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## DOCTRINAL VIEWS ON UNDERSTANDING THE LEGAL NATURE OF CONFLICT OF INTEREST

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**Abstract.** In this article, the doctrinal views on understanding the legal nature of the conflict of interests in the activities of state civil servants are analyzed based on the scientific opinions and views of national and foreign scientists. In the article, the field of public civil service was selected as the main fundamental basis, and the cases related to the conflict of interests in it were discussed. At the same time, the international and national documents describing the conflict of interests were analyzed, and the problems in the system were discussed on the basis of a scientific discussion. In the research work, each case is analyzed from a scientific point of view using methods such as logic, systematicity, comparison, induction, and deduction. At the end of the research, the issues of preventing conflicts of interest in the state civil service were substantiated from a scientific and theoretical point of view, and suggestions and recommendations were developed regarding the improvement of the activity. Moreover, it was concluded that the conflict of interests as a form of corruption is a socio-legal problem that seriously damages the state administration and the rights and interests of citizens. As a general conclusion, a conflict of interest is recognized as a conflict that occurs between the powers of a civil servant and his personal interests. The author's personal position

regarding the object of research is stated, and the definition of authorship is developed regarding the topic.

**Keywords:** public civil service, fight against corruption, conflict of interest, personal interest, corruption, code of conduct.

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### Introduction

The rapid growth of globalization processes in the world requires the improvement of management systems based on the “smart management system” of the country, as well as the creation of a compact, mobile, and efficient state management mechanism. In these processes, it is necessary to ensure the implementation of the adopted normative legal documents, to increase the efficiency of the state civil servants, who play a central role in the regulation of administrative relations, and to prevent conflicts of interest that have a great negative impact on the quality of their duties and powers is important.

In recent years, large-scale reforms and practical measures have been implemented in state bodies and organizations to train modern civil servants who will carry out effective work and to create a new generation of them. But even today, there are many cases of corruption and conflict of interests in the country, as a result of which the economic potential of the state and the effective implementation of other reforms are serious obstacles.

The countries on the political map of the world have been implementing various legal and organizational reforms to improve socio-economic, spiritual-educational, political, and administrative activities at various stages of development and progress. In the effective organization of activities in this regard, the potential of personnel, including honest state civil servants and their legal activities, is of great importance. In addition to the fact that the state implements a number of practical actions to prevent corruption and conflicts of interest and to fight against their

various manifestations, various internal and external factors affect the quality of reforms in today's highly complex and globalized world.

Achieving and maintaining the country's economic stability, defense potential, effective implementation of internal and external policies, ensuring the well-being of the population, protecting their rights and interests, and the development of other areas largely depend on the effective activity of state civil servants working in this system. That is, the effectiveness of today's reforms is directly related to the principle that “all issues are solved by personnel.” In this respect, it is important to analyze the scientific and legal issues related to the conflict of interests that may arise in the activities of today's state civil servants.

The conflict of interests has been at the center of attention of political scientists, sociologists, management researchers, and legal scholars from the point of view of legal, scientific, political science, and political science. Today's modern manifestations and increasing probability of occurrence increase the urgency of forming a legal analysis and scientific attitude towards it. In our opinion, the category of conflict of interest formed by the combination of words should be considered, first of all, by understanding the mutual meaning of each word.

For example, the term interest is directly related to the meaning of benefit, profit, need, and desire, as well as the achievement of value. In this regard, if we pay attention to the opinions of legal scholars, according to M. Pershin, interest is a situation related to the subject's attitude toward specific life conditions and needs [1, p. 63], according to S.

Mikhaylov, interest is the connection between the subject and the surrounding conditions [2, p. 15–25]. G. Murodullaeva expresses interest as a concept related to meeting the personal needs of individuals [3, p. 16]. In the explanatory dictionary of the Uzbek language, it is noted that the word interest is derived from the Arabic word and means benefit, income, material, spiritual, and other aspects of benefit [4, p. 404]. Based on the content of the above opinions, in our opinion, the word interest is aimed at satisfying the material or immaterial needs of the subject in social relations and can be understood as the use of a situation, object, or other relation for oneself, which is expressed in motives and goals from a subjective point of view.

The word “conflict” is a term that mainly expresses a negative situation and is used in all social relations. In particular, in sociology, a conflict is a situation that occurs as a result of a conflict of interests, goals, and needs during the social interaction of the parties [5, p. 482]. In the economic field, conflict is a concept that means the opposition of the parties in the process of obtaining economic benefits and income [6, p. 479]. From a philosophical point of view, it is a concept that expresses the diversity of opinions and views, their rejection, and their collision [7, p. 498]. But here we can fully agree with the following points: although in other fields the term conflict can be evaluated as neutral and in some places as a positive phenomenon from the point of view of development and competition, in the legal field conflict is negative and it is always necessary to eliminate or solve it [8, p. 1].

If we pay attention to the explanatory dictionary of the Uzbek language, which reveals the exact essence of the concept, the word “conflict” is derived from the Latin word “conflictus,” which means opposition, opposite sides, force, disagreement, and conflict, as well as conflict of opposing forces and opinions [9].

The words interest and conflict analyzed above as separate words do not directly mean the term conflict of interest as a legal norm and a negative situation. However, this term, which is the object of research, is a situation that requires regulation to ensure the quality of state administration, legality, and the rule of law and is directly related to the elimination of corruption. In our opinion, the analysis of conflict of interests from a scientific-doctrinal, national-legal, and international-legal point of view will allow us to more fully understand its essence and its legal significance in the legal field.

### **Materials and methods**

In the research work, each case is analyzed from a scientific point of view using methods such as logic, systematicity, comparison, induction and deduction. At the end of the study, it was concluded that the conflict of interests as a form of corruption is a socio-legal problem that seriously damages the state administration, the rights and interests of citizens. The basis of the conflict of interest is not only the personal interest of a single person - a civil servant, but also the connection with the interests of third parties.

### **Research results**

If we pay attention to the scientific and doctrinal opinions regarding the understanding of the conflict of interests, we can see that different schools have been formed. In particular, some groups of scientists (S.S. Frolov, P.F. Druker, A.G. Zdravomyslov, A.F. Nozdrachev, J. Holliday, C. Weisman, H. Hackhausen, V. Urey, A.K. Zaitsev, A. Dementiev, M. Kalandarova, etc.) are viewed in a neutral sense, that is, as a condition that does not always cause harmful consequences. Representatives of other schools (B.Turvey, A.Ilyakov, D.Dedov, A.Solovev, N.Akhmetova, B.Akhrorov, B.Ismailov, N.Said-Gazieva, and G.Murodullaeva) spoke about its social harm and how the country is always considered harmful in terms of development.

In our opinion, we would fully support the opinions of the representatives of the first school, taking into account the opinions of the representatives of the two schools. In our opinion, a person's life is inextricably linked with the concept of interest, and conflicts of interest always arise in the life of an individual, the state, and society. In simple words, as long as the public servant and the state exist, interest always goes hand in hand with them. But it is possible to agree with the opinions of the representatives of the second school at this point, when the state civil servant does not remove himself from the situation related to the conflict of interests, he does not report about it, and as a result, with the conflict of interests allowing the related situation, of course, its socio-legal damage and negative results will occur.

Or if we pay attention to the ideas of representatives of other established scientific schools, representatives of some schools (G.Murodullaeva, B.Akhrorov, B.Ismailov, A.Boriev, M.Florin, F.Zibold, O.Panina, K.Kharchenko, A.Nozdrachev, A.Ilyakov, N.Krasyukova, D.Dedov and others) believe that it is not necessary to see, analyze, and study the conflict of interests as a separate object of research. According to their opinion, the conflict of interests represents a state of corruption, and it is appropriate to analyze this process within the framework of the fight against corruption.

Another group of scientists (K. Tojiboev, G. Sattarov, B. Volzhenkin, N. Kuznetsova, R. Zufarov, M. Rustamboev, N. Said-Gazieva, H. James, M. Kalandarova, etc.) considers it as an object, which is completely different from corruption, although it is a form of it, legal regulation and prevention, they pay special attention to the introduction of special mechanisms in this regard. In our opinion, this approach is more correct and allows for the formation of a special attitude to study and prevent conflicts of interest and to introduce effective mechanisms in this regard.

If we pay attention to the scientific-theoretical opinions of legal scholars on understanding the conflict of interests, according to M. Kalandarova, the conflict of interests can be considered not as a legal conflict, but as a reference to it [10]. B.Akhrorov says that conflict of interests is defined as the unlawful use of power or authority by officials to achieve material or immaterial interests in a public way [11, p. 145]. Another national legal scholar, A. Boriev, stated that conflict of interest (personal interest) affects or may affect the proper performance of the official duties of an employee of the organization, and personal interest is defined as a situation in which there is or may be a conflict between the rights and legal interests of the organization [12]. In our opinion, if the thoughts of the first two scholars above revealed some features of the conflict of interests, we can agree with A. Boriyev's thoughts in this regard since they are more complete.

Ismailov, another national legal scientist who deeply analyzed the conflict of interest in our country, noted that the cases related to the conflict of interest are related to domestic corruption, taking small amounts of bribery, receiving commercial bribes, and receiving small gifts and awards and mentions that such matters of domestic interest constitute the content of the conflict of interests [13, p. 45–46]. Another group of our national scholars defines conflict of interest as a situation that arises when the personal interests of civil servants affect or may affect the impartial performance of their official duties. [14, p. 136]. In this regard, the first definition mentions the economic objects and elements of the conflict of interest, while the second definition describes the subjective factors of the conflict of interest (impartiality and impartiality, motive and purpose).

Regarding the research object, G. Murodullaeva's thoughts also fully revealed the conflict of interest from a scientific theoretical point of view: the conflict of

interest is the personal (direct or indirect) interest of a civil servant that affects the proper performance of his official duties or a situation that may have an impact and a conflict between the personal interests and rights and legal interests of a citizen, society, or state body occurs or may occur [15, p. 31–56]. In our opinion, it is necessary to further fill the scope of subjects in this definition, including taking into account that the conflict of interests may be aimed not only at the interest of the civil servant, but also at the interest of third parties related to him.

At this point, for a more complete understanding of the topic, if we pay attention to the opinions of scientists of the CIS countries, the legal scholar A. Nozdrachev considers the conflict of interest to be action or inaction in the service of money, material value, as well as property for himself or third parties or if it is defined as a replacement for other rights [16, p. 43], and according to A. Ilyakov, the conflict of interests is a situation where the interests of the state and society, on the one hand, and the interests of the civil servant of the state, on the other hand, arise in conflict and mutual disagreements [17].

Ledenova evaluates the conflict of interests as domestic corruption and defines it as a simple transaction that occurs between civil servants of the state and representatives of the population during their lives on the basis of mutual agreement, as a result of consensus [18, p. 2], according to F. Ziebold, a conflict of interest is a set of situations that pose a risk of interaction between a professional decision or personal interest and the public interest [19]. In general, the above opinions cannot be rejected for some aspect or deficiency; in our opinion, all opinions are aimed at revealing some aspects of the conflict of interests. In this regard, we would fully support the opinion that a conflict of interest is the conflict between the authority of a civil servant

and his personal interests. It should be noted that, as in most opinions, one should not forget that the basis of the conflict of interests is personal interest. It can be economic, social, political, or intangible. In this regard, some legal scholars emphasize that personal interest, which is the basis of the conflict of interests, is only from an economic point of view. For example, A. Solovev considers the conflict of interests to be only the economic interests of the parties. N. Akhmetova, applying these ideas, believes that the conflict of interests is a situation that illegally creates property rights in the pursuit of income in the form of money, valuables, materials, other property, or property services [20]. While we do not fully agree with these opinions, as we noted above, interest may arise not only from the point of view of economic interest or activity but also from a professional-social point of view or in an immaterial-spiritual way.

From the above analysis, it can be seen that the theoretical ideas of the scientists of the CIS countries, as well as the countries belonging to the Romano-Germanic legal system, regarding the conflict of interests are developed in the same class. At this point, if we analyze the opinions of British scholars regarding the understanding of conflict of interest, John Pelissero, a scholar of public ethics at the Markcula Center for Applied Ethics at Santa Clara University, states that conflict of interest is a conflict of interest between public officials and the personal or financial interests of public officials that there is a conflict between the obligations to serve the interests [21]. Professor Saeed Jafari evaluates the conflict of interest as a corrupt offense and calls it a situation that allows officials to satisfy their material or immaterial needs, disregarding public interests [22]. Another legal scholar generally states that a conflict of interest occurs where two different interests intersect; that is, a person's obligations to the public may be affected by other



separate (and usually personal) interests or duties that he or she may have. [23]

Briefly summarizing scientific theoretical ideas, we can say that the main essence of the conflict of interests in world practice is personal interest, and its result and negative aspect is characterized by violation of the interests of the state and society or endangering them.

### **Analysis of research results**

In addition to doctrinal views, legal norms allow for a broad analysis and understanding of conflicts of interest. If we pay attention to the content of international documents before the definitions in the national legislation, the rules on understanding conflict of interest can be found in the United Nations Convention against Corruption. According to Article 7 of this Convention, each participating state shall strive to create, support, and strengthen systems that ensure transparency and prevent conflicts of interest in accordance with the main principles of its domestic legislation [24]. In addition, Article 8 defines the norms regarding the prevention of conflicts of interest related to different interests by officials in public service during the performance of their functions. Although this international document does not provide an exact definition of conflict of interest, it can be understood from the above provisions that conflict of interest occurs in the field of public service, during the exercise of the powers of employees, on the basis of personal interest.

Also, the Code of Conduct for Officials [25] and the Public Civil Servants Act [26] established at the United Nations Crime Commission session held in Vienna on 16-22 April 2002, the United Nations Convention on Corruption of 1997 Act [27] state that public officials shall not use their official powers for personal or material benefit of themselves or their families and shall not do anything inconsistent with their duties, functions, duties, or performance that they should not carry

out the transaction, should not have any additional position or function, or should not have financial, commercial, or other similar interests are defined as grounds for conflict of interest.

In addition, in the Code of Conduct for OECD Officials of the Organization for Economic Cooperation and Development, conflict of interest includes a conflict between the public duties and personal interests of an official of the organization, in which the interest includes the official. It is noted that it is a situation that can have an adverse effect on the performance of official duties and obligations [28]. The International Code of Conduct of State Officials adopted on December 12, 1996 by the resolution of the General Assembly of the United Nations [29] can also include the above norms.

Now it is appropriate for us to consider the rules regarding the understanding of conflicts of interest from the point of view of national legislation. In particular, the full and detailed definition of conflict of interest as a legal term was first defined in the Law of the Republic of Uzbekistan "On Combating Corruption". According to it, a conflict of interest is a personal (direct or indirect) interest that affects or may affect the proper performance of a person's official or service obligations, and a personal interest is a conflict between citizens, organizations, and society or a situation where a conflict between the rights and legal interests of the state is occurring or may occur [30].

In addition, the rules regarding the content of the conflict of interests in the state civil service are also defined in the Law of the Republic of Uzbekistan "On State Civil Service" related to our research work. In particular, a conflict of interest is a state civil servant's personal (direct or indirect) interest that affects or may affect the proper performance of his official duties, and the personal interests of citizens, society, or a state body. It is a situation where there is or may be a conflict between interests and rights, or legal interests [31].

First of all, it should be noted that although the above definitions are almost identical in terms of content, it can be observed that they differ from the point of view of some activities and subjects. In our opinion, although these definitions in the relevant laws give a legal assessment of the conflict of interests, there is a need to interpret its nature from a scientific and theoretical point of view. For example, if some scientists note that in a conflict of interest only a person (an official or public servant) has his own interest, in our opinion, not only for a single person, but also other third parties, for example, his relatives, acquaintances, employees, etc., may generate interest. Although third parties are not mentioned in the above legal norms and personal interest is provided, it can be understood that indirect interest refers to the interests of other persons. That is, if personal direct interest is related to the public servant himself, personal indirect interest includes the interests of third parties related to him.

In addition, another aspect of the definition is that a conflict of interest is a situation that affects or may affect the proper performance of a public servant's duties. From the point of view of analysis, we can say that there is a real risk when a situation related to a conflict of interest arises, but if a public servant withdraws from it, there is a risk, but the situation of a violation of the law is not allowed. While this applies to the first part of the definition, the next rationale is related to the likelihood of affecting the future performance of the task.

At this point, another issue that should be paid attention to in the definitions is related to the range of subjects whose interests collide. In this regard, there are differences in the above two laws, i.e., the law "On Combating Corruption" in general and the state civil service have defined subjects based on the field of service, but in our opinion, "The state civil service" in the Law is appropriate to include the sentences

"of the state organization" and "of the state." As a result of conflicts of interest in the field of state civil service, state organizations or state interests may be damaged. In this regard, the principle of "citizen - society – state" in the law "On Combating Corruption" is logically formulated.

The definition of the concept of conflict of interest can be found in the draft law of the Republic of Uzbekistan "On Conflict of Interest". According to it, a conflict between the personal interests of the employee of the state organization, his close relatives, and related persons and the rights and legal interests of the citizens, the organization, or the state has occurred and is occurring (existing conflict of interests) or may occur (alleged conflict of interest) is a situation [32]. In our opinion, this definition explains the direct and indirect interests, clearly defines the scope of the subjects, and reveals the conflict of interests more simply. However, based on the framework of the law's regulation, only the conflict of interests in the state organization system is defined here. But conflict of interests is a regular situation in the activities of the non-state sector or other organizations with a state stake. At the same time, it was appropriate to take into account the interests of society in the definition.

### Conclusion

Based on the scientific-theoretical, international, and national legal system principles implemented during this article, we can give the author's definition of the conflict of interests from a scientific-theoretical point of view as follows:

A conflict of interests is a result of a person performing or not performing his functional duties in the interests of the persons related to him or to the interests of citizens, society, and the state.

As a conclusion, we can say that it is appropriate to take into account the fact that conflicts of interest arise in the field of the performance of official duties in the activities of state civil servants, to prevent

them, and to use appropriate mechanisms for their resolution. After all, the effective implementation of the state civil service depends on the personal and professional activity of state civil servants who work in it, and they should not allow situations related to corruption and conflict of interests in their activities.

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