

P.S. Berzin<sup>1</sup> , Ye.B. Yeszhanov<sup>2\*</sup> 

<sup>1</sup> Taras Shevchenko National University of Kyiv, Ukraine

<sup>2</sup> Zhetysu University named after I. Zhansugurov, Taldykorgan, Kazakhstan  
(\*E-mail: eszhanov230383@cloud.com)

<sup>1</sup>ORCID ID 0009-0000-4133-8815

<sup>2</sup>ORCID ID 0000-0003-4146-7910, Scopus Author ID 57210787892

## Conflict of interest prevention as a method of fighting corruption

The article discusses the issues of legal regulation of conflict of interest prevention as the most effective way to prevent corruption. The main goal of the scientific article is to develop a set of effective recommendations for preventing conflicts of interest that may arise when entering the civil service and resolving conflicts of interest in the performance of the civil service as a preventive tool for preventing violations of Public Service Ethics and bribery. The methodological basis of the study is such general and individual research methods as the method of dialectics, formal-logical, comparative-legal and control method. As a result of the article, it was established that Kazakhstan's legislation contains only the initial norms for the Prevention of conflicts of interest in the Civil Service and does not form a complete mechanism for conflicts of interest in the public sector. In conclusion, based on the analysis of foreign experience, the effectiveness of the settlement of conflicts of interest in the civil service was proved and the adoption of the law "on conflicts of interest" was proposed. As a novelty of the scientific article, a critical analysis of the legislative coverage and law enforcement practice of preventing conflicts of interest in the civil service with a systematic approach was carried out.

*Keywords:* interest, conflict, public service, ethics, image of public service, transformation of public service, honesty, integrity.

### Introduction

In addition to being one of the anti-corruption action mechanisms, the Institute for the Prevention of Conflict of Interests in Public Service is an important part of raising the public service to a higher level. During the analysis of the conflict of interest issues, we noticed that it reveals its dual nature. On the one hand, it is aimed at preventing corruption; on the other hand, it raises the professional ethics of civil servants and allows them to perform their official duties properly.

In order to maintain integrity in entering, performing and exiting public service, determining the current situation of preventing possible conflicts of interest and preparing effective recommendations, the normative legal basis of the conflict of interest institution is studied and analyzed, its strengths and weaknesses are determined. At the same time, an overview of the international experience of Estonia, Georgia, the Kyrgyz Republic and the OECD countries is made, theoretical researches of domestic and foreign scientists are considered.

It should be noted that due attention has not been paid to conducting research on entering, performing, and exiting public service, maintaining etiquette and integrity, and preventing conflicts of interest. As proof of this, it can be said that there are not enough scientific works of Kazakh and foreign scientists on the conflict of interests. This, in turn, hinders the implementation of a mechanism that includes scientifically based methods and methods of ensuring the effective development of the state system through honest service to the society and the state.

Prevention of conflict of interest is directly related to integrity in entering and performing public service. In this direction, the main conceptual basis for a citizen's ability to resist corruption should be the development and dissemination of the ideology of common sense in society. It is clear that it is necessary to introduce new standards and new models of corruption-free life into social relations by changing the basic concept of life or human thinking. There are quite a few scientific researches of Kazakh scientists on the formation and development of the ideology of integrity in society, on maintaining loyalty to public service, action against money laundering and on conflict of interests.

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\* Corresponding author. E-mail: eszhanov230383@cloud.com

In general, we noticed that almost all Kazakhstani scientists focused on explaining the problem of conflict of interest in public service, its avoidance and prevention, as well as on the practice of law enforcement. That is why, in our research, we believe it is necessary to make a comprehensive search for the prevention, avoidance and regulation of conflicts of interest in public service.

#### *Materials and methods*

The aim of the research work was to consider the effective legislative changes to prevent it, proving the possibility of the conflict of interests arising in holding public office and leading to corruption, as well as bribery. To achieve this purpose, the following tasks were set: 1) the impact of prevention of conflicts of interest in public service on the spread of the ideology of common sense in the public sector; 2) study of the practice of preventing conflicts of interest in the Republic of Kazakhstan; 3) identification of effective methods of prevention of conflicts of interest in the public sector in foreign practice; 4) development of legislative recommendations for the prevention of conflicts of interest that can be used in national legislation.

In the analysis of the quantitative and qualitative indicators of the research, policy analysis, cost-benefit analysis, stakeholder analysis, scenario forecasting, comparative-legal analysis, SWOT analysis, case study, existing government functional and systematic analysis of programs, plans and normative acts are carried out.

The content analysis was carried out to the texts of the concept of the anti-corruption policy of the Republic of Kazakhstan for 2022–2026, the concept of the new model of the public service of the Republic of Kazakhstan, the concept of the development of public administration in the Republic of Kazakhstan until 2030, and the Constitution of the Republic of Kazakhstan, the law on public service related to the prevention of conflicts of interest in public service, the norms of the anti-corruption law, as well as the existing normative legal acts of foreign countries, theoretical works of domestic and foreign scientists. In order to identify shortcomings in the practice of preventing conflicts of interest in the public service, monitoring of employment and performance of the public service (observation method) was executed.

Unfortunately, the absence of a conflict of interest prevention mechanism leads to real corruption and the ability to measure the resulting costs is limited. We believe that such a limitation is due to the fact that the state does not pay attention to the prevention of conflicts of interest in public service and, as a result, does not register relevant research (facts).

#### *Results*

It is well known that one of the situations that pose a threat to our country's state and national security is corruption. Corruption reduces the efficiency of public administration and diminishes the country's image attractiveness, thereby hindering the political, social, and economic development of the state. It is also important to note that the forms of corrupt activities change and evolve every year. Modern forms of corruption include lobbying for private interests, network-based corruption, embezzlement of budget funds through nepotism, and securing high-level government positions through favoritism.

Domestic scientists B.Zh. Aitimov, Ye.Sh. Dusipov and D.N. Bekezhanov in their work entitled “Legal Instruments for Building Integrity”, gives an overview of the Kazakh legislation on the formation of integrity, connecting the need for forming integrity with the strengthening of the fight against corruption in society [1; 111]. If we look at the scientific work, the legal basis for the formation of integrity in the country is generally formed, but it offers several ways of its implementation. Among them, we think that some opinions related to the formation of the ideology of integrity in the society and its development in the public service can be used to increase the effectiveness of the prevention of conflicts of interest in the public service.

The mentioned authors consider corruption as a major threat to both state and national security, arguing that it not only reduces the efficiency of public administration but also destroys the country's image attractiveness, thus hindering the overall political and economic development of the state. They also note that, in line with the development of science and technology, forms of corrupt activities evolve, highlighting new types such as lobbying for private interests, bribery networks, and fraudulent appropriation of budget funds. Furthermore, they argue that the methods of combating corruption must change conceptually, emphasizing that the foundation of such a concept should be the formation and development of an ideology of integrity within society. By altering the core principles of human thought or life, they propose introducing new life standards into social relations, promoting a model of a corruption-free life. Introducing the term “society of integrity” into the realm of social sciences, they believe that such a society would establish zero tolerance for

corrupt actions. This would become an internal conviction for each citizen, forming the basis of their thinking and influencing their behavior and lifestyle.

Analyzing the legislative foundations for the development of the ideology of integrity in our country, the authors conclude that the most effective tool for preventing corruption in society and public service is the ideology of integrity. They also outline several directions for further developing this ideology within society. These directions include researching and developing the conceptual foundations of the ideology of integrity, enhancing citizens' legal knowledge, and fostering the understanding and principles of integrity through the family institution.

The works of Professor S.S. Moldabaev on the problems of conflict of interests and formation of integrity in public service can be especially noted. In his first works on conflict of interest, S.S. Moldabaev focused on the concept of "conflict of interests" and the problems in public service when it arises [2; 78–84]. He mentioned corruption, including bribery using kinship, nepotism, and familiarity, as the main problem caused by failure to prevent conflicts of interest.

In his work, professor S.S. Moldabaev focused on the development of the conflict of interests in the law enforcement system, and as a result, he focused on the decrease in judicial justice in the country [3; 2–7]. At the same time, we believe that Professor Moldabaev's theoretical views on the importance of fostering integrity in public service and the role of conflict of interest prevention in its development are worth noting. In this work, Moldabaev states that conflicts of interest are not always directly tied to the employee's material or other personal interests; however, it is clear that such personal interests often become the cause of abuse of authority or even crimes. He points out that conflicts of interest frequently arise due to institutional deficiencies within organizations and the lack of mechanisms to prevent and mitigate the negative consequences of using official powers and opportunities for personal gain. Furthermore, this institutional deficiency leads to manifestations of corruption. Moldabaev concludes that the rapidly changing nature of conflicts and conflicting situations further underscores the relevance of this topic.

In his research, M.D. Nauryzbek examines the policy of receiving gifts as one of the special conditions affecting the emergence of conflicts of interest in public service, and proves that legal prohibition still does not lead to the reduction of giving gifts to the policy of zero gifts. And he expressed his opinions only in this direction [4; 279–285]. In his work, the author analyzes two approaches to the policy of giving and receiving gifts in public service, demonstrating that each has its advantages. The first approach, the zero-gift policy, is presented as a method that fully eliminates the risk of unlawful gifts influencing the decisions of public officials. However, the author also notes that this approach places full control over the official's freedom of action, thereby restricting their autonomy. The second approach, the gift-limitation policy, is characterized as more democratic, allowing public officials greater freedom in decision-making. The author discusses both the advantages and the drawbacks of this policy. In our view, banning gifts or establishing a gift policy is only one means of preventing conflicts of interest in public service and should not be limited to consideration.

Candidate of Law Science, associate professor Zh.U. Tlembaeva conducted a high-level analysis of legislation and law enforcement practice until 2018 [5; 42–48]. In this article, the author notes that in 2017, Kazakhstan ranked 122nd in the Corruption Perceptions Index, improving its score by 2 points to receive a total of 31 points. Author also mentions that this figure is the highest achievement since 2019. According to experts, the prerequisite for attaining positive indicators in the ranking was the implementation of the National Plan and the Anti-Corruption Strategy. According to these documents, Kazakhstan set purposes to improve access to information, enhance the transparency and accountability of government agencies, and refine the process of providing public services. The author believes that such changes were indeed implemented in practice, increasing citizens' trust in government bodies and enabling the effective execution of large-scale national projects. In this article, Zh. Tlembaeva focuses on important documents in the formation of anti-corruption policy, proving that they have served as a fundamental basis for combating corruption. Author mentions documents such as the Presidential decree of the Republic of Kazakhstan dated March 17, 1992, "On Measures to strengthen the fight against organized crime and corruption" the "Kazakhstan — 2050" strategy, the Anti-Corruption Strategy for 2015–2025, and the National Security Strategy of the Republic of Kazakhstan. It should be noted that most of these documents have now lost their force. In accordance with the "100 Concrete Steps" National Plan, she points out that anti-corruption efforts are currently being updated, with the main focus directed as much as possible toward preventing manifestations of corruption. Author emphasizes that due to the formation of a new approach to the phenomenon of corruption, the state's fight against it has begun to be implemented by methods not associated with punishing citizens as before. Com-

prehensive preventive measures such as anti-corruption monitoring, analysis of corruption risks, and the formation of an anti-corruption culture are being considered. Analyzing the concept of “conflict of interests” provided in the Law of the Republic of Kazakhstan “On Anti-Corruption activities” the author indicates that it does not disclose the concept of “personal interest”. Here, Zh. Tlembaeva highlights the advantageous aspects of the definition of “conflict of interests” provided in Russian legislation. The significance of the author's work lies in author's consideration of the experience of countries like Norway, Australia, New Zealand, Spain, Italy, the USA and Canada in preventing conflicts of interests after leaving public service. Considering foreign experience, author proposes revealing the procedural aspects to enhance the effectiveness of norms related to the identification and management of “conflict of interests” provided in the Law of the Republic of Kazakhstan “On Anti-Corruption Activities”. In this regard, she approves adopting the Russian experience, which obliges each agency to establish a commission related to ensuring that civil servants comply with the requirements of official conduct.

Zh. Tlembaeva contends that conflicts of interest frequently arise not only in public service but also in civil and entrepreneurial sectors. However, she points out that the concept of “conflict of interest” is entirely undefined in the Entrepreneurial code of the Republic of Kazakhstan. To resolve this issue, author deems it necessary to define the concept of conflict of interest according to the specific field of application. However, we believe that the mentioned article does not provide an overview of the normative legal coverage and practice of preventing conflicts of interest in the civil service of the Republic of Kazakhstan. There are no legislative and law-enforcement recommendations regarding the improvement of practice and the formation of mechanisms.

The intensity of the globalization process creates new types of threats to the statehood of Kazakhstan. Corruption is and remains the main threat to state and national security. This reduces the efficiency of state administration, the attractiveness of the image of the country, and thereby inhibits the political and socio-economic development of the state as a whole. In turn, the forms of corruption are changing, such as lobbying, network corruption, and theft of budget funds by deception, etc. New forms of hidden harm are emerging. This can be evidenced by the study of the World Bank on the “Worldwide Governance Indicators, WGI”, where Kazakhstan achieved 39.5 % on the “Control of Corruption” indicator. In 2019, this indicator was high and made 43.8 % [6].

In his speech at the inauguration ceremony on November 26, 2022, the President of the Republic of Kazakhstan K. Tokayev said that “every civil servant should do his job honestly” [7]. We believe that this statement says about understanding at the state level that the main force in the prevention of corruption in public service is human values, including honesty. At the same time, in the “National Plan — 100 concrete steps” program adopted at the state level, the main priority is given to the introduction of ethics rules in accordance with the times, the reason for which is that public service is a special trust given by the society and the state [8]. Also, it can be understood that the main meaning of the principle of “the state that listens to the voice of the people” formed in the “Concept of the Development of Public Administration in the Republic of Kazakhstan until 2030” is that a citizen should put the interests of society and the state above their personal interests in public service [9]. In the code of ethics of civil servants adopted in 2022, stating that “Civil service obliges to show loyalty to public interests”, “Civil servants are required to follow public policy in their work and consistently implement it, to maintain public trust in public service, the state and its institutions and should seek to strengthen” [10].

If we summarize the above, the public service is a “burden of trust” placed on behalf of the society and the state to the citizen, while performing it, the citizen is required to adhere to high moral values and professional ethics standards. Despite the fact that the development of honesty in entering and performing public service, as well as in leaving public service, is often included in the above-mentioned normative acts and state programs, increasing the reputation of public servants and the positive image of public service, thereby increasing the level of public trust in public service and reforms carried out by state bodies has not lost relevance today. There is a reason for this, the ethical standards and honesty requirements of the citizens in the recruitment of officials have not yet been formed in our country. According to the report prepared jointly by the Agency for Public Service Affairs of the Republic of Kazakhstan and the United Nations Development Program (UNDP), it can be seen that the trust in government structures is decreasing due to the fact that they do not declare about their possible conflict of interest when entering the public service, and the frequent exposure to the conflict of interest in official promotion [11].

First of all, let us focus on the consideration of conflict of interests in international legal documents. There are many definitions of the term “conflict of interests” in recent literature. Having sorted out all the

definitions, we notice that the position is based on a conflict between the official duty and personal interests of the official, where the personal interest of the official may affect the responsible performance of his official duties to a certain extent and lead to damage of the state (public) interest. Such a definition is given in OECD studies [12]. And we think that this definition is a common definition given to “conflict of interest”, which allows not confusing the conflict of interest with real manifestations of corruption and other unethical behavior.

Article 7, paragraph 4 of the United Nations Convention against Corruption provides that, each participating state shall, in accordance with the fundamental principles of its domestic legislation, strive to establish, maintain and strengthen systems that promote transparency and prevent conflicts of interest [13]. Therefore, our state has taken the necessary obligations to develop the necessary mechanisms to prevent conflicts of interest, as well as to ensure that the processes of entering and advancing in public service are transparent.

Next, let us look at the foreign practice of preventing conflicts of interest. According to the UK Ministerial Code, Ministers must ensure that no conflict arises or is reasonably likely to arise between their official duties and their personal, financial or other interests. To clarify this, they must submit 2 conflict of interest declarations for publication each year [14].

The French Act on transparency in public life (Act. No. 2013-907 TR transparency in public life) establishes its own regulations to prevent problems of conflict of interest. Article 2 of the Act provides the following definition: conflict of interest — any situation that leads to a conflict of public interests and personal interests may undermine the independent, impartial and fair performance of a certain state function [15].

In Estonia, there are two main documents that guarantee the integrity of citizens who perform public service: 1) Law on “Public Information”. According to it, every citizen entering the public service must publish the necessary information; 2) Anti-corruption law. The law establishes rules on procedures for preventing and limiting undue influence on officials [16]. All information on the prevention of corruption and conflicts of interest in Estonia is published on the website of the Ministry of Justice. On this website, any citizen has the opportunity to see information on current work, guidelines on conflict of interest prevention, declaration of interests, survey results, statistical materials and strategies [17].

In order to prevent conflicts of interest, the State of Latvia adopted the Law “On the Prevention of Conflicts of Interest in the Service of Civil Servants” [18]. According to it, as the main mechanism of prevention of conflicts of interests of civil servants, they are obliged to make a “declaration of conflicts of interests”. After making the declaration, the Bureau for the Prevention and Combating of Corruption (KNAB) checks the compliance and non-compliance of the officials with the accepted restrictions. This is done by analyzing the decisions made by the officials. The State Revenue Service and KNAB publish on their websites the decisions taken and the administrative measures taken, such as verbal warnings and fines ranging from 10 to 350 euros.

The purpose of the Law “On Conflict of Interest” adopted in the Kyrgyz Republic is to unify and improve legislation on conflict of interest, as well as to introduce mechanisms for timely detection, prevention and regulation of conflict of interest [19]. According to the law, a citizen submits declarations about their personal interests when taking a new position, according to which, the presence of kinship with the employer, as well as with his subordinates, is investigated, and if there is a conflict of interest, they report it. As mechanisms for regulating the conflict of interests, there are such types as exclusion of an official from the performance of the position, elimination of personal interests, restriction of access to information of persons who may have a conflict of interests, refusal of persons to make a certain decision, revision or change of official duties. Legal consequences arise in the event of a conflict of interest.

One of the most important practices in the prevention of conflicts of interest in the public service of our country is the experience of Moldova. Accordingly, the state of Moldova adopted the law “On declaration of property and personal interests” [20]. According to the law, in addition to the category of relatives in the above countries, the conflict of interest also includes a person who lived together in the previous tax year (cohabitant). That is, the subject who must submit the declaration, the person who lived with their in the previous year must also be indicated in the declaration.

Conflict of interest resolution mechanisms are being developed in Canada. For example, in Canada's “Public Service Values and Code of Ethics”, the main measure to avoid conflicts of interest is mandatory filling of a confidential report by public servants. The public servant's report shall include information on income and property, receiving gifts and services, information on their jobs, and any other factors that may contribute to a conflict of interest. If there is a clear conflict between personal interests and official duties,

then the public servant may be obliged to give up certain activities that contribute to the conflict of interests, as well as to sell or transfer to trust the property whose ownership causes a conflict.

### *Discussion*

The Law of the Republic of Kazakhstan “On Combating Corruption” [21] does not consider the concept of conflict of interest at all. The laws on public service of the Republic of Kazakhstan and the laws of the Republic of Kazakhstan on anti-corruption, adopted in 2015, include provisions on conflict of interests. According to it, it is considered that “conflict of interest is a conflict between the personal interests of persons holding a responsible state position, persons authorized to perform state functions, persons equal to them, officials and their official powers, in such a case, the personal interests of the said persons prevent them from performing their official duties and (or) accordingly may lead to non-fulfillment”. In accordance with Article 15 of the Law on Anti-Corruption of the Republic of Kazakhstan, in case of conflict of interest, the above-mentioned persons shall: a) take measures to prevent and regulate the conflict of interest; b) must notify their immediate superior or the management of the organization where he works in writing about the conflict of interest that has arisen or may arise, at the time of their awareness.

The immediate head or the head of the organization must take measures to prevent conflicts of interest at the written request of the official in a timely manner. Such measures are similar to the measures provided for by the law of the Kyrgyz Republic, i.e. exemption from performance of official duties, change of official duties and taking other measures.

There are no other regulatory provisions on conflict of interest regulation. Neither administrative responsibility nor criminal liability is provided for actions or inaction in the event of a conflict of interest, failure to take measures to prevent and regulate the conflict of interest, as well as failure to notify about the conflict of interest that has occurred or a situation that may arise. Article 680 of the Code of the Republic of Kazakhstan [22] on administrative offenses provides for the responsibility of the heads of state bodies for failure to take anti-corruption measures. However, according to this norm, responsibility for failure to take measures is considered only for subordinate guilty persons who have committed the crime of corruption. In the event of a conflict of interest prior to the occurrence of corruption, it is not possible to bring responsibility under the provisions of article 680 of the Code of Administrative Offenses of the Republic of Kazakhstan [22] for non-responsibility for actions or inactions.

Disciplinary action is the only form of liability for failure to fulfill obligations to prevent or manage conflicts of interest. According to, article 51 of the Law on Public Service of the Republic of Kazakhstan [23], a public servant, their immediate superior or the head of a state body shall be subject to disciplinary punishment for failure to take measures to prevent and regulate conflict of interests known to them. It is known that one of the most important measures to prevent corruption is the management and prevention of conflicts of interest. It is well known that one of the most effective measures in preventing corruption is the management and avoidance of conflicts of interest. However, it is evident that a concrete practice for preventing conflicts of interest in Kazakhstan has not yet been established. Firstly, according to research, there is a lack of statistical data. Secondly, the identification of close relatives, in-laws, or personal interests that may give rise to a conflict of interest is determined by the civil servant themselves. In other words, such information is not disclosed in advance. Therefore, the ethical and moral character of the civil servant plays a significant role. We believe that a civil servant's adherence to integrity depends on the level of their moral qualities. The absence of effective responsibility for the violation of the requirements related to the prevention of conflict of interest and its avoidance is a noteworthy situation. We believe that at least administrative liability should be considered, which can be applied by the appropriate law enforcement agencies. Because Article 680 of the code of Administrative offenses of the Republic of Kazakhstan stipulates that heads of state bodies are held administratively liable only for failing to eliminate corruption offenses, for not taking measures against culpable individuals, or for taking measures in violation of the law. As we can observe, there is no provision for liability related to the prevention of corruption in this context. Therefore, we understand that the leaders within the public service themselves are not interested in preventing corruption but rather focus on combating it only after it has occurred.

Various activities are being carried out with the competent body, the Agency of Public Service Affairs of the Republic of Kazakhstan (Astana, Kazakhstan), to explain and inform about the prevention of conflict of interests. It should be noted that the Agency, in cooperation with the UN Development Program, has developed a methodological guide containing typical cases of conflict of interest prevention and avoidance. And on the basis of the methodological manual, the Agency of Public Service Affairs of the Republic of

Kazakhstan and its territorial departments conduct trainings and seminars on a regular basis. However, its effectiveness is not evaluated today. There are those who have joined the service and give up their service, and at the same time, there are those who are serving together with their family in the same service.

Also in the scientific literature there are various opinions related to the concept of conflict of interest and its prevention, regulation in case of occurrence.

In his book "Defining Political Corruption", M. Philp argues that public officials inevitably have multiple interests. These interests are connected with various aspects of their personal life, as well as with public interests that they have to fulfill according to their official duties. The concept of "conflict of interest" indicates that some of these interests represent the risk of conflict by distorting the decisions they make or the way they perform their official duties [24, 436–462].

According to some researchers, such as D. Amodio, E. Harmon Jones, and P. Devine, the difficulty in identifying conflicts of interest is that only the official himself knows about the potential conflict of interest, which leads to the problem of asymmetric information. Therefore, in order to successfully solve this problem, officials should recognize the conflicts and try to protect their decisions from undue influence [25, 738–753]. Agreeing with the views of the authors, we would say that not everyone understands that public servants recognize their interests and protect themselves.

Researchers have discovered that people's self-interests change their perception of reality and the phenomenon of "justified reasoning" in which people can justify corrupt behavior to themselves and others [26, 65–83]. In public service, these risks can be acute due to a number of situational influences, and officials often face acute ethical dilemmas. The ambiguity and subtlety of many conflict-of-interest situations can mean that officials justify potential breaches of integrity by characterizing problems in a certain way or emphasizing a lack of clarity about what action to take. Ambiguity thus serves as a "cover" for people who do questionable things.

After summarizing the theoretical considerations, it can be noted that the state-level mechanisms are not considered in the works of foreign and Kazakh scientists related to the prevention, avoidance and regulation of conflict of interests.

Studying the consideration of conflicts of interest in international legal documents, it can be said that the main principles related to the prevention, avoidance and regulation of conflicts of interests have been formed for the states that follow the anti-corruption policy. However, considering the national legislation of individual states, that personalized the main principle of the United Nations Anti-Corruption Convention, which is that "Each participating state shall seek to create, support and strengthen systems that promote transparency and prevent conflicts of interest, in accordance with the basic principles of its domestic legislation", there were found different concepts. The legislation of the post-Soviet countries recognizes only public servants, often high-ranking officials, as subjects of "conflict of interest". In European countries such as Great Britain, France and Canada, the force of conflict of interest legislation applies to all citizens who enter, hold and leave public service. That is, any person involved in the state budget in the public sector (state and quasi-state) should submit relevant documents (declaration, secret report) and be checked. It is clear that the use of such an effective practice in Kazakhstan will bear its own fruit.

The legislation of Kazakhstan contains a sufficient number of effective norms of prevention, avoidance and regulation of conflicts of interest in public service. Article 50 of the Law on Public Service of the Republic of Kazakhstan contains a number of norms that are recognized as situations that cause conflicts of interest. As such cases, being an official, interfering in the activities of other state bodies, organizations (here we should understand quasi-state bodies, any subject of entrepreneurship), solving problems related to satisfying the material interests of one's own official powers (close relatives, relatives), preparing decisions and unlawful support to individuals or legal entities during reception, etc. can be said. In the course of the analysis, Article 50 covers almost all the situations in which conflicts of interest arise. However, in the report of the 4th round of monitoring in accordance with the Istanbul Action Plan on Combating Corruption, such situations were found to be insufficient. Conducting contextual analysis and SWOT-analysis of situations made it possible to determine the strengths and weaknesses of Kazakhstani experience. We would say that as a strong point of our country's experience in preventing, avoiding and regulating conflicts of interests, the situations that may cause conflicts of interests are almost completely provided for in the legislation. However, as a weakness, the mechanisms for ensuring the fulfillment of obligations on the prevention, avoidance and regulation of conflicts of interest have not been formed. As a proof of this, in case of conflicts of interests, resignation from one's position, temporary suspension from the position and revision of official duties rarely occur in practice [27]. We believe that it is possible to implement by analyzing the experiences of the

states of Estonia, Georgia, Moldova and the Kyrgyz Republic related to the prevention, avoidance and regulation of conflict of interest mechanisms in public service and ensuring that officials fulfill their obligations.

At the same time, it can be seen that the lack of necessary theoretical ideas in the science of domestic public service has a negative effect on solving the above problems. Researches of domestic scientists on the conflict of interests are conducted in various directions of this issue. If one scientist studies the prevention, avoidance and regulation of conflict of interests as the main means of forming the ideology of integrity, the next one emphasizes its concept and issues of conflict of interests in the spheres of law enforcement and judicial system.

As a result of the analysis of foreign theoretical ideas, it was revealed that the conflict of interests is being studied from the point of view of legal psychology and ethical sciences. That is, in the research of foreign scientists, the identification of conflict of interests is connected only with the personal characteristics of a person. And it proves that this is a trend in public service. However, in the works of foreign scientists, we can say that there is almost no practical side, offering specific mechanisms related to the prevention of conflict of interests.

In this work, the author explores the experience of foreign countries in public service, highlighting that one of the most effective tools for preventing conflicts of interest is the establishment of a value system within public service. In China, the requirements for serving the people and adhering to laws and regulations are defined by the “Eight Virtues of Integrity and Honor” a formal value system developed by former General Secretary Hu Jintao. This set of moral principles emerged in response to two opposing forces: ongoing reforms and the growing divide and corruption among officials. The Chinese official value system includes principles such as:

- Love the homeland; do not harm it;
- Serve the people; do not betray them;
- Focus on science; do not be ignorant;
- Be diligent; do not be lazy;
- Be kind; help others; do not enrich yourself at their expense;
- Be honest and maintain integrity; do not stray from your principles for profit;
- Follow the law and maintain order; avoid chaos and illegality;
- Live simply; work hard; avoid excess and indulgence.

Despite China’s strict laws, these values have become an integral part of the Chinese way of life, as evidenced by the effectiveness of the ongoing reforms.

In Mongolia, the development of public service involves not only the creation of legal frameworks but also the cultivation of high moral principles among public servants. Serving the Mongolian people and state is considered a civic duty that surpasses personal interests.

In Singapore, the core principles of public service are oriented towards ensuring the country's independence, sovereign authority, security, and prosperity. These principles include incorruptibility, meritocracy, self-respect, and maintaining a high standard of living. This value system is enshrined in Singapore’s “Public Service for the 21st Century” program.

In the United Kingdom, the Civil Service Code is based on the principles of integrity, honesty, objectivity, and impartiality. Public servants are expected to carry out their duties with selflessness, integrity, accountability, and transparency. The seven principles of public service in the UK mirror those found in other nations and are as follows:

1. Selflessness — refraining from actions that provide material or financial benefits to oneself, family, or others, and acting solely in the public interest;
2. Integrity — avoiding any financial or other dependency on external individuals or organizations that could influence official duties;
3. Objectivity — making decisions impartially;
4. Accountability — being responsible for decisions and actions, ensuring they are open to public scrutiny and transparency;
5. Transparency — providing as much information as possible about public decisions and actions;
6. Honesty — disclosing personal interests that may conflict with public duties and taking all measures to resolve potential conflicts in favor of the public.

In combating corruption in the public sector, the importance of criminal law cannot be overstated. The Criminal Code of Kazakhstan includes provisions for bribery, mediation, and the misuse of office. However,



despite these laws, the number of registered criminal cases involving corruption continues to rise. In 2022, 1,588 corruption-related criminal cases were registered, a 12 % increase compared to 2021. An analysis of the prosecuted cases reveals that those involved in corruption often violate their own moral principles. In many cases concerning bribery, officials demanded financial compensation directly for performing their official duties [28]. This indicates a lack of moral values among public servants, as they prioritize personal gain over patriotism, public welfare, and their duty to the state. Therefore, we believe that one of the primary tasks is to establish and foster a system of life values for our citizens and public servants.

### *Conclusion*

The regulation of conflicts of interest as an anti-corruption mechanism has been widely adopted internationally. However, in the Republic of Kazakhstan, both the conceptual understanding of conflicts of interest and the development of effective policies for managing them within the public service are still lacking. This inadequacy often leads to negative consequences arising from conflicts of interest in Kazakhstan's public sector. Firstly, violations of legally mandated restrictions and prohibitions by public officials, along with conflicts between their personal interests and official duties, create potential risks for the commission of corrupt offenses. Secondly, permitting conflicts of interest undermines the established order of public administration when legal mechanisms for exercising state power are supplanted by extralegal means — specifically, material or other personal benefits for the public servant or individuals connected to them through shared interests. Thirdly, if a conflict of interest remains unresolved, a public servant or associated individuals gain unjust advantages over other citizens and legal entities that operate within the law, as well as over other public servants who do not exploit their official powers for personal gain. However, the prevalence of conflict-of-interest situations is largely attributed not only to imperfections in public service legislation but also to weak practices in its implementation within agencies for various reasons.

In the course of the study, public servants put their personal interests above the interests of society and the state, which leads to the violation of public service ethics. Any public servant who uses their official authority to satisfy their personal or relative's financial situation or to enter and advance in public service may not commit corruption at first. However, it may lead to a situation where the morale of the official will decrease and it will lead to a situation that will influence the appearance of bribery by abuse of authority in the future. That is, the analysis identifies and declares the conflict of interests in the citizen's entry into public service, its performance and professional advancement, based on their high moral and ethical values. Accordingly, if the prevention and avoidance of conflicts of interests contribute to the formation of the ideology of rationality, the prevention and avoidance of conflicts of interests and the regulation of them also play a key role in the citizen's rationality.

Studying the experience of conflict of interest prevention, the Kazakh practice lacks mechanisms to ensure the transparency of conflict of interest in comparison with the countries of Moldova, Latvia, and Estonia. It is still time to fully study such advanced practices and introduce not only their theoretical aspects, but also their actual procedural aspects into the experience of our country.

As mentioned above, integrity in the public sector, specifically the open declaration of potential conflicts of interest when entering public service has become one of the most crucial components today. We believe that integrity begins from the very moment a person seeks to enter public service. Every citizen applying for public office should disclose any information that could create a conflict between their personal and public interests. By doing so, they eliminate the potential for violations of ethical norms in the public service through sensitive issues like nepotism, regionalism, and favoritism, as well as preventing the emergence of modern forms of corruption, such as nepotism, lobbying, and oligarchy. At this point, reevaluating, assessing, and analyzing the ethical, legal, and organizational aspects of public service is a pressing issue that requires immediate attention.

Analyzing the Kazakhstan practice of preventing conflict of interest in public service, it is almost completely covered by legislation, however, declaring a conflict of interest, removing an official from office to prevent it, etc. there is a lack of specific experimental mechanisms. At the same time, it is necessary to clarify the purpose of responsibility for failure to fulfill or inadequately fulfill obligations in the prevention of conflicts of interest.

In conclusion, the following legislative recommendations to ensure the prevention of conflicts of interest in public service were formed:

1. It is necessary to adopt the Law on “Conflict of Interest”, which includes the main principles, mechanisms and subjects of the prevention of conflicts of interest in public service, as well as in the quasi-state sec-

tor. For this purpose, it is necessary to study the norms of the law of the same name of Moldova, Latvia, Kyrgyz Republic and gain its positive experience. There are valid reasons to believe that a special law should be adopted. Situations requiring an official to voluntarily recuse themselves in the event of a conflict of interest are stipulated in Article 67 of the Administrative Procedural Code of the Republic of Kazakhstan. However, the mechanism for implementing this procedure in practice is entirely undeveloped. For example, when a conflict of interest arises: In what form should a civil servant's notification of self-recusal be made? Where should it be registered? If the official themselves conceal the conflict of interest, how is its detection carried out? These issues have not been specified.

- Within the framework of the proposed "Conflict of Interest" law, a citizen entering the public service must declare in advance the circumstances in which they may have a conflict of interest. And in the case of cases of concealment, the considered measures should be tightened;

- the law should include procedures for controlling the decision-making processes of public officials. And in order to simplify such processes, we recommend solving it with digitalization methods.

2. It is necessary to widely promote the ideology of integrity in society.

- in order to get rid of such concepts as "easily solving problems through corrupt actions", "combining friendly relations to solve cases", "protectionism at work" firmly established in the public consciousness, it is necessary to develop the conceptual foundations of integrity within the framework of the "Spiritual Revival" public consciousness renewal program;

- the value system of public service should be adopted based on national programs, with continuous efforts to develop and strengthen it. Moreover, such reforms should be accompanied by various educational initiatives aimed at shaping the spiritual value system not only among public servants but also among citizens;

- carrying out large-scale educational work on informing citizens about their rights, which protects them from seeking illegal ways to solve everyday problems.

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П.С. Берзин, Е.Б. Есжанов

## Мүдделер қақтығысының алдын алу сыбайлас жемқорлықпен күрестің тәсілі ретінде

Мақалада сыбайлас жемқорлықтың алдын алудың ең тиімді тәсілі ретінде мүдделер қақтығысын болдырмаудың құқықтық реттеу мәселелері қарастырылған. Ғылыми мақаланың басты мақсаты мемлекеттік қызмет әдебін бұзу мен парақорлықты болдырмаудың превентивті құралы ретінде мемлекеттік қызметке орналасуда туындауы мүмкін мүдделер қақтығысының алдын алу мен мемлекеттік қызметті атқаруда туындаған мүдделер қақтығысын реттеудің тиімді ұсынымдар кешенін әзірлеу. Сыбайлас жемқорлыққа қарсы саясат аясында жасалатын іс-шаралар орын алған құқық бұзушылықтардың салдарымен емес, мұндай құбылыстың себептерінің алдын алуға бағытталуы тиіс. Осыған байланысты, мемлекеттік қызметке орналасу мен оны атқаруда мүдделер қақтығысының алдын алудың механизмдерін қалыптастырудың тиімділігі артып келетінін байқаймыз. Зерттеудің әдіснамалық негізін диалектика әдісі, формальды-логикалық, салыстырмалы-құқықтық, бақылау әдісі сияқты жалпы және жеке зерттеу әдістері құрайды. Мемлекеттік қызмет пен жалпы мемлекеттік сектордағы жұмысқа орналасу мен қызмет атқарудың дамуын зерттеуде диалектика әдістері пайдаланылса, заңнамалық нормаларды талдауда формальды-логикалық, шетелдік заңнамалармен салыстыруда салыстырмалы-құқықтық әдістер, сондай-ақ тәжірибені зерттеуде бақылау әдісі қолданылған. Мақаланың нәтижесі ретінде қазақстандық заңнамада мемлекеттік қызметтегі мүдделер қақтығысының алдын алудың тек бастапқы нормалары бар екендігі және мемлекеттік сектордағы мүдделер қақтығысының толық механизмі қалыптаспағаны анықталды. Қорытындысында шетелдік тәжірибелерді талдау негізінде мемлекеттік қызметтегі мүдделер қақтығысын реттеудің тиімділігі дәлелденіп, «Мүдделер қақтығысы туралы» заң қабылдау ұсынылды. Мақаланың жаңалығы ретінде жүйелі тәсілмен мемлекеттік қызметтегі мүдделер қақтығысының алдын алудың заңнамада қамтылуы мен құқық қолдану тәжірибесіне сыни талдау жасалды.

*Кілт сөздер:* мүдде, қақтығыс, мемлекеттік қызмет, әдеп, мемлекеттік қызметтің имиджі, мемлекеттік қызметті трансформациялау, адалдық, парасаттылық.

П.С. Берзин, Е.Б. Есжанов

## Предотвращение конфликта интересов как один из методов борьбы с коррупцией

В статье рассмотрено правовое регулирование предотвращения конфликта интересов на государственной службе как один из эффективных методов предупреждения коррупции. Целью статьи является разработка комплекса эффективных рекомендаций по предупреждению и урегулированию конфликта интересов, возникающих при поступлении на государственную службу, и при прохождении государственной службы, как превентивного средства предотвращения взяточничества. Методологическую основу исследования составляют такие методы, как метод диалектики, формально-логический, сравнительно-правовой и метод наблюдения. При исследовании развития государственной службы, а также устройства на государственную службу и в период его прохождения был использован метод диалектики. Сделан анализ законодательных норм, регулирующих конфликт интересов, с помощью формально-логического метода. Осуществлен сравнительно-правовой анализ по вопросам урегулирования конфликта интересов. Также при исследовании практики регулирования конфликта интересов на государственной службе использован метод наблюдения. В результате исследования было установлено, что казахстанское законодательство содержит лишь начальные нормы по вопросам предотвращения конфликта интересов на государственной службе и еще не сформирован целостный механизм урегулирования конфликта в государственном секторе в целом. На основе сравнительно-правового анализа зарубежного опыта авторы статьи приходят к выводу, что регулирование конфликта интересов является эффективным методом борьбы с коррупцией, и было предложено принятие Закона РК «О конфликте интересов». Научная новизна статьи заключается в том, что был проведен критический анализ законодательного обеспечения и правоприменительной практики предотвращения конфликта интересов на государственной службе с применением системного подхода.

*Ключевые слова:* интерес, конфликт, государственная служба, этика, имидж государственной службы, трансформация государственной службы, честность, добропорядочность.

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### Information about the authors

**Berzin, Pavel Sergeevich** — Doctor of law, Professor, Faculty of Law, Taras Shevchenko National University of Kyiv, Ukraine; e-mail: [berzin.pavel@gmail.com](mailto:berzin.pavel@gmail.com);

**Yeszhanov, Yerlan Boranbaevich** — Master of law, Doctoral student, Faculty of law and Economics, Zhetysu University named after I. Zhansugurov, Taldykorgan, Kazakhstan.