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LEGAL MECHANISMS AND EXPERIENCE OF FOREIGN COUNTRIES TO PREVENT CONFLICTS OF INTEREST

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ABSTRACT

This article describes legal mechanisms for preventing conflicts of interest and issues related to the experience of foreign countries. The article also defines the concepts of "corruption" and "conflict of interest". And the opinions of scientists in this regard are analyzed.

KEYWORDS

Corruption, conflict of interest, prevention, legal mechanism, foreign country, risk, official, official authority, responsibility, criminal activity.

INTRODUCTION

Corruption is considered one of the most serious threats to the development of the state and society. Due to this, in our country, the most important task of leaders and employees of state bodies at all levels is to have an intolerant attitude towards all forms of corruption and fight against it ruthlessly.

In his address to the Oliy Majlis of January 2020, the President of the Republic of Uzbekistan said that we will not be able to achieve the high goals we have set for ourselves unless all members of our society are vaccinated with the "Honesty vaccine" .

Regarding the fight against corruption in our country, the Law of the Republic of Uzbekistan dated January 3, 2017 "On Fighting Corruption" can be mentioned. A number of decrees and decisions of the head of state were adopted on the implementation of the goals and tasks set by this law, state programs to fight against corruption for every two years were approved.

In fact, the question arises as to what "corruption" is. Etymologically, "corruption" comes from the Latin word "corruptio", which means "to spoil, buy, bribe".

According to the authors of the legal encyclopedia, "corruption is a criminal activity in the field of politics or public administration, expressed in the use of the rights and power opportunities given to them by officials to gain personal wealth".

"In the encyclopedic dictionary of legal terms, the concept of corruption is defined as "the illegal use of their status and related opportunities to obtain material and other wealth and privileges by persons who have the authority to perform state functions (or equivalent to them), as well as the use of these wealth and privileges by natural or legal entities allowing illegal possession", defined as.

The Code of Conduct of Law Enforcement Officials adopted on December 17, 1979 states: "The concept of corruption must be defined in national law", and it provides a sample definition of this phenomenon as follows: performance or failure to perform certain actions in the interests of the payer in return for payment in the form, with or without violation of the provisions of the job instructions".

A similar definition of corruption can be found in the World Bank's report on the role of the state in the world today: corruption is "abuse of state power for personal gain".

Article 3 of the Law of the Republic of Uzbekistan "On Combating Corruption" dated January 3, 2017 states that "corruption is the unlawful use of one's position or service position by a person for the purpose of obtaining material or immaterial benefits for personal interests or the interests of other persons, as well as such is an illegal submission.

offense related to corruption - an act with signs of corruption, for the commission of which liability is provided by law;

conflict of interest - personal (direct or indirect) interest affects or may affect a person's proper performance of official or service duties, and a conflict occurs or may occur between personal interest and the rights and legal interests of citizens, organizations, society, or the state is the situation".

The adoption of the decree of the president of the Republic of Uzbekistan PF-6257 of July 6, 2021 "on measures to create an environment of uncompromising treatment of corruption, sharply reduce corrupt factors in the management of state and society and expand public participation in this" has become a new stage in the uncompromising attitude towards any manifestations of corruption.

The decree established the tasks of improving its regulatory framework based on advanced international standards in order to increase the effectiveness of the fight against corruption.

In the state program "combating corruption for 2021-2022", the development of legislative acts has been established:

1. Public Civil Service Act;
2. "Civil servants code of etiquette";
3. Law aimed at putting into practice the open electronic register of persons found guilty of committing corruption crimes and the restrictions associated with it;
4. Law "on declaration of income and property of civil servants";
5. Conflict of interest Regulation Act;
6. Law that provides for administrative liability to officials who have obstructed the legal activities of the

Anti-Corruption Agency and (or) have not fulfilled their legal requirements;

7. Such as a law that provides the anti-corruption agency with the power to submit a submission to the relevant authority to suspend the execution of a contract, order and other documents in case of any conflict of interest, or to bring a lawsuit to the court to find it invalid.

A number of laws established in the program were adopted, and in June of this year the conflict of Interest Act was passed, which we were carrying, and six months after the date of its official announcement will enter the street.

The law consists of 5 chapters and 33 articles, Chapter 1. General rules, 2bob. State regulation of conflict of interest relations, Chapter 3. Measures for disclosure of conflict of interest information and identification of conflicts of interest, Chapter 4. Review and investigation of measures taken to regulate conflicts of interest and Chapter 5. Closing rules.

It should be noted that the law applies to state bodies and local state authorities, state institutions, State Unitary enterprises, state target funds, as well as to Joint-Stock Companies with a state share of 50 percent in the authorized fund and more.

The law establishes the principles of lawfulness as the main principles for regulating relations related to conflicts of interest; the priority of legitimate interests of citizens, organizations, society and the state; openness and transparency; impartiality; intolerance to corruption.

To be clear, the law revealed the meaning of the concepts of an employee of a state body or other organization, Conflict of interest, a special unit for the

regulation of conflicts of interest, personal interest, close relatives.

According to him , an employee of a state body or other organization, it was defined as management employees working in state bodies or other organizations under an employment contract (contract) or in elective or appointive positions.

Close relatives include parents, brothers, sisters, sons, daughters, spouses, as well as parents, brothers, sisters and children of spouses.

It should be noted that Appendix 5 to the Order of the agency" Özstandart "No. 103 of October 2020" 30 "in the"rule for the regulation of conflicts of interest in the service process": localism (acting in the eyes of only local interests. The personal interest of an employee in the form of a subjective, privileged and impartial attitude towards a third person belonging to a particular generation with a common ancestor), nepotism (the appearance of favoritism based on kinship ties), nepotism (the appearance of favoritism based on kinship ties - to make illegal benefits to his close relatives or friends, to calculate rewards, to the detriment of the interests of the organization, to the detriment of recruitment and appointments to positions, etc.), sponsorship (protection of an employee of agency and system organizations in the form of side-clicking, creating favorable working conditions by an employee in a higher position), favoritism (preference of the interests of one person or a group of individuals over the interests of another person or group of individuals, promotion by position, recommendation for state awards, etc.)and other tushinchas are given .

Also, Annex 3 to Order No. 367 of the OECD dated October 27, 2021, along with the basic concepts

mentioned above in the OECD regulation on conflict-of-interest Management in organizations within its territorial administrations and system, cronyism - (the appearance of favoritism based on friendly ties) - the use of power and/or prestige in order to provide illegal benefits to friends or trusted persons; terms such as shafelik (protection of an employee in the form of creating favorable working conditions by another employee whose position is higher, receiving his side in favor of it) are indicated.

In the law, close relatives of an employee of a state body or other organization, or this employee or his close relatives own shares or shares of the statutory fund of which legal entity, the same legal entity, as well as the employee or his close relatives are recognized in which legal entity is the head or member of the governing body, the same legal entity should be noted that the concept of conflict of interest, as outlined in the law of the Republic of Uzbekistan "on combating corruption", was expanded in the new edition and amendments were also made to the relevant laws.

According to him, a conflict of interest was defined as a situation in which a person's personal (direct or indirect) interest affects or may influence his or her due fulfillment of his or her duties of office or service, and in which there is a conflict between personal interest and the rights, legitimate interests of citizens, organizations, society or the state,

In accordance with the law, an employee of a public body or other organization must conscientiously fulfill his office obligations or service powers and refrain from any actions related to his own personal interests that may affect or affect their performance.

At the same time, in the event of an existing conflict of interest, it is obliged to quickly notify its immediate

leader or a special unit, not to force employees or other employees of its immediate subordination to actions (inaction) of its own personal interests, and also to inform other employees about cases of self - known conflicts of interest (Article 6).

It is known that the law "on Civil Service of the state"(Article 9), adopted on August 8, 2022, also notes that in the event of a conflict of interest, a civil servant must immediately notify his head or a high-ranking state body in writing, the head of a state body receiving information about the existence of a conflict of interest, or it should be noted that an employee of a state body or other organization is obliged to fill out a notice of an existing conflict of interest within a working day of the moment when the conflict of interest has become known to him in the established form and present it to his immediate supervisor or to a special unit. For example, if close relatives are hired directly under the subordination of an employee, or involved in the work of an employee, he is involved in making decisions on issues related to his associates, or if a close relative is working as an official in charge of the direction of inspection at the object under investigation, and such another situation becomes known to himself (Article 15).

If, in the event of a change in the information of the state body or another organization on the person, an employee must annually fill out a declaration of a possible conflict of interest no later than January 15. Also, the candidate being hired, or an employee transferred to another job, must complete and submit a declaration of a fixed form on a possible conflict of interest.

Restrictions on the Prevention of conflicts of interest may apply in the activities of an employee of a public body or other organization. For example. he has

no right to hide information about conflicts of interest, to knowingly present false or false information, to work as a deputy in organizations subordinate or controlled by one another, to be a founder, including a shareholder, participant in commercial organizations, to own shares or shares in the authorized capital of commercial organizations that are under the control of the organization that relations related to conflicts of interest are regulated by the authorities in the state. These are the Anti-Corruption Agency of the Republic of Uzbekistan, state bodies or other organizations, the Ethics Commission of these agencies, the special division for the regulation of conflicts of interest - internal anti-corruption units and personnel units of these agencies.

In connection with the adoption of the law, a new article 1934 was introduced into the code of administrative responsibility of the Republic of Uzbekistan, which established responsibility for failure to comply with the requirements of conflict of interest legislation.

The article provides jabogar for not informing an official or employee of a public body or other organization about the existence of a conflict of interest provided for by conflict of interest legislation, as well as for failing to take steps to regulate an existing or probable conflict of interest provided for by conflict of interest legislation that has become known to an official.

It should be noted that the occurrence of these violations in the field of Public Procurement aggravates liability, and officials are fined from twenty to thirty times the amount of the base calculation.

The "Civil Service Act" and "conflict of Interest Act" contain statements that a civil servant has no right to engage in entrepreneurial activities .

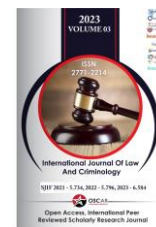
In case of detection of violations provided for by Article 1934 of the code of administrative responsibility of the Republic of Uzbekistan, a statement of administrative offenses is drawn up by officials of the Anti-Corruption Agency of the Republic of Uzbekistan and sent to the court for consideration in the prescribed manner.

Additions to Articles 114 and 116 of the Civil Code of the Republic of Uzbekistan, according to which an agreement on corruption, including conflict of interest, is found invalid in the judicial procedure. The profit received as a result of the conclusion of this agreement is transferred to the state income, the role of damage to individuals and legal entities is covered by the guilty persons in court order.

It should be noted that in world experience, although there are mainly four (Asian, continental, Anglo-Saxon and transitional) models of conflict of interest management, only two of them (Continental, Anglo-Saxon) are common .

In the Anglo-Saxon model, conflict of interest refers to a situation in which a civil servant or political leader has the opportunity to decide for himself or in favor of "the next 16 persons". This model is enshrined in the laws and is characterized by rules of conduct, standards of behavior in a cross section of situations. In this system, the main focus in preventing conflicts of interest is on regulating the behavior of employees, training and advising them .

While the legislation of the Federal Republic of Germany, where the continental model of conflict of interest management is common, has no generally accepted definition of conflict of interest. In contrast



to the Anglo-Saxon model, the main issues here are regulated by legislation and departmental regulations, which refer to conflicts of interest in the continental model.

In many foreign countries, in practice, special laws and regulations have been developed that allow the implementation of the mechanism for determining and resolving conflicts of interest. For example, in some countries, such as Canada and the United States, the people's Republic of China, a holistic system of identifying and resolving conflicts of interest has already been created.

In particular, Canada introduced the Conflict of Interest Act in 2006, a separate conflict of Interest Act, as well as the Office of conflict and ethics commissioner, which allows the use of administrative resources by members of the Parliament of Canada, Cabinet ministers, state enterprise presidents and members of the board of directors, lobbyist actions, and reduction of conflicts of interest.

Such cases have also been chosen by the Croatian legislature, which means that the Anti-Corruption Strategy of the state in question is based on the conflict of Interest Act 2011 year .

In addition, in the above source, scientists noted that the US experience in the legal regulation of conflicts of interest in the practice of today is successful: although there is no separate law on the detection and resolution of conflicts of interest in the country, these issues are regulated in great detail in various sectoral documents. It must be said that this network of documents provides for the establishment of large fines for committing conflicts of interest. In the study of the legal experience of foreign countries in the regulation of conflicts of interest, the Russian

Federation, where the legal system is close, becomes important. Khatto can be seen that the current anti-corruption policy of the Republic of Uzbekistan is also following the Russian model.

Legal norms regarding conflict of interest and its resolution in the Russian Federation are established in articles 10-11 of the law "on combating corruption". With problems related to the investigation, identification and resolution of conflicts of interest in the Russian Federation, the Department of regulatory regulation of civil service issues of the RF government and the Department of personnel is engaged.

It should be said that the legal tariffs of the concepts of conflicts of interest in the state and municipal service, as well as "personal interest", which form the basis of conflicts of interest, are more widely covered in Russian legislation. The types of material values that are the object of personal interest, as well as the scope of subjects, are clearly defined.

In Russia, the concept of conflict of interest is intended to include three structural elements: personal interest; confrontation between the personal interests of a civil servant and the legitimate interests of citizens, organizations, society and the state; opportunity to harm legitimate interests .

From the point of view of Russian law, today Russian scientists argue that the country faces the following two problems in the legal regulation of conflicts of interest: the first of them is associated with organizations tasked with fulfilling the powers of power, while the second issue lies in the fact that some leaders of companies forced to declare their income do not submit reports in Officially, they indicate that such procedures for providing confidential information do

not exist, while the existing procedure applies to the public sector.

Another feature of Russian legislation is that the activities of special bodies – commissions are established to determine the fact of allowing civil servants to conflict of interest and regulate these activities.

In the legislation of most foreign countries, the likelihood of a conflict of interest in the trust management of shares and pays is implied to be high. In practice, officials place such shares and pays in trust management to spouses, relatives, or other persons, thus creating difficulties in determining a conflict of interest situation. In our opinion, in eliminating such cases, it is an effective tool not only to declare the property and expenses of civil servants, but also to monitor the financial condition of close relatives.

In conclusion, based on the experience of foreign countries in managing conflicts of interest, including the study of their legal norms, the following main features can be noted:

the presence in the public administration system of a specialized body for the management of the Civil Service and the regulation of the behavior of employees;

the presence of standards of conduct in the civil service (in the form of a code or in another form);

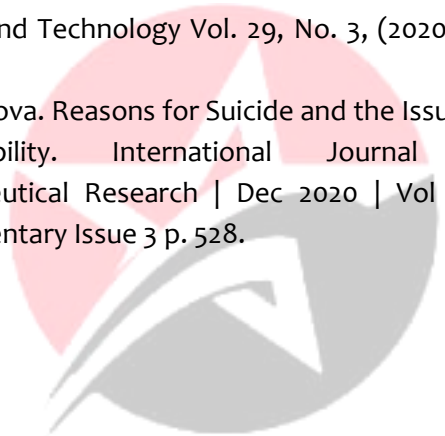
the presence of formal control mechanisms, that is, the presence of extensive sanctions, which are used as a measure of responsibility for violations of service duties.

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