

**PREVENTION AND SETTLEMENT OF A CONFLICT
OF INTEREST IN THE ACTIVITY OF PUBLIC SERVANTS:
STATE AND WAYS OF IMPROVING**

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Anti-corruption reform, as well as the proper implementation of the legislation on corruption prevention, including its part related to the prevention and settlement of a conflict of interest in the activities of public servants and persons equated to them, is a critical prerequisite for Ukraine's successful progress toward European integration and maintaining the sustainability of its public administration system and economic growth in the face of tough military and political challenges. At the same time, theoretical-legal, legislative and organizational foundations of the system preventing the impact of a conflict of interest on objectivity or impartiality while exercising management functions still have substantial potential for improvement. Thus, it actualizes the accumulation by the Ukrainian scientific community of solid and practice-oriented conclusions and recommendations on the development prospects for a system preventing and settling a conflict of interest in the activities of public servants and persons equated to them.

First of all, to correctly understand the meaning of a conflict of interest, it is necessary to keep in mind that private interest is any property or non-property interest of a person, including one caused by personal, family, friendly, or other outside-of-duty relations with individuals or legal entities and arising in connection with membership or activities in non-governmental, political, religious, or other organizations (para. 12 of Part 1 of Art. 1 of the Law of Ukraine "On Prevention of Corruption")¹.

The law admits a possibility of a potential and actual conflict of interest for civil servants and persons equated to them.

An actual conflict of interest is a contradiction between the private interest of a person and their official or representative activities, which affects the objectivity or impartiality of their decisions and commitment or non-commitment of actions in the exercise of powers; (para. 9 of Part 1 of

¹ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

Art. 1 of the Law of Ukraine “On Prevention of Corruption”². An example of an actual conflict of interest for the head of the district council is when the latter considers a draft decision on the consolidation of payment terms for the former; at the same time, the authority of the council’s head to vote on this issue contradicts his private interest in receiving remuneration (judgment of the Lviv Court of Appeal in case No. 459/4134/21 as of April 19, 2022)³.

In turn, a potential conflict of interest is the presence of a person’s private interest in the area where they exercise their official or representative powers that may affect the objectivity or impartiality of their decisions or affect the commitment or non-commitment of actions in the exercise of powers (para.13 of Part 1 of Art. 1 of the Law of Ukraine “On Prevention of Corruption”)⁴. The difference of a potential conflict of interest from an actual one is that the former implies only the presence of a person’s private interest, which may affect the objectivity or impartiality of their decisions, and the latter involves the existence of contradiction between the private interest of a person and their official or representative powers that directly affects (has affected) the objectivity or impartiality of their decisions, or the commission or non-commission of actions during the exercise of powers (judgment of the Chernihiv Court of Appeal in case No. 738/846/21 dated November 5, 2021)⁵.

To prevent and resolve a conflict of interest, the following general duties are primarily assigned to persons authorized to perform the functions of the state or local self-government and persons who are equated to them:

- take measures to prevent the occurrence of an actual or potential conflict of interest;
- not take actions and not make decisions under an actual conflict of interest;

² Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

³ Постанова Львівського апеляційного суду від 19 квітня 2022 р. у справі № 459/4134/21 про притягнення до адміністративної відповідальності за вчинення адміністративних правопорушень. URL: <https://reyestr.court.gov.ua/Review/104053888>.

⁴ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

⁵ Постанова Чернігівського апеляційного суду від 5 листопада 2021 р. у справі № 738/846/21 про притягнення до адміністративної відповідальності за вчинення адміністративних правопорушень. URL: <https://reyestr.court.gov.ua/Review/100866134>.

– not induce subordinates, directly or indirectly, in any way, to make decisions, commit actions or omissions contrary to the law in favor of their private interests or private interests of third parties;

– take measures to resolve an actual or potential conflict of interest (para. 1 of Art. 28 of the Law of Ukraine “On Prevention of Corruption”)⁶.

In addition to these general duties aimed at preventing and resolving a conflict of interest and refraining its impact on the objectivity or impartiality of the performance of government managerial functions, the anti-corruption legislation enshrines a comprehensive action algorithm for public servants and equated persons, as well as their immediate head and the head of the body or the relevant unit the relevant person affiliates with in case of a conflict of interest.

Thus, a public servant or equated person, in case of doubt about the existence of a conflict of interest, has the right to seek clarification from the NACP (National Agency on Corruption Prevention) (Part 4 of Art. 1 of the Law of Ukraine “On Prevention of Corruption”. If a person has received confirmation of the absence of a conflict of interest, he/she shall be exempted from liability even if it later transpired that there had been a conflict of interest in actions regarding which he/she sought clarification. (Part 6 of Art. 1 of the Law of Ukraine “On Prevention of Corruption”). If a person has not received confirmation of the absence of a conflict of interest, he/she acts in accordance with the requirements of anti-corruption legislation on the settlement of a conflict of interest (Part 5 of Art. 28 of the Law of Ukraine “On Prevention of Corruption”), first of all, fulfilling the general obligation to notify, no later than the next working day from the moment when he/she found or should have found about the presence of a real or potential conflict of interest, a direct supervisor. And if the person holds a position that does not provide for having an immediate supervisor or a position in a collective body, he/she shall report to the NACP or other authority or a collective body determined by the law where the conflict of interest occurred while exercising powers (para. 2 of Part 1 of Art. 28 of the Law of Ukraine “On Prevention of Corruption”)⁷. At the same time, the NACP recommends reporting an actual/potential conflict of interest in writing with registration meeting the rules of record keeping. Specialists of the National Agency mark that a written notification is, firstly, documentary evidence that the person has indeed reported a conflict of interest, and,

⁶ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

⁷ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

secondly, it will enable the immediate supervisor to analyze the situation in detail and determine the best way to resolve the conflict of interest⁸. Moreover, the law allows persons who have a conflict of interest, without waiting the authorized persons take response measures, to independently resolve it by eliminating the respective private interest and providing supporting documents to the immediate supervisor or an authority whose powers include dismissal/initiation of dismissal (Part 2 of Art. 29 of the Law of Ukraine “On Prevention of Corruption”)⁹.

Specifying the course of actions of the immediate supervisor or head of the body whose powers include the dismissal/initiation of dismissal from the position of a public servant or an equated person, who has an actual or potential conflict of interest, after receiving notification of this, the law determines that these authorized officials, within 2 working days after receiving notification of the presence of an actual or potential conflict of interest in a subordinate, shall make a decision to resolve the conflict of interest and notify a particular person. When the NACP receives a notice from a person about an actual or potential conflict of interest, it shall explain, within 7 working days, to such a person the course of his/her actions to resolve the conflict of interest (Part 3 of Art. 28 of the Law of Ukraine “On Prevention of Corruption”)¹⁰.

A decision on the settlement of a conflict of interest may involve the implementation of an external settlement of a conflict of interest via:

1) suspending a person from fulfilling a task, taking actions, making a decision or participating in its adoption – under a conflict of interest that is not of a permanent nature, and, if possible, involving other employees in making such a decision or taking appropriate actions – by decision of the head of the relevant body, enterprise, institution, organization, or relevant structural unit (Art. 30 of the Law of Ukraine “On Prevention of Corruption”);

2) the application of external control over the performance of the specific task by a person, his/her actions or decision-making – if the suspension of a person, restriction of his/her access to information, or

⁸ Методичні рекомендації щодо застосування окремих положень Закону України «Про запобігання корупції» стосовно запобігання та врегулювання конфлікту інтересів, дотримання обмежень щодо запобігання корупції / Національне агентство з питань запобігання корупції. URL: <https://wiki.nazk.gov.ua/wp-content/uploads/2022/10/Metodychni-rekomendatsiyi-vid-21.10.2022-13.pdf>.

⁹ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/convv>.

¹⁰ Ibid.

revision of his/her powers is impossible and there are no grounds for his/her transfer to another position or dismissal – by the decision of the head of the body, enterprise, institution, organization and in the form of:

- inspection by an employee appointed by the head of the status and results of performing tasks, taking actions, the content of decisions or draft decisions that are made or being developed by the person or the relevant collegial body on issues related to the conflict of interest;

- performance of tasks, taking actions, considering cases, drafting and making decisions by the person in the presence of an employee appointed by the head of the agency;

- participation of an authorized person of the NACP in the work of a collegial body as an observer without voting rights;

3) restriction of a person’s access to certain information – if the conflict of interest is associated with such access and is constant, as well as if there is a possibility for the person to continue proper execution of his/her authority under such restriction and commission another employee with work involving certain information – by the decision of the head of the body or specific structural unit (Art. 1 of the Law of Ukraine “On Prevention of Corruption”);

4) review of the scope of official powers of a person – if the conflict of interest is related to his/her specific authority and, if possible, the continuation of the proper performance of his/her official tasks under such review and empowering another employee (Part 1 of Art. 32 of the Law of Ukraine “On Prevention of Corruption”);

5) transfer of a person to another position with his/her consent – if the conflict of interest cannot be resolved by suspending that person from fulfilling the task, restricting his/her access to information, reviewing his/her powers and functions, and if there is a vacant position which according to its characteristics corresponds to the personal and professional qualities of the person – by decision of the head of the body, enterprise, institution, organization (Part 1 of Art. 1 of the Law of Ukraine “On Prevention of Corruption”);

6) dismissal of a person – if the actual or potential conflict of interest is permanent and cannot be resolved by other means, including due to the absence of the person’s consent to reassignment or to deprivation of private interest (Part 2 of Art. 34 of the Law of Ukraine “On Prevention of Corruption”)¹¹.

¹¹ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

A separate part of the anti-corruption legislative provisions is devoted to the prevention of influence on ways of exercising official powers or related opportunities due to the ownership of enterprises or corporate rights in public officials and some categories of corporate officers.

Thus, under Art. 36 of the Law of Ukraine “On Prevention of Corruption”, with the exception of those established by law, the persons concerned are obliged within 60 days after appointment (election) to the position to transfer the management of their enterprises and corporate rights to another person (with subsequent notification of the NACP) in the manner prescribed by law, in particular:

a) the transfer of enterprises, which are unitary by the method of establishment (foundation) and formation of their authorized capital, is conducted by concluding a property management agreement with a business entity;

b) the transfer of corporate rights is carried out in one of the following ways:

– conclusion of a property management agreement with a business entity (except for an agreement on management of securities and other financial instruments);

– conclusion of an agreement on the management of a portfolio of financial instruments and/or funds intended for investing in financial instruments with an investment firm licensed by the National Securities and Stock Market Commission to conduct portfolio management activities;

– conclusion of an agreement on the establishment of a venture unit investment fund for managing transferred corporate rights with an asset management company licensed by the National Securities and Stock Market Commission to conduct asset management activities;

c) it is prohibited to transfer the management of enterprises and corporate rights for the benefit of family members or business entities, investment firms and asset management companies where family members are employed¹².

In addition to the above, it is essential to note that the anti-corruption legislation provides for some particularities of resolving a conflict of interest that has arisen in the activities of state collegial bodies and local self-government and subjects equated to them. Therefore, it is established that in the case of an actual or potential conflict of interest in a person authorized to perform the functions of the state or local self-government, or another equated person who is a member of a collegial body (committee,

¹² Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

commission, collegium, etc.), such a person has no right to participate in decision-making of the specific body. If the non-participation of such a person in decision-making of the body results in loss of its validity, his/her participation in decision-making shall be subject to external control. The respective collegial body decides on the exercise of external control (Part 2 of Art. 35-1 of the Law of Ukraine “On Prevention of Corruption”)¹³.

Having familiarized ourselves with the provisions of the basic anti-corruption law on measures for preventing and resolving a conflict of interest in the activities of public servants and persons equated to them, we can state that in order to form a single and holistic mechanism for the prevention and prompt elimination of contradictions between a private interest and official or representative powers of such persons, which affect the objectivity or impartiality of their decision-making or the commission or non-commission of actions during the exercise of relevant powers, the mentioned legislative provisions should be improved at the systemic level, primarily by: 1) their mutual agreement with branch acts of administrative legislation (on administrative procedure, civil service, etc.) regarding terms and practical ways of preventing and resolving a conflict of interest; 2) establishing and specifying the fundamental aspects of the procedure for resolving a conflict of interest, in particular, the method of performing certain duties by the heads of a person who has a conflict of interest and their ensuing responsibility, the principal provisions of agreements on the transfer to management of enterprises and corporate rights belonging to public servants and persons equated to them, etc.; 3) differentiating the legal consequences of a managerial decision made by an official or a collegial body in the context of a conflict of interest; 4) making the practice of resolving a conflict of interest at the administrative level more public, which should contribute to the predictability of their application, strengthen public control and confidence in the anti-corruption mechanism.

Justifying the need to introduce legislative innovations in the above areas, we will primarily give examples of discrepancies between the basic anti-corruption law and legislation on administrative procedure, civil service, and another branch administrative legislation. In particular, the recusal of a person who has the authority to consider and resolve a case relating to public law relations toward ensuring the exercise of right, freedom or legitimate interest of a person and/or the fulfillment of their obligations determined by law is controversial, since it is not a measure of either external or independent settlement of a conflict of interest, which under the anti-corruption law is carried out only by depriving the specific private interest). At the same time,

¹³ Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/1700-18/conv>.

as established in para. 1 of Part 1 of Art. 30 of the Law of Ukraine “On Administrative Procedure”, a participant in administrative proceedings has the right to file a petition for recusal of a person who facilitates the consideration of the case, if there are circumstances in relation to such a person, including those indicating the private interest of such a person based on the outcome of consideration and/or resolution of the case. If any, the person facilitating the consideration of the case is obliged to declare self-recusal (Part 2 of Art. 30 of the Law of Ukraine “On Administrative Procedure”)¹⁴. According to S. V. Rivchachenko, following the findings of a comparative law study of the statutory regulation of the prevention and settlement of a conflict of interest and the German mechanism of external control of compliance with the requirements of the legislation on a conflict of interest in civil service, there is a rule which states that if the person who is subject to the relevant administrative act believes that a biased official has participated in the administrative procedure preceding its adoption, the former can file a complaint. If the complaint is found justified, procedural decisions or procedure result will be declared invalid. Similarly, under Italy’s anti-corruption legislation, a civil servant shall recuse himself from participating in decision-making or carrying out activities that could undermine faith in the independence and impartiality of public administration, even in the absence of an actual conflict of interest¹⁵.

An equally important theoretical-legal and practical issue is the correlation between measures for the external settlement of a conflict of interest and changes in place and conditions for public officials’ service. In particular, pursuant to provisions of Art. 43 of the Law of Ukraine “On Civil Service”, the head of civil service shall notify a civil servant of the change in essential conditions of service in writing not later than 30 calendar days before the change in those conditions (except salary increase), which may include, inter alia, a change in key job responsibilities. In this context, it also seems appropriate to refer to Art. 41 of the Law of Ukraine “On Civil Service” under which a civil servant, taking into account their professional training and professional competencies, can be transferred without mandatory competition:

1) to another equivalent or lower vacant position in the same state body, including in another locality (another settlement) – without mandatory competition and by decision of the head of civil service or the appointing

¹⁴ Про адміністративну процедуру : Закон України від 17 лютого 2022 р. № 2073-IX (у редакції від 31 березня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/2073-20/conv#n16>.

¹⁵ Рівчаченко С. Запобігання та врегулювання конфлікту інтересів як спосіб протидії корупції : дис. ... канд. юрид. наук : 12.00.07 / Запорізький національний університет. Запоріжжя, 2017. С. 146–147.

entity (if it is about a position in another state body; the corresponding decision of the appointing entity or the head of civil service in the state body to which the civil servant is transferred is required as well);

2) for a senior civil service position – based on competition¹⁶.

Having conceptualized the above, it is crucial to unify the legal regulation of changes in place and conditions for public servants' service and clarify cases and peculiarities of realizing the relevant transformations within the external settlement of a conflict of interest (revision of the scope of official powers, transfer to another position, etc.), taking into account guarantees and requirements enshrined for similar actions by the legislation on public service.

Turning to the definition and substantiation of prerequisites and ways of specifying the fundamental aspects of the procedure for resolving a conflict of interest, first of all, we have reason to argue that there is a legal vacuum on the way managers of persons who a conflict of interest perform specific duties with a sufficient scenario branching of the spectrum of possible situations within these legal relations, as well as on the responsibility of managers for the proper performance of their responsibilities for resolving a conflict of interest.

Thus, the analytical report on the results of assessment of effectiveness of the application of Ukrainian laws on a conflict of interest drafted within the framework of the European Union project and the development program of the United Nations Organization for Parliamentary Reform indicates that their drawback, in particular, is zero administrative responsibility for non-fulfillment or improper fulfillment by managers of the obligation to resolve conflicts of interest of subordinates, as well as for breach of requirements for the transfer of enterprises or corporate rights to the management of relevant persons. In addition, the expert team proposes supplementing the law on prevention of corruption with provisions that along with notifying the head of a conflict of interest, the person concerned has the right to inform about the measures taken to eliminate private interest. In such instance, the manager shall not make a decision on settlement of the conflict of interest within five working days – at this time, the person has the right to provide him with evidence of elimination of their private interest and, thus, independently resolve the conflict of interest¹⁷.

¹⁶ Про державну службу : Закон України від 10 грудня 2015 р. № 889-VIII (у редакції від 28 травня 2023 р.) / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/889-19#Text>.

¹⁷ Аналітичний звіт за результатами оцінювання ефективності застосування законів України про конфлікт інтересів / упор. : Б. Малишев, Ю. Зайченко, О. Баранюк, О. Базилівська. URL: https://www.undp.org/sites/g/files/zskgke326/files/migration/ua/PRP_PLS_Conflict_of_interests_UKR.pdf.

The most complete and high-quality regulation of the transfer of management of enterprises and corporate rights to public servants and persons equated to them is equally significant. Moreover, specific analytical publications emphasize that the legislation regulating the procedure for concluding contracts and their content whereby public servants and persons equated to them transfer their enterprises and corporate rights to the management of another person does not always consider the specifics of purposes these contracts are concluded for. In this regard, there is a risk that, in practice, such agreements may contain provisions that would neutralize statutory prohibitions on enterprises and corporate rights. One of the simple, convenient and effective solutions proposed by the experts is to entrust the NACP with the obligation to draw a recommended model agreement on the management of enterprise and corporate rights, which would include provisions on the impossibility of providing instructions to the trustee and would guarantee the independence of such a trustee¹⁸.

Another issue, the optimal solution of which is necessary for the more effective functioning of the mechanism for preventing and resolving a conflict of interest in terms of compliance with the proportionality principle and ensuring the sustainability of the public administration system, is the differentiation of the legal consequences of a management decision of an official or a collegial body in the context of a conflict of interest.

To date, the legal conclusion on the issue concerned by the Grand Chamber of the Supreme Court is relevant: in order to establish a violation of the decision-making procedure, the very fact of a MP's participation in the vote upon a conflict of interest (either potential or actual) is decisive, and not the impact of such a vote on the decision taken, given the presence of a qualified majority required for rendering a favorable decision by a collegial body. In other words, in the context of circumstances of the case in which the village council's decision was declared invalid due to the vote of a deputy who has a conflict of interest, whose vote was not decisive, that action of a local self-government body taken under an actual conflict of interest discredits and undermines it, and, hence, negates public confidence in local self-government bodies as a whole (Resolution of the Supreme Court (Grand Chamber) in case No. 442/730/17 as of March 20, 2019)¹⁹.

¹⁸ Аналітичний звіт за результатами оцінювання ефективності застосування законів України про конфлікт інтересів / упор. : Б. Малишев, Ю. Зайченко, О. Баранюк, О. Базилівська. URL: https://www.undp.org/sites/g/files/zskgke326/files/migration/ua/PRP_PLS_Conflict_of_interests_UKR.pdf.

¹⁹ Постанова Великої Палати Верховного Суду від 20 березня 2019 р. у справі № 442/730/17 про визнання незаконним і скасування рішення органу місцевого самоврядування. URL: <https://reyestr.court.gov.ua/Review/80854671>.

At the same time, referring to the American anti-corruption legislation, it should be noted that according to §208 (a) of Chapter 11 “Bribery and Conflict of Interest” of Title I “Crimes” of Book 18 “Crimes and Criminal Procedure” of the United States Code, it is allowed exceptions to the rule on the importance of conflict of interest for the fate of the relevant public servant, which cover the following situations:

- by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been recognized as being too remote or too inconsequential to affect the integrity of the services of the Government officers or employees to which such regulation applies;

- a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, certifies in writing that the need for the individual’s services outweighs the potential for a conflict of interest created by the financial interest involved;²⁰.

Moreover, the European Commission, in its guidance on the application of legislation on the prevention and settlement of conflicts of interest, drew attention to the decision of the European Court of Justice, which states that EU law does not exclude that a national court may declare a decision illegal solely based on bias in the award procedure, which the complainant shall not prove but which should be verified by the decision-making body. A conflict of interest entails the risk that the procuring entity may have intentions not associated with the relevant contract and, only because of this fact, preference may be given to the tenderer²¹.

Thus, in foreign countries, the legal significance of making a management decision under a conflict of interest is not absolutized from the standpoint of the relevant administrative act’s nullity or invalidity. At the same time, proving the existence of a conflict of interest in the activities of an authorized public servant shifts the burden of proving the legality of the specific administrative act, given proportionality requirements, on power entities and other interested parties.

²⁰ 18 USC 208: Acts affecting a personal financial interest. URL: <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section208&num=0&edition=prelim>.

²¹ Guidance on the avoidance and management of conflicts of interest under the Financial Regulation 2021/C 121/01 : Commission Notice of 9 April 2021 (C/2021/2119) / European Commission. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2021.121.01.0001.01.ENG.

Finally, it should be noted that a promising direction for improving the institutional and regulatory framework for preventing and resolving conflicts of interest is to expand publicity of the practical application of the relevant legislative provisions, which should contribute to the predictability of their use and strengthen public control and confidence in the anti-corruption mechanism.

It is noteworthy that, according to the conclusion of the Organization for Economic Cooperation and Development (OECD) on Anti-Corruption Reforms in Ukraine: Pilot 5th Round of Monitoring Under the OECD Istanbul Anti-Corruption Action Plan, the NACP's efforts to collect and publish information on conflict of interest are encouraging but they lack a systemic approach. The absence of central registries on gifts and conflict of interest resolutions have also impeded regular collection and dissemination of information. A systematic approach to data collection and disclosure will further enhance transparency and accountability, contributing to a high level of public trust in the NACP, which is a cornerstone for the NACP's resilience to undue pressure²².

Taking the above into account, it is necessary to share the position of the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine on the appropriateness of the legislative innovation on the mandatory publication of NACP decisions on its official website, which, in parliamentary experts' view, fully complies with general fundamentals and principles of the activities of public authorities, current laws, namely, the Laws of Ukraine "On Information" and "On Access to Public Information", as well as with guarantees of independence and the NACP's powers, in particular, on the transparency of its activities and informing the public about measures taken by the NACP to prevent corruption and implement measures aimed at cultivating negative attitude towards corruption in the minds of citizens²³.

Therefore, prospects for the development of a system for preventing and resolving conflicts of interest in the activities of civil servants and persons equated to them should cover 1) the unification of the legal regulation of changes in place and conditions for civil servants' service with the specification of cases and peculiarities of implementing relevant

²² Anti-Corruption Reforms in Ukraine: Pilot 5th Round of Monitoring Under the OECD Istanbul Anti-Corruption Action Plan / OECD. Paris, 2022. 190 p. DOI: <https://doi.org/10.1787/b1901b8c-en>.

²³ Висновок Головного науково-експертного управління у складі апарату Верховної Ради України від 10 квітня 2018 р. до проєкту Закону про внесення змін до Закону України «Про запобігання корупції» (щодо вдосконалення заходів запобігання конфлікту інтересів) № 6740. URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62315.

transformations within the framework of external settlement of conflicts of interest (revision of the scope of official powers, transfer to another position, etc.), considering guarantees and requirements established by the legislation on public service for similar measures; 2) clarification of the method of performing duties by managers of persons who have faced a conflict of interest in their activities, with a sufficient scenario branching of the spectrum of potential situations within specific legal relations, the establishment of measures for the responsibility of managers for the proper performance of their direct obligations to resolve a conflict of interest; 3) entrusting the NACP with drafting a recommended model agreement on the management of the enterprise and corporate rights, which would comprise provisions for the fulfillment of anti-corruption legislation; 4) differentiation of legal consequences for making a decision by an official or a collegial body upon a conflict of interest in order to comply with the proportionality principle and ensure the stability of the public administration system; 5) achievement of extensive publicity in the practical application of legislative provisions on the settlement of conflicts of interest, which should contribute to the predictability of their application and strengthen public control and confidence in the anti-corruption mechanism.

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