



The Concept Of "Conflict Of Interest" And The Relationship Of This Term With "Personal Interest"

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ABSTRACT

The progress and globalization of the world community are extremely dynamic and constantly changing processes. To keep up with development, the international community must ensure that all instruments and regulations are in place that provide universal definitions of the phenomena that are of greatest importance and relevance in every state. This article discusses the definition of such a phenomenon as a conflict of interest and the need to consolidate a universal definition of the situation for the correct implementation of the mechanism of legislation regulating the conflict of interests for all states. In particular, the author provides a distinction between the concepts of "conflict of interest" and "personal interest" and the issues of the need for such a distinction at the legislative level.

KEYWORDS

Conflict, interest, conflict of interest, personal interest, civil servant, government procurement, corruption.

INTRODUCTION

Conflict of interest is a very complex phenomenon. At first glance, this term seems clear, since the words "interest" and "conflict" are clear to everyone. But in reality, no one can say for sure what the whole expression means. [1] If we take apart each word, it

should be noted that the word "conflict" is of Latin origin and it is defined as a clash of opposing interests, views, aspirations; serious disagreement, dispute between parties, opinions of forces; an extreme case of aggravation of contradictions. [2] The term

"interest" (from Latin *interesse* - "to be inside") is defined as "importance, benefit, benefit, meaning." [3] Interest is one of the central and most controversial concepts in the social sciences. In law, the term "interest" denotes the benefit or benefit of a particular person (a set of persons) as opposed to the benefit or benefit of others. Among modern lawyers, the view of law as a "protected interest", grounded in his time by the outstanding German jurist R. von Ihering ("Interest and Law", 1865, "Purpose in Law", 1872), is widespread.

But despite the seeming simplicity of this phenomenon, today there is no universal concept of a conflict of interest in the scientific environment, but each definition can be applied relatively to a specific situation. The search for opportunities to improve this concept continues. V.V. Astanin, A.D. Ilyakov, O. V. Kazachenkova, S.E. Channov, A. Dementyev, S. Kachushkin, A.V. Kurakin, A.M. Kurennoy, E.V. Talapina, S.N. Yuzhakov and others.

As we know, we can find the universal concept of any term in international documents. For example, some international organizations (for example, OECD, Council of Europe), some states that have adopted legislation on the prevention of conflicts of interest (for example, Canada, China) have recently tried to define the concept of "conflict of interest".

The initial "foundation" for the analysis of the concept of "conflict of interest" should be considered the definitions of this concept in international legal acts, in which they appeared for the first time. These definitions were and are important in the formation of guidelines and basic elements of the concept

of "conflict of interest" in the legislation of any state regarding combating corruption.

In fact, the very introduction of the concept of "conflict of interest" into Uzbek legislation is due to Uzbekistan's international obligations arising from the UN Convention against Corruption (2003). [4] In the UN Convention, the term "conflict of interest" itself is not used, but its essence is expressed quite definitely by similar words: "conflict of interest", "conflict of interest", etc.

In paragraph 4 of Art. 7 of the UN Convention provides that each State Party shall strive, in accordance with the fundamental principles of its domestic legislation, to create, maintain and strengthen such systems that promote transparency and prevent conflicts of interest.

The International Code of Conduct for Public Officials also does not use the term "conflict of interest". Chapter II of the Code uses the concept of "conflict of interest", which covers the most significant situations that constitute the essence of the concept of "conflict of interest" in the state and municipal service. According to the provisions of Chapter II "Conflicts of interest and disclaimer" situations of conflicts of interest form:

- the use by officials of their official position for inappropriate personal gain or personal or financial gain for their families;
- participation in any transactions, taking positions, performing functions, having financial, commercial or other similar interests that are incompatible with their position, functions, duties or their administration;
- failure to comply with the obligation to communicate business, commercial or

financial interests or activities carried out for the purpose of obtaining financial profit;

- improper use of public funds, property, services or information obtained in the performance or as a result of performance of official duties, for the implementation of activities not related to the performance of official functions;
- abuse of his former official position after leaving his official posts. [5]

A newer one is the definition adopted by the OECD at the 29th session of the Committee on Public Sector Enterprise Management, held on April 15-16, 2004: "A conflict of interest implies a conflict between the public mission and the private interests of a civil servant, in which the civil servant has his own interests that could unduly influence the way he performs his duties and bears responsibility. "

The definitions of the Council of Europe and OECD apply only to civil servants. And this is understandable, since these definitions are intended for representatives of the member states of these two international organizations, which have been encouraged to promote the adoption of national codes of conduct and introduce mechanisms to limit the possibility of conflicts of interest.

Article 8 of Recommendation No. R (2000) 10 of the Committee of Ministers of the Council of Europe to member states on codes of conduct for civil servants, adopted at the 106th session of the Committee of Ministers on 11 May 2000, states that: " so that there is no conflict between his private interests and the public duties he performs. He is obliged to avoid such conflicts, regardless of whether they are real, potential or likely to appear as such. " [6]

The listed provisions, along with others that form a conflict of interest, were reflected in other international legal acts, and subsequently, as noted above, in national legislation, including in the regulatory legal acts of the Republic of Uzbekistan.

The Law of the Republic of Uzbekistan "On Combating Corruption" No. 3PY-419, adopted on January 3, 2017, stipulates that a conflict of interest is a situation in which personal interest (direct or indirect) affects or may affect the proper performance by a person of official or official duties and which a contradiction arises or may arise between personal interest and the rights and legitimate interests of citizens, organizations, society or the state. [7]

In turn, Article 21 of this Law provides for measures to prevent and resolve conflicts of interest. According to the provisions of this article, employees of state bodies in the performance of official or official duties should not allow personal interest, which leads or may lead to a conflict of interest.

In the event of a conflict of interest, government officials should immediately inform their immediate supervisor. The manager who has received information about the existence of a conflict of interest is obliged to take timely measures to prevent or resolve it.

Special departments or ethics commissions of state bodies monitor compliance with the rules for resolving conflicts of interest.

Employees of state bodies, as well as their leaders, who have violated the requirements for preventing or resolving conflicts of interest, are liable in accordance with the law.

In addition to this regulatory legal act, the Law of the Republic of Uzbekistan "On public procurement" No. 3PY-684 dated April 22, 2021 in its article 14 establishes the following concept of a conflict of interest: a conflict of interest is any situation, as well as the presence of affiliation, in which personal interest, direct or indirect, affects or may affect the proper performance by a person of official or official duties and in which a contradiction arises or may arise between his personal interest and rights, as well as the legitimate interests of the subjects of public procurement. [8]

That is, both concepts of a conflict of interest in national legislation establish identical signs of a conflict of interest: cases when personal interest affects the conscientious performance of official or service obligations; contradiction of personal interests with the interests of the state and society.

At this stage of the study, I would like to dwell in more detail on the concept of "personal interest". At first glance, it may seem that the concept of "conflict of interest" and "personal interest" are identical, but there is a specific distinction between these terms. In chapter 3 "Model rules of ethical behavior of employees of state administration bodies and local executive authorities", approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 62 dated March 2, 2016 "On approval of model rules of ethical behavior of employees of public administration bodies and local executive authorities" »Clause 14 deals with conflicts of interest and personal interests. This clause states: civil servants, in the performance of their official duties, must not allow self-

interest that leads or may lead to a conflict of interest.

A conflict of interest arises in a situation where civil servants have a personal interest that affects or may affect the objective and impartial performance of their duties.

The personal interest of civil servants includes obtaining any benefit or advantage for them personally or for their close relatives, as well as other persons with whom they have a close or business relationship. [9]

It is assumed that personal interest in this regard means the possibility of obtaining income in the form of money, other property, including property rights, property services, the results of work performed or any benefits (advantages) for civil servants, and (or) those with him in a close relationship or property by persons (for example, parents, spouses, children, brothers, sisters, as well as brothers, sisters, parents, children of spouses and spouses of children), citizens or organizations with whom a civil servant, and (or) persons, those with him in a close relationship or property are linked by property, corporate or other close relationships.

The personal interest of a civil servant includes any advantage (benefit) for him (her) himself, for his family, parents, friends or relatives, for persons or organizations with whom he or she has or had a business or political relationship. Self-interest also includes any financial or civil obligation incurred by a given civil servant.

Consequently, the concept of a conflict of interest is broader than the concept of personal interest, since a conflict of interest is a situation, and personal interest is the receipt of income, most often in monetary terms.

CONCLUSION

In conclusion, I would like to conclude that the "conflict of interest", which is the subject of the study, is actually one of the most complex and ambiguous concepts that is found in international, foreign and domestic legislation on public service, anti-corruption legislation and regulatory legal acts related to different areas of government and corporate activities, for example, to public procurement. It is considered necessary to approve a universal definition of a conflict of interest at the international level, which will allow all states to adopt new regulations, which will give precise concepts of a conflict of interest, personal interest and issues of responsibility for the occurrence of such a situation.

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