

LEGAL BASIS FOR PREVENTION OF CONFLICTS OF INTEREST

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Abstract: The article explores and analyzes the meaning and nature of the conflict of interest, as well as the issues of its prevention.

Key words: corruption, conflict of interest, nepotism, cronyism, lobbying, favoritism, pantouflage, bureaucracy.

Introduction

Reforms aimed at fighting corruption are strict and ongoing, rational and thorough, and if well-executed, their results will not be delayed. Regardless of the complexity, Uzbekistan is bravely and, most importantly, with commendable results, moving forward in this area. Year by year, problems accumulated due to corruption and bribery are gradually finding solutions, and mistakes and shortcomings are openly acknowledged, with necessary measures being taken to eliminate them.

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Corruption is one of the oldest phenomena in the system of social relations, and as stated, "it is an ancient phenomenon that governs human life as a form of social order, regardless of the social system" [1].

The term "corruption" originates from the Latin word "corrumpere," which means "to spoil with bad food," "to corrupt water in a closed vessel," "to waste wealth," "to degrade morally," "to diminish a resource," "to set fire to wealth," "to destroy freedom," "to lead the youth to immorality," "to falsify results," and "to insult dignity"[2].

Since 2017, 25 normative-legal documents related to the fight against corruption have been adopted. A mechanism for implementing state policy in this area has been introduced through the adoption of state programs aimed at combating corruption every two years. Over the past eight years, four state programs have been approved by presidential decrees. These include:

As is known, the law "On Combating Corruption" was adopted, and in order to implement its provisions, on February 2, 2017, the President of the Republic of Uzbekistan issued Decree No. PQ-2752 on "Measures to Implement the Provisions of the Law on Combating Corruption in the Republic of Uzbekistan" [3]. This decree approved the State Program for the period 2017-2018, consisting of 5 sections and 51 articles, outlining the directions of state policy in combating corruption.

The issue of combating corruption was first reflected in the new version of our Constitution. The control over the activities of the chambers of the Supreme Assembly in the fight against corruption has been strengthened. The National Report on the Fight Against Corruption in the Republic of Uzbekistan (hereinafter referred to as the National Report) was prepared based on Article 93 of the new version of the Constitution of the Republic of Uzbekistan and Article 81 of the Law "On the Fight Against Corruption." The National Report on the Fight Against Corruption is presented to Parliament annually, which is a clear example of this. The third National Report of 2024 was discussed with deputies and senators and presented to the public. From 2017 to 2024, legal and institutional foundations were established in our country for the fight against corruption. To shape and implement state policy against this social ill, in short, the Anti-Corruption Agency was established in our country, which coordinates all efforts and tools to combat corruption. The creation

of an effective anti-corruption system, strengthening the accountability and transparency of state bodies, applying information technologies, digitization, broad involvement of civil society institutions, enhancing public control, and other measures were the main focus.

The practice of hearing the National Report on the Fight Against Corruption at the sessions of the chambers of the Supreme Assembly was introduced. To identify the most corrupt regions and sectors, rankings and indices were developed and implemented. "Corruption-Free Sector," "Corruption-Free region," "Transparent Ministry," and "Transparent Region" projects are being implemented..

This realization emphasizes that corruption represents one of the most significant threats to the development of Uzbekistan's state and society at the current stage of the country's development. On July 6, 2021, the President of Uzbekistan issued a decree aimed at creating an environment of zero tolerance toward corruption, drastically reducing corruption factors in state and public administration, and increasing public awareness in these matters. This initiative underscores the need for a strong legal framework, active participation from the public, and institutional measures to tackle corruption effectively.

A new institution has been successfully established to introduce the public and ensure effective anti-corruption efforts among government bodies. This system plays a key role in implementing anti-corruption measures, preventing conflicts of interest, and introducing "compliance control" aimed at preventing corruption.

In 2021, in accordance with the set objectives, separate departments responsible for monitoring legislation, ethical standards, and conflicts of interest were established in government organizations in cooperation with the Anti-Corruption Agency. This system plays a significant role in combating corruption and ensuring the prevention of conflicts of It includes specific measures and mechanisms aimed at achieving the legal, administrative, and social goals of combating corruption.

Such practical actions are aimed at detecting and preventing corruption, while simultaneously helping to enhance the activities of organizations in line with the interests of the state and society.

In recent years, significant progress has been made in combating corruption in Uzbekistan, including the establishment of institutions and systems to address key issues such as conflicts of interest and asset declarations for public officials.

As mentioned, the Uzbekistan Anti-Corruption Agency's national report on anti-corruption efforts highlights a crucial gap in the country's corruption prevention efforts: the absence of a system for regulating conflicts of interest, as well as for the declaration of public officials' income and assets. This gap has been recognized as negatively affecting the effectiveness of anti-corruption reforms [5].

For example, as per the newly adopted strategy for the country's development for 2022–2026, one of the key goals is the formation of an uncompromising attitude towards corruption, which directly links the prevention of conflicts of interest to broader anti-corruption measures. As part of this strategy, a comprehensive system to manage and regulate conflicts of interest in public service has become a priority.

Additionally, the conflict of interest, as defined in the Law on Combating Corruption, refers to situations where an individual's personal interests (either direct or indirect) could influence or potentially influence their official duties, creating a contradiction with the legitimate interests of citizens, organizations, society, or the state. Addressing these conflicts is critical in preventing corruption, as even the perception of personal gain influencing official duties can undermine public trust in government institutions.

This is why the Uzbekistan Anti-Corruption Agency, together with other state institutions, has been working towards developing a unified practice for identifying, regulating, and preventing conflicts of interest, particularly through enhanced transparency and accountability in the public sector. The challenge remains, however, in fully implementing systems to ensure that officials declare

their assets and avoid potential conflicts. This article focuses on the content and essence of the Law of the Republic of Uzbekistan "On Conflict of Interest," adopted on June 5, 2024. It includes definitions related to conflict of interest, special provisions for regulating conflicts of interest in state bodies or other organizations, the concept of personal interests, close relatives, and the identification and regulation of conflicts of interest. The article also addresses the consequences of conflicts of interest and the responsibility for violating this legislation, along with informing sectoral service employees of state bodies about the law and developing their knowledge and skills in conflict of interest issues.

Indeed, this aligns with the United Nations Convention against Corruption.

Activities, as well as the public's trust in state institutions, may be severely undermined. This is why the legal framework established by the law plays a crucial role in preventing harmful practices such as nepotism, cronyism, and other forms of favoritism, ensuring a fair and transparent process in public administration.

The article in question underlines the importance of broadening and disseminating knowledge on anti-corruption measures to ensure that officials and the general public understand the risks and consequences of conflicts of interest. By clearly defining and regulating situations of conflict, the law aims to prevent these issues from arising in the first place, thereby maintaining integrity in the public sector.

It poses a serious threat to the integrity and image of the state, potentially leading to the escalation of corruption in both the public and private sectors. Conflicts of interest have become a major issue of public concern worldwide. Additionally, as the public sector collaborates more with the business and non-profit sectors, new forms of conflict between the personal interests of public officials and their official duties are emerging. If anti-corruption mechanisms fail and conflicts of interest turn into corruption, the reputation of state power institutions is put to the test, and they face scrutiny. Distrust intensifies. In the private sector as well, conflicts of interest have been identified as a major cause of shortcomings in corporate governance. On the recommendations from the Anti-Corruption Agency, official documents and contracts related to state procurements were annulled due to these conflicts of interest.

The law aims to regulate conflicts of interest by creating a clear framework for civil servants to disclose their personal interests that might interfere with their official duties. The law outlines mechanisms for employees to report and resolve potential conflicts, ensuring transparency and accountability. Additionally, civil servants are expected to recuse themselves from decisions where they have a personal interest that could influence their official duties, thus ensuring that their actions are in the best interest of the state and the public.

This effort is part of a broader strategy to enhance public trust and reduce corruption by promoting ethical behavior and preventing personal interests from undermining official responsibilities. By focusing on the identification and regulation of conflicts of interest, the law aims to create a more transparent and accountable system in the public sector. As this legal framework continues to be implemented, it will likely improve governance by reducing opportunities for corruption and ensuring that public servants act in the public interest rather than for personal gain.

These recommendations, official statements and contracts related to state procurement were annulled.

Conflict of interest is a stage in the commission of corruption-related crimes, and it proceeds as follows: 1. Anti-social (asocial)

Actions; 2. Violation of professional rules; 3. Violation of professional ethics requirements; 4. Conflict of interest; 5. Corruption situation; 6. Corruption crime.

The main forms of conflict of interest that hinder development include nepotism, lobbying, favoritism, pantouflage, cronyism, and bureaucratic formalism. We refer to these forms as the intangible forms of corruption.

On June 5, 2024, the Law of the Republic of Uzbekistan "On Conflict of Interest" was adopted, and it came into force on December 5, 2024.

This law consists of 5 chapters and 33 articles:

Chapter 1. General provisions;

Chapter 2. Regulation of conflict of interest relations by the state;

Chapter 3. Measures for disclosing information about conflicts of interest and identifying conflicts of interest;

Chapter 4. Review and inspection of the measures taken to regulate conflicts of interest;

Chapter 5. Final Provisions. On June 5, 2024, the Decree No. PK-210 of the President of the Republic of Uzbekistan was issued regarding the effective organization of the implementation of the Law of the Republic of Uzbekistan "On Conflict of Interest". The goal is to ensure the effective implementation of the Law on "Conflict of Interest", to guarantee the unwavering protection of the rights and interests of employees while enforcing the provisions established by this Law in state bodies and organizations, and to thoroughly prepare for the application of the Law by explaining its legal frameworks and content to the employees of state bodies and organizations, as well as the wider public.

This decree also outlines that the heads of state bodies and organizations are responsible for ensuring the effective implementation of the requirements and mechanisms established by the Law, ensuring the protection of employees' rights and interests during the process, and conducting the necessary explanatory work.- - Legality;

- Priority of the legal interests of citizens, organizations, society, and the state;
- Openness and transparency;
- Impartiality;
- Zero tolerance towards corruption.

The law also clarifies the meanings of terms such as the employee of a state body or other organization, conflict of interest, special division responsible for regulating conflicts of interest, personal interest, and close relatives. This clarification is significant in ensuring the clear understanding and effective application of the law's provisions.

Specifically, employees of state bodies or other organizations, including management staff working under labor contracts (or appointed to positions by election or appointment), are defined by the law.

Article 3 of this law also clarifies the issue of close relatives: parents, brothers and sisters, daughters, sons, spouses, as well as the parents, siblings, and children of the spouses.

According to Article 5 of this law, if an employee of a state body or other organization, or their close relatives, own shares or stakes in the charter fund of a legal entity, or if the employee or their close relatives are members or heads of the governing bodies of such legal entities, that legal entity, as well as the employee or their close relatives, will be recognized as associated persons with the state body or other organization.

In accordance with this law, an employee of a state body or other organization must carry out their duties or service authority conscientiously and refrain from any actions related to their personal interests that could influence or potentially influence the performance of their duties.

Furthermore, if a conflict of interest arises, the employee must immediately inform their direct superior or the relevant department. They must ensure that subordinates or other employees are not forced into actions (or inactions) driven by personal interests, and must report any conflict of interest cases they are aware of involving other employees.

Responsibility for failure to comply with the requirements of legislation on conflicts of interest:

Relations related to conflicts of interest are regulated by the following bodies in the Republic of Uzbekistan. These include the relevant authorities...

The Anti-Corruption Agency, state bodies or other organizations, the ethics commission of these bodies, the special division for regulating conflicts of interest, and the internal anti-corruption divisions and human resources divisions of these bodies.

In connection with the adoption of the law, a new Article 1934 was added to the Administrative Responsibility Code of the Republic of Uzbekistan.

Liability is established for failing to comply with the legislative requirements regarding conflict of interest.

This article specifies that liability arises if an official or employee of a state body or other organization fails to report the existence of a conflict of interest as required by conflict of interest legislation, or if they do not take necessary measures to regulate existing or potential conflicts of interest once they are aware of them.

It should be noted that committing such violations in the area of public procurement aggravates the liability, with fines ranging from twenty to thirty times the base calculation amount imposed on officials.

The state regulates matters related to conflicts of interest.

It is important to emphasize that the Anti-Corruption Agency is the special authorized state body responsible for regulating issues related to conflicts of interest.

The agency requests and studies information and materials related to conflicts of interest from state bodies or other organizations;

It coordinates the activities of state bodies or other organizations in the regulation of conflicts of interest;

Ensures that decisions made in the presence of a conflict of interest are amended or annulled as needed, following the appropriate procedures and regulations.

□ Take actions to prevent employees from participating in decision-making processes that could be influenced by personal interests or conflicts, ensuring transparency and fairness in all governmental activities;

□ Develop and implement internal mechanisms for employees to report conflicts of interest and ensure compliance with conflict of interest regulations;

□ Provide ongoing training and guidance for public sector employees to better understand and manage conflicts of interest, helping to maintain a high standard of ethical conduct within government bodies and institutions;

□ Regularly assess and ensure that the full restoration of rights and compensation is made to any individual or organization harmed by conflicts of interest in state operations;

□ Ensure that all government bodies and organizations are held accountable for their role in identifying, reporting, and mitigating conflicts of interest, strengthening the overall governance system.

This comprehensive approach, outlined in the law, is designed to effectively prevent conflicts of interest in public administration. By establishing clear guidelines for disclosure, monitoring, and enforcement, it supports the creation of a more transparent, accountable, and ethical public sector, while also providing the necessary tools to address and resolve issues when they arise.

Change or annul decisions made in the presence of conflicts of interest in accordance with the established procedure.

Changes or cancels agreements made in the presence of a conflict of interest or files lawsuits in court to declare such agreements invalid, following the established procedures.

Organizes the activities of ethics commissions and specialized departments related to regulating conflicts of interest.

Establishes internal departmental procedures to prevent conflicts of interest in state bodies or other organizations.

Ensures impartial organization of service inspections regarding identified conflicts of interest and ensures that the results are reviewed by ethics commissions.

Takes measures to encourage employees who set an example in preventing conflicts of interest.

Ensures the compensation for damages caused to citizens, organizations, society, or the state as a result of conflicts of interest, and takes measures to restore public trust in the relevant state body or other organization.

Takes measures to ensure compliance with the requirements set forth in this Law by employees of state bodies or other organizations.

Examines the adequacy (correctness) of the measures being taken to regulate conflicts of interest.

Implements collegial supervision over cases related to existing conflicts of interest.

Investigates whether the requirements of this Law have been violated (or not) by employees of state bodies or other organizations.

□ Based on the results of service inspections, conclusions are drawn regarding employees who failed to report a conflict of interest, provided false or incorrect information knowingly, or concealed such information;

□ If an employee is found to have violated these requirements, the head of the state body or other organization is advised to hold the individual accountable, following the established legal framework.

This approach ensures accountability and transparency within public institutions by reinforcing the importance of honesty and compliance in reporting potential conflicts of interest. It also contributes to strengthening ethical standards in the public sector, deterring unethical behavior and fostering a culture of integrity.

Special division for regulating conflicts of interest – internal anti-corruption or human resources divisions of state bodies or other organizations.

Therefore, based on the law, the division of tasks between these structural units should be appropriately carried out.

Conclusion: This law is an important strategic step toward establishing a normative-legal system for regulating conflicts of interest, imposing prohibitions, and punishing violations.

The state-level documents aimed at preventing conflicts of interest indicate that the regulatory-legal framework in specific sectors of the country may be implemented by adopting various restrictions and boundaries, or through adopting specific departmental regulations.

This law mandates that employees of state bodies must avoid personal interests that could lead to or potentially lead to conflicts of interest while carrying out their duties or service obligations.

Furthermore, it is essential to understand the difference between conflicts of interest and corruption. The differences between conflicts of interest and corruption are as follows:

The primary difference is that, in a conflict of interest situation, a civil servant has not yet made the final decision regarding the direction of their actions. At this stage, depending on their conviction, they may choose to pursue personal interests or fulfill their duties in an ethical and conscientious manner. On the other hand, based on our scientific observations, corruption arises when there is always a choice between duty and personal interests.

Based on scientific approaches, conflict of interest in state bodies refers to the situation when a state employee's personal interests....(directly or indirectly) affecting or potentially affecting the objective fulfillment of their service duties, and creating or potentially creating a conflict, we assess as a situation where a conflict of interest arises. Conflict of interest is related to a state employee's personal interests, which may influence or potentially influence their ability to carry out their duties impartially and objectively.

In a specific situation, this may lead to the improper performance of official duties and the commission of corruption offenses. Thus, the basis of the damaged reputation is the individual (employee) facing a conflict of interest: whether to violate or comply with the law. Depending on the official's decision, we can speak about the legality or illegality of the individual's (employee's) actions.

It is the responsibility of the leader to prevent cases of selecting staff based on kinship, local ties, or personal loyalty, and to take timely measures to prevent and regulate conflicts of interest. Preventing conflicts of interest is a fundamental principle of public servants' professional activities.

Strict and unquestionable adherence to the requirements of this law will undoubtedly change the official position of the state body employee who is a participant in the conflict of interest regarding the measures to prevent and resolve conflicts of interest in state bodies.

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