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Conflict of Interest of Judges: A Comparative Analysis of International Standards and Legislation of Uzbekistan

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Abstract
The article provides a comprehensive comparative analysis of the regulation of judicial conflicts of interest in international practice and in the legislation of the Republic of Uzbekistan. It examines key international standards aimed at safeguarding judicial independence and impartiality, including the Bangalore Principles of Judicial Conduct, the IBA Guidelines on Conflicts of Interest, OECD recommendations, and the case law of the European Court of Human Rights. Particular attention is given to the "reasonable doubt" test and the principle of appearance of bias as core elements of the modern assessment of judicial impartiality. The study analyzes the current Uzbek legal framework and identifies regulatory gaps, including the absence of a statutory definition of judicial conflict of interest, a formal disclosure obligation, and a structured pre-assignment screening mechanism. Based on a comparative review of foreign models, the article formulates proposals for improving national legislation in order to strengthen judicial independence and enhance the effectiveness of judicial protection of entrepreneurs' economic rights.

Keywords: Judicial conflict of interest, judicial independence, impartiality, recusal, judicial ethics, international standards, Bangalore Principles, IBA Guidelines, OECD, protection of economic rights.

Introduction

In the modern conditions of the development of the rule of law and the formation of an effective system for the protection of the rights and legitimate interests of business entities, the issue of ensuring the independence and impartiality of the judiciary is of particular importance. One of the key elements of these principles is the prevention and proper settlement of conflicts of interest of a judge, since any doubt about the objectivity of a judge can undermine the confidence of society and business in the judicial system. reduce the efficiency of justice and negatively affect the investment climate of the state.

Judicial protection of the economic rights of entrepreneurs is a set of substantive and procedural guarantees that ensure the effective restoration of the violated rights of business entities. In the structure of this mechanism, the principle of impartiality of the court occupies a special place. Economic disputes are characterized by the high value of the subject of the claim, corporate interests, investment risks and possible intersection of private and public interests. Even a potential conflict of interest of a judge can affect the perception of the fairness of the trial. International standards enshrine the presumption not only of actual but also of perceived impartiality. Thus, in accordance with the Bangalore Principles of Judicial Conduct, the key criterion is the existence of "reasonable doubt" as to the objectivity of the judge. A similar approach is consistently applied by the European Court of Human Rights, which distinguishes between subjective and objective criteria of impartiality. Consequently, the prevention of conflicts of interest is not an auxiliary element of judicial ethics, but a basic institutional guarantee for the protection of entrepreneurs.

In international practice, the prevention of conflicts of interest is in the focus of attention of both interstate institutions and professional organizations. International standards – including the Bangalore Principles of Judicial Conduct, the IBA Guidelines on Conflicts of Interest, OECD Recommendations, as well as the practice of the European Court of Human Rights – emphasize the duty of a judge to refrain from participating in a case if there are real or potential reasons to doubt his impartiality. These documents form the basis of the modern understanding of conflicts of interest and establish guidelines that states seek to follow when reforming judicial systems.

For the Republic of Uzbekistan, which is consistently carrying out judicial and legal reforms and strengthening guarantees of the rights of entrepreneurs, the issue of regulating the conflict of interest of judges is especially significant. The updated Constitution of the Republic of Uzbekistan enshrines the independence of the judiciary as one of the fundamental principles of the legal system. At the same time, despite the existence of general rules on recusal and self-recusal in procedural legislation, the country does not have a specialized procedure for checking conflicts of interest of judges, there is no practice of disclosing potential conflicts by judges, and there is no regulatory definition of the concept of "conflict of interest" in relation to judicial activities.

In these conditions, a comparative analysis of the regulation of conflicts of interest of judges in Uzbekistan and foreign countries seems necessary both from a scientific, theoretical and practical point of view. First, it identifies key gaps in the current national regulatory framework. Secondly, it helps to determine the best approaches to reforming legislation, taking into account international standards and best foreign practices. Finally, the study of this topic allows us to formulate specific proposals for improving the mechanisms for ensuring the independence of judges, which directly affects the effectiveness of judicial protection of the economic rights of entrepreneurs, the development of the business environment and increasing public confidence in justice.

This study is aimed at analyzing the concept of conflict of interest of judges, international standards for its regulation, comparative study of models for checking conflicts of interest in foreign countries and assessing the current system of Uzbekistan in terms of compliance with these standards. Special attention is paid to identifying regulatory gaps and developing proposals for improving the legislation of the Republic of Uzbekistan in the context of strengthening guarantees of the independence of judges.

A conflict of interest of a judge is a situation in which his personal, property, professional or other interests may affect or create reasonable doubts about his ability to administer justice impartially

and [1]independently. The international doctrine emphasizes that the presence of a conflict of interest does not always mean factual bias, but the very risk of doubts undermines confidence in the court.

According to the Bangalore Principles of Judicial Conduct (2002), the key criterion is the existence of "reasonable doubts" about the impartiality of a judge. A similar approach is reflected in the practice of the European Court of Human Rights, which distinguishes between subjective and objective impartiality[2]. The IBA Guidelines on Conflicts of Interest in International Arbitration offer a widely accepted model for assessing conflicts of interest based on the principle of "appearance of bias" – even the appearance of possible bias requires disclosure or retraction. The OECD also treats a conflict of interest as a risk in which the personal interests of a public official may unduly affect the performance of his duties, which requires preventive regulation and transparency.

In scientific literature and international documents, the following types of conflicts of interest are traditionally distinguished:

1. Personal conflict of interest is the presence of family, friendship or other personal ties with the parties.
2. A financial conflict is a property or economic interest of a judge or his relatives.
3. Professional conflict is the previous participation of the judge in the case or professional relations with the parties.
4. Institutional conflict is membership in organizations or bodies related to the parties to the case.
5. Potential conflict is circumstances that may create doubts in the future and require disclosure.

Modern international standards emphasize that the duty of a judge is not only to avoid factual bias, but also to prevent any situation that may be perceived as a conflict of interest. That is why the disclosure of possible interests and the mechanism of self-recusal are considered as the most important tools for ensuring confidence in justice.

The international community has developed a set of standards aimed at ensuring the independence and impartiality of judges, which consider conflicts of interest as a key risk to fair justice. The most authoritative among such documents are the Bangalore Principles of Judicial Conduct, the IBA Guidelines on Conflicts of Interest in International Arbitration, OECD recommendations, as well as the legal positions of the European Court of Human Rights. These tools form universal criteria for assessing and preventing conflicts of interest, which are actively used by states when reforming judicial systems.

Bangalore Principles of Judicial Conduct (2002)

The Bangalore Principles are a fundamental international document that enshrines the six core values of the judiciary: independence, impartiality, honesty, equality, competence and integrity. In terms of conflict of interest, the principles formulate the duty of a judge to avoid any situations that may give rise to "reasonable doubts" about his objectivity.

[1] Ivanov D. V. Konflikt interesov v sisteme publicnoy sluzhby [Conflict of interests in the system of public service]. … Cand. jurid. Sci. Moscow, 2019.
[2] Shishkin S. N. Konflikt interesov v publicnoy sluzhbe: pravovaya priroda i mekhanizmy regulirovaniya [Conflict of interests in public service: legal nature and mechanisms of regulation]. – 2019. – № 4. – P. 45–58.

A judge must recuse himself or herself if there are personal, professional or other connections that may be perceived as influencing his decision. Thus, the emphasis is not on proven bias, but on the external perception of impartiality.

IBA Guidelines on Conflicts of Interest in International Arbitration

The IBA Guidelines, although designed for arbitration, are one of the most detailed international tools for assessing conflicts of interest, which are often used by national judicial authorities as a guide[3].

The IBA offers a three-level classification of situations:

The red list is an obvious conflict that requires recusal;

Orange List – a possible conflict that requires disclosure and confirmation of the parties;

The green list is circumstances that do not affect impartiality.

The main principle is the "appearance of bias", that is, even the external appearance of a judge's possible interest is considered a sufficient basis for disclosing information or self-recusal.

OECD Recommendations on the Prevention of Conflicts of Interest

The OECD views conflicts of interest as an unavoidable risk in the public service that requires systemic regulation. The recommendations emphasize:

- the need to declare the interests of judges or other public officials;
- the establishment of preventive mechanisms for conflict detection;
- ensuring transparency and accountability of the judiciary;
- the existence of independent bodies that monitor compliance with ethical standards.

Although the OECD recommendations are not binding, they are widely used by countries in Europe, North America and Asia in the development of standards for judicial ethics.

Practice of the European Court of Human Rights

The ECHR has formed two key criteria for the impartiality of a judge:

- the subjective criterion is the absence of proven personal bias;
- The objective criterion is the absence of circumstances that may "reasonably raise doubts" among the parties or society.

The ECtHR has consistently pointed out that external perception is crucial: even a potential conflict of interest, if not excluded or disclosed, violates the right to a fair trial.

The legal regulation of conflicts of interest of judges in the Republic of Uzbekistan is a developing institution, which is currently fragmented and does not cover all aspects of the prevention and verification of conflicts of interest provided for by international standards. Despite the consistent reforms of the judicial system, the issues of disclosure of interests, automatic verification of possible conflicts and detailed regulation of the procedures for recusal and self-recusal require further improvement.

The updated Constitution of the Republic of Uzbekistan enshrines the principle of independence of judges, the inadmissibility of interference in the administration of justice and the right of everyone to a fair trial. These provisions form the basic basis for regulating conflicts of interest, but do not in themselves contain mechanisms for identifying or eliminating circumstances that may affect the impartiality of a judge.

[3] IBA Guidelines on Conflicts of Interest in International Arbitration. – London : International Bar Association, 2014.

The current legislation of Uzbekistan includes several regulatory acts that partially affect the issues of conflict of interest:

- The Law of the Republic of Uzbekistan "On Courts";
- Law "On Conflict of Interest"[4];
- Law "On Combating Corruption";
- procedural codes (civil, criminal, economic, administrative).

However, none of these documents contains a legal definition of a conflict of interest of a judge, does not establish the obligation of judges to disclose potential conflicts, and does not provide for a procedure for preliminary verification of such circumstances when assigning cases.

Procedural codes contain rules on the recusal and self-recusal of judges, but these rules are limited to general formulations ("if there are circumstances that raise doubts about impartiality"), do not specify the list of such circumstances and do not impose a positive obligation on the judge to disclose connections that may cause doubts among the parties.

Unlike international standards and practices of a number of foreign countries, Uzbekistan does not have a separate procedure for checking a conflict of interest, which would be carried out:

- automatically during the distribution of cases;
- by the court or its staff;
- independent body.

Verification of a possible conflict occurs only at the initiative of the parties who have the right to challenge them[5]. However, the lack of information among the parties about the possible connections of the judge actually limits the effectiveness of this mechanism. Judges are also not required to disclose potential conflicts, which creates a risk of non-transparency.

Insufficient regulation of conflicts of interest leads to several problems:

- the lack of a mechanism for the parties to be informed in advance of possible connections between the judge;
- the risk of situations perceived as potential bias;
- lack of an institutional culture of disclosure of interests;
- weak integration of international standards (Bangalore, IBA, OECD) into the national legal field.

From the point of view of protecting the economic rights of entrepreneurs, such gaps hinder the formation of a predictable and trusting judicial environment, which is especially important in the context of an opening economy and active attraction of foreign investment.

Experience of the Tashkent International Arbitration Center

Of particular interest is the practice of the Tashkent International Arbitration Center (TIAC), operating under the Chamber of Commerce and Industry of the Republic of Uzbekistan. Regulation is carried out:

- the TIAC Arbitration Rules;
- the Code of Conduct for Arbitrators;
- disclosure procedures.

[4] Law of the Republic of Uzbekistan "On Conflict of Interest" : adopted on 05.06.2024
[5] Saidov A. Kh. Judicial and Legal Reforms in the Republic of Uzbekistan. – Tashkent : Adolat, 2021. – 276 p.

Mechanism for resolving conflicts of interest.

Arbitrators are obliged to:

- disclose professional and financial connections;
- inform about the previous participation in the affairs of the parties;
- confirm the absence of circumstances that raise doubts;
- continue to disclose throughout the process[6].

The procedure for challenging judges in the event of a conflict of interest is carried out as follows:

- A party has the right to file a reasoned challenge.
- The decision is made by an independent body of the center.
- Standards similar to the IBA model apply.

The TIAC model is:

- preventive;
- transparent;
- standardized;
- focused on international requirements.

A study of foreign approaches to the regulation of conflicts of interest of judges demonstrates that in most developed legal systems such mechanisms are more detailed and institutionally strengthened than in the Republic of Uzbekistan. One of the most illustrative examples is Germany, where the norms of the Civil Procedure Code contain clear grounds for the recusal of a judge, including personal and professional ties with the participants in the process. German practice emphasizes the obligation of the judge to independently point out the circumstances that may cast doubt on his impartiality, and each application for recusal is considered by the panel, which ensures the objectivity of decision-making.

In France, issues of conflict of interest are additionally regulated by a special Code of Ethics for Judges, which describes in detail situations that can affect the objectivity of a judge. The Superior Council of Magistracy exercises disciplinary supervision, examines the appeals of the parties and forms the public practice of decisions. This ensures a high level of transparency and institutional accountability in the field of judicial ethics.

In the United States, regulation is based on a combination of a detailed Code of Conduct for Federal Judges and mandatory disclosure by judges of their financial interests. Judges are required to declare assets, relations with participants in the process and other information that may create a risk of a conflict of interest. Complaints of bias are considered by special judicial bodies, which gives the parties an effective tool to protect their right to impartial justice.

In the UK, there is a Judicial Ethics Manual based on the principle of "appearance of bias" – that is, even the appearance of possible bias is a sufficient basis for self-recusal. The British system places a significant emphasis on the perception of the impartiality of a judge by society, and complaints of violations of ethical standards are considered within the framework of an independent body Judicial Conduct Investigations Office.

[6] Resolution of the President of the Republic of Uzbekistan "On the establishment of the Tashkent International Arbitration Center (TIAC) under the Chamber of Commerce and Industry of the Republic of Uzbekistan, dated 05.11.2018 No PP-4001

An interesting example in the post-Soviet space is Ukraine, where the Public Integrity Council has been created, which assesses the ethical behavior of judges and identifies possible conflicts of interest. Judges are required to publish declarations of assets and interests in the public domain, and disciplinary practice is characterized by a high degree of transparency, which contributes to strengthening the trust of citizens and businesses in the judiciary.

In general, foreign models demonstrate a comprehensive approach, including a normative definition of a conflict of interest, the mandatory disclosure of potential conflicts, transparent recusal procedures, financial reporting of judges and the activities of independent institutions of judicial ethics. These elements form a strong system for preventing conflicts of interest, which is not yet available in Uzbekistan, and can serve as a guideline for further reform of national legislation.

The analysis allows us to conclude that in order to strengthen the independence of the judiciary and increase confidence in justice in Uzbekistan, a more systematic regulation of the conflict of interests of judges is needed. The current legislation contains only general rules on recusal and self-recusal, but does not define the concept of conflict of interest, does not establish the obligation of judges to disclose potential connections and does not provide for a separate procedure for verifying such circumstances. As a result, regulation is fragmented and does not comply with international approaches enshrined in the Bangalore Principles, IBA Guidelines and OECD recommendations.

In these circumstances, it is advisable to consider the possibility of amending the Law "On Courts" and the Law "On Conflict of Interest". The legislation should establish a clear definition of a conflict of interest, including actual and potential forms, as well as the judge's obligation to disclose any circumstances that may raise doubts about his impartiality. The introduction of a procedure for preliminary verification of conflicts of interest in the distribution of cases would prevent the occurrence of disputes at an earlier stage.

In addition, an important area of reform is the creation of an institution responsible for monitoring the observance of ethical standards by judges and considering possible violations. The practice of foreign countries shows that the activities of independent ethics bodies contribute to increasing the transparency of the disciplinary process and strengthen public confidence in the judicial system. No less important is the introduction of a mechanism for judges to declare their financial and professional interests, which meets OECD standards and prevents hidden conflicts.

In general, the improvement of legislation in this direction will ensure the formation of a modern, transparent and sustainable system for preventing conflicts of interest, which will contribute to strengthening the independence of judges and more effective protection of the rights of entrepreneurs in the Republic of Uzbekistan.

A comparison of the regulation of conflicts of interest in Uzbekistan with foreign models shows a significant difference both in the normative detailing and in the institutional mechanisms for ensuring the impartiality of judges. In countries with a developed judicial system, such as Germany, France, the United States, and the United Kingdom, the mechanism for preventing conflicts of interest is based on the mandatory disclosure by judges of potential conflicts, the presence of independent judicial ethics bodies, transparent disciplinary practice and a clear legislative definition of circumstances that may cast doubt on the impartiality of a judge.

In contrast to these models, Uzbek legislation is limited to general rules on recusal and self-recusal, does not contain a definition of a conflict of interest, does not establish the obligation of judges to disclose related risks and does not provide for a special procedure for verifying such circumstances when allocating cases. In addition, disciplinary practice in Uzbekistan is less transparent, and issues of ethics of judges are not accompanied by regular public reports, which sharply distinguishes it from the approaches of OECD countries, where openness of information is an important element of conflict prevention.

Thus, foreign states demonstrate a more comprehensive and preventive approach, while the Uzbek model is predominantly reactive and does not contain tools for the early detection of conflicts of interest. This points to the need to further harmonize national legislation with international standards and best practices, which will improve the quality of the administration of justice and confidence in the judicial system.