodies and civil society institutions in the fight against corruption, allowed to create a holistic system and improve national legislation on the sphere. Over the past period, the fight against corruption has steadily increased to the level of public policy, the development and implementation of measures to combat it, the creation of legal and institutional systems regulating the sphere have been continued.

As a logical continuation of this work, a special authorized state body-the anticorruption agency was established in accordance with the decree of the president of the Republic of Uzbekistan “On additional measures to improve the Anti-Corruption System in the Republic of Uzbekistan” dated June 29, 2020, aimed at preventing and





combating corruption in all spheres of society and public life.

A number of international organizations welcomed the establishment of the new agency in Uzbekistan, including the World Bank, the Organization for Security and Co-operation in Europe, the United Nations Department on Drugs and Crime, the United Nations Development Programme, the Organization for Economic Cooperation and Development, and expressed their readiness to establish the agency's activities and provide practical assistance.

Civil servants working in the field of public administration, in their activities, performing the functions and tasks of the state, as well as in their efforts to achieve a specific goal, will express that they are civil servants. The legislation stipulates that civil servants must be guided by the rule of law in their professional activities, the priority of the rights, freedoms and legitimate interests of citizens, patriotism and devotion to official duty, loyalty to the interests of the state and society, justice, honesty and impartiality. To establish uniform codes and rules of conduct for employees of public administration bodies and local executive bodies, to create conditions for their conscientious and effective performance of official duties, and to prevent abuse of public service by the Government and higher-level government bodies, including under the leadership of the President, systemic reforms are being conducted. One such measure, undoubtedly, is the resolution of the Cabinet of Ministers of the Republic of Uzbekistan of March 2, 2016 No. 62 "On approval of the standard of etiquette of employees of state administration bodies and local executive bodies". This decision approved the model

code of conduct for civil servants operating in public administration bodies, defined the requirements for the conduct of civil servants, the procedure for conducting activities in situations of corruption, corruption and conflict of interest, and issues of responsibility. Simultaneously, it is expressed that civil servant has to strictly observe state printouts and requirements in the performance of his official duties, to perform his official duties conscientiously, at a high professional level, to take into account the rights, duties and legitimate interests of citizens, to monitor such printouts in order to prevent cases of discrimination. It is stipulated that civil servants must fight corruption and actively contribute to its development, must have a high level of legal awareness and culture. Additionally, these rules cover the behavior of a civil servant in the service, his clothing, how he should behave among people, and other norms.

It is necessary to pay special attention to one aspect: the moral maturity of personnel working in the state management bodies is an important factor in the conflict of interests and the rational reduction or increase in the incidence of corruption. Having received information on the approval of the standard rules of conduct of state management bodies in the decision № 62 of the Cabinet of Ministers of the Republic of Uzbekistan, this decision sets out how to conduct business in cases of conflict of interest as a fundamental part of the rules of conduct.

Because of the measures taken by the Anti-Corruption Agency, a number of cases of violations are identified. In particular, when the control measure was performed in the premises assigned to use, it was determined that the study specified in the



construction objects was not adequately performed (deficit). Additionally, in 7 cases without insurance policies 9,6 mlrd.so it was determined that mlik construction facilities were financed. At the end of the study, 4 criminal cases were initiated on the basis of questionnaires sent to the general prosecutor's office [13].

Civil servants should avoid situations of personal injury that cause a conflict of interest in the performance of their service duties. Every aspect associated with interest is considered an important factor in the loss of further fruitfulness. The conflict of interest arises in those cases when the personal interests of civil servants affect or may affect the impartial and impartial performance of their service duties. Any factor that affects the objective and impartial performance of the duties of the service in the Bund will reduce the way to the achievement of the state goal, the level of ensuring the rights and interests of citizens to several levels. The personal nature of civil servants includes their personal or close relatives, as well as their access to any benefits or benefits to other persons who may be in close or business relationships. In the event of a conflict of interest, civil servants should immediately notify their leader, and the condition is firmly established that the leader who receives information on the availability of the situation will take timely measures to bring it into order.

The rules of etiquette of customs officers have also been adopted, and these rules of conduct strengthen the rules of etiquette related to conflicts of interest in conducting public service in the customs authority. In particular, the Disciplinary Regulations of the state customs bodies of the Republic of Uzbekistan were approved

by the decree of the President of the Republic of Uzbekistan No. PP-3665 of April 12, 2018<sup>[14]</sup>. According to him, the rules of etiquette, regardless of what position they hold, professional manners of employees and the Basic Rules of Self-Discipline in the service include a set of general rules. From the date of entry into the service of the customs authorities, it is established that each employee must observe the rules of etiquette.

In place of the conclusion, it should be said that the prevention of such negative situations as a conflict of interest and corruption, the fight against them, was one of the main tasks facing the state. Including also prevents the fight against them by each state the measures will be developed, the experience used by the states in the international arena will be used. It would not be an exaggeration to cite the reforms conducted in the Republic of Uzbekistan in recent years as a clear example of these measures.

## **FOREIGN EXPERIENCE.**

Conflict of interest in the civil service is a topical issue for civil servants around the world. In many countries, legislation sets standards for conflicts of interest in civil service. Recently, some countries have introduced standards in response to developing international control by introducing new laws, including

According to Article 10 of the Federal Law of the Russian Federation

№ 273-FZ of December 25, 2008 "On the fight against corruption," "Under the conflict of interests in the state or municipal service, this Federal law refers to a situation in which the personal interest of a state or municipal employee (directly or indirectly) or their official (official) duties may affect the, it is capable of harming the rights and



legitimate interests of the society or the state”<sup>[15]</sup>.

In accordance with the Federal Law, it is established that officials who did not prevent a conflict of interest or did not prevent the occurrence of such a circumstance, or allowed the occurrence of such a negative circumstance, are brought to criminal responsibility.

In many foreign countries, special laws have been developed to prevent conflicts of interest and to combat it. In such states, also legislative legal acts allow to identify and resolve conflicts of interest. In some countries, for example, Canada and the United States, a holistic system of identifying and resolving conflicts of interest have already been built, and in the people's Republic of China, institutional bases of this category have been created.

In Canada, the law “On conflicts of interest”, adopted in 2006 year, reflected the norms for combating conflicts of interest<sup>[16]</sup>. According to Article 4 of this law, the purpose of the law is an expression of deregulation from the conflict of interest that occurs when an official holding a public position incorrectly exercises official powers, obligations or functions to satisfy the interests of his interests, relatives or friends, or to satisfy the personal interests of another person.

According to the procedure established by Canadian law, “each civil servant must organize his or her personal affairs in such a way that he or she has conducted the conditions for the Prevention of a conflict of interest between himself and his or her official”.

According to the content of the Canadian legislation, officials working in public administration are prohibited from engaging in a number of activities.

According to Article 15 of this law, no civil servant is prohibited from engaging in the following activities in the performance of his powers, duties and duties (except as necessary):

- *engage in labor activity or professional practice;*
- *management or implementation of commercial or commercial activities;*
- *continue to work as a director or representative of a corporation or organization, or to be so;*
- *Labor union or professional association position;*
- *perform the function of a paid consultant;*
- *To be an active partner in cooperation.*

At present, with the study of the existing problems and shortcomings in the field of prevention of conflicts of interest in the activities of public administration bodies in Uzbekistan, the fight against it and the creation of organizational and legal basis, it must conduct radical reforms, make changes in the following areas and to continue this process systematically. Based on the sources used because of the analysis conducted, we found it appropriate to come to the following conclusion.

As a scientific novelty of our research work, authorship definitions and proposals for legislation are given.

Based on the above analysis, we have developed our definition of authorship to the concepts of conflict of interest and corruption:

**Conflict of interest** — a situation in which personal (direct or indirect) subordination affects the proper performance of a person's career or service obligations and, because of satisfaction of





personal interest, undermines the rights and legitimate interests of citizens, organizations, society or the state.

**Corruption** is the illegal use of a person for obtaining material or intangible benefits in order to satisfy any interest(s) other than the interest (s) of society and the state from his career, service position, as well as to present such benefits illegally.

***Based on the above conclusions, we found that the following suggestions should be put forward:***

## **THEORETICAL PROPOSALS:**

### **1. In the field of public control:**

To establish effective public control over every official of the public administration body. It is important to determine the circle of persons who have morally-enlightened moral qualities, who live in the territory where he operates, who have no relation to the official in any way;

to conduct an expert examination of the results obtained on the public control and to take drastic measures on the basis of its conclusion to the official who has caused cases of conflict of interest;

the development of their annual ratings and the application of incentive measures to persons who have achieved high reliability in the area of public control results, as well as in the areas of activity of officials, can be effective.

### **2. In the financial sphere:**

before hiring civil servants, it is necessary to improve the system for obtaining income declarations at the time of employment and at the time of release from public service. Each civil servant must submit a declaration of their income to the Tax Authority at the end of the current year. It is necessary to compare the difference in income based on reliable sources. Currently, when implementing this system in practice,

due attention is still not paid to systematicity and reliability;

To develop a system of payment for the work of civil servants on the basis of new models. As in the educational system, it is necessary to introduce the KPI (key performance indicator) system of remuneration to civil servants operating in the state management bodies, based on their achievements during their labor activity, their effectiveness, contributions to the development of the sphere, and establish additional priorities.

### **3. In the field of transparency, openness:**

in addition to state secret, the secret of the bank, the secret of insurance, the secret of advocate (in general, secrets whose disclosure is contrary to the interests of the state and the individual), the authorities of the state government in their activities are responsible for the use of state budget funds, income, appeals of citizens and legal entities, cooperation, the implementation of This implies that a particular state body is assessed by the people on the results of their activities. It is necessary to fully transfer the processes of recruitment of personnel to the state administrative bodies in the videoconferencing mode and online transmission.

### **4. Proposals to improve legislation:**

**First of all**, it is a clear goal to prevent conflicts of interest by making appropriate additions to Article 21 of the law of the Republic of Uzbekistan "On combating corruption it is necessary to develop measures (the administrative discretion of the official authorized to take such measures should be limited), as well as to clearly specify the procedure and term for informing the civil servant;



**Second of all**, it is necessary to determine the range of cases of conflict of interest that may arise in the activities of legislative acts and public administration bodies, and to ensure that these cases are clearly reflected in the rules of etiquette, based on the tasks, functions and goals of each state body, in the areas of regulation. Both the employee and the law enforcement agencies will be able to control their actions if they know in advance in which case and because of which actions a conflict of interest will arise;

**Third of all**, the development of a document (document) on the prevention of conflicts of interest in the transition to civil service, as well as ensuring the use of this document by civil servants, serves to eliminate corruption in this area. Currently, there are "exemplary rules of conduct for employees of state administration bodies and local executive bodies", approved by resolution 62 of the Cabinet of Ministers of the Republic of Uzbekistan, and the instructions set out in this document are not specified in specific instructions on how a civil servant should behave in the event of a conflict of interest;

**Fourth of all**, it is advisable to strengthen penalties against an official who has allowed or allowed the occurrence of a conflict of interest. Currently, our criminal legislation does not establish criminal liability for creating a situation of conflict of interest, and the introduction of strict penalties represents an increase in the number of cases. In this regard, it is necessary to criminalize the conflict of interests and apply harsh punitive measures to officials.

**Fifth of all**, it is necessary to introduce a preferential payment to an employee for reporting an incident and a

possible conflict of interest. At the same time, it is advisable to determine the amount of material remuneration based on the scale of the conflict of interests being prevented and eliminated.

## CONCLUSION

1. Conflict of interest is also a manifestation of corrupt crimes, such as giving away money, obtaining money, abusing career authority, cold-blooded attitude to career authority, treason to the state.

2. The existence of such a negative situation as conflict of interest in the activities of Public Administration bodies is one of the main factors in the country's ageing, lagging behind in all aspects of its development.

3. It is our duty to prevent cases of conflict of interest in public administration, first of all to conduct such primary tasks as education, legal consciousness, reform of legal culture, formation of a spirit of obedience to laws.

4. In our legislation, norms related to conflicts of interest in most cases acquire a declarative character. This leads to the fact that such actions will be committed by authorized persons. This is because personal interests in state governing bodies, where sharp sanctions are not expressed and control is not established, will prevail over the interests of society and the state.

5. It is desirable to develop concrete annual, five-year, ten-year, long-term plans of reforms in this area. The reason: the fight against corruption and conflict of interest is not a "victory-ending" struggle suddenly and in the short term. He requires from us strong will, patience.

6. It is worthwhile to introduce the experience of countries that have achieved



significant successes in this area in accordance with the results of the experiments, adapting it to our national mentality.

7. In addition to the ideas presented, and most importantly, each of us must

conscientiously fulfill our duties, formulate our personality, manners in a menand way to the functions and duties that we fulfill. Without this, we will not achieve our intended goal.

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