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THE RIGHT OF STATE CIVIL SERVANTS TO ENGAGE IN SCIENTIFIC, PEDAGOGICAL AND CREATIVE ACTIVITY: LIMITS AND LEGAL GUARANTEES

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Abstract. The paper examines where the legal boundary should lie between a state civil servant's entitlement to engage in scientific, pedagogical and creative activity and the need to guarantee impartiality, the absence of conflicts of interest and the priority of official duties. It is argued that the restriction on other paid activity is an element of the special public-law status of the civil servant rather than a labour-law limitation. Analysis of the Law of the Republic of Uzbekistan "On State Civil Service" reveals the absence of definitions, procedure, remuneration rules and conflict-of-interest criteria. Drawing on German and Russian models, a notification-and-control model with procedural guarantees for the servant is proposed for Uzbekistan.

Keywords: state civil servant; legal status; outside activity; scientific and pedagogical activity; conflict of interest; notification procedure; Uzbekistan.

1. Relevance of the problem

The question of external professional activity of state civil servants can no longer be answered through a binary choice between absolute prohibition and unrestricted freedom. The model of public administration that has taken shape in Uzbekistan is mixed in character: it combines the stability of the bureaucratic model with the result-orientation of New Public Management, while the transparency and accountability typical of Good Governance are still being built in. In such a model the civil servant is expected not only to execute decisions, but also to develop professionally on a continuous basis. The Law "On State Civil Service" makes the regular improvement of professional competence a statutory duty of the servant (Article 12) and treats self-education in off-duty time as one of its recognised forms (Article 42) [2].

Scientific and pedagogical work is one of the most natural channels of such development. Teaching and research oblige the servant to systematise practical experience, transfer administrative knowledge into education and bring academic findings back into public administration. Yet the same activity can generate the very risks that the civil service regime seeks to neutralise: teaching or consulting for an organisation that falls under the servant's supervision, preparing a paid expert opinion for an entity whose matters the servant decides, or using non-public official information as research material. Differentiated regulation is therefore required, one that separates socially valuable forms of outside activity from forms that undermine impartiality.

Empirical data confirm that the problem is practical rather than theoretical. In a sociological survey of civil servants that I conducted in 2024, only 29.6% of respondents regarded the mechanism for monitoring compliance with service restrictions as effective, while 28.3% were unable to assess it at all; 19.6% considered additional measures against conflicts of interest necessary and a further 32% considered them partly necessary. At the same time, 43% reported regularly performing tasks outside their job description, and only 21.7% stated that such additional work is fully reflected in their pay. The combination of weak control and insufficient remuneration creates an incentive to seek external income, which makes a precise legal framework for permitted outside activity all the more necessary.

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The central research question is therefore formulated as follows: where should the legal boundary lie between the servant's guaranteed opportunity to engage in scientific, pedagogical and creative activity and the need to ensure impartiality, the absence of conflicts of interest and the priority of official duties?

2. Legal nature of the restriction

Under Article 13(1) of the Law "On State Civil Service", a civil servant is not entitled to engage in other paid activity except pedagogical, scientific and creative activity, save for cases provided for by laws and decisions of the President; entrepreneurial activity, as well as founding or participating in business entities, is prohibited separately [2]. The construction is thus a general prohibition with a statutory exception. Notably, the exception is not formulated as a right: the catalogue of rights in Article 11 does not mention scientific, pedagogical or creative activity at all. Such activity therefore has the status of a tolerated exception to a prohibition rather than an affirmatively guaranteed entitlement.

I consider legal restrictions in the civil service to be an integral component of the servant's legal status, consisting of special requirements and prohibitions established by law in order to protect state interests and to ensure the impartiality of official activity. This understanding is consistent with the view that service restrictions derive from the public-law nature of civil service and distinguish it from ordinary employment relations; they are imperative and are directed at removing the servant from the influence of private commercial or political interests [13]. The prohibition of other paid activity is therefore not a labour-law limitation on secondary employment, but an element of the special public-law status of the civil servant.

Three consequences follow from this qualification. First, since Article 37 of the Constitution requires that restrictions on the exercise of state service be established only by law [1], the content of the restriction and of its exceptions must be defined with a degree of certainty sufficient for the servant to foresee the legal consequences of his or her conduct. Second, non-compliance with the restrictions of Article 13 constitutes a ground for disciplinary and other liability (Article 13(4)) [2]; vague boundaries of the exception therefore transfer legal risk onto the servant. Third, the status of a civil servant is a unity of rights, duties, restrictions, guarantees and liability; a restriction that is not balanced by procedural guarantees distorts that unity. The activity in question also has an autonomous value basis: States Parties to the International Covenant on Economic, Social and Cultural Rights undertake to respect the freedom indispensable for scientific research and creative activity (Article 15(3)) [10]. Accordingly, the exception for scientific, pedagogical and creative work should be understood not as a concession by the employer, but as a sphere of protected freedom whose limits are set by the requirements of impartiality.

3. Deficiencies of the current regulation in Uzbekistan

Analysis of the Law "On State Civil Service" in its current version, read together with related acts, reveals six interrelated deficiencies.

Absence of definitions. The Law does not define "pedagogical", "scientific" or "creative" activity. The Law "On the Status of the Pedagogue" defines a pedagogue as a person who has concluded an employment contract with an educational organisation [4]; consequently, private tutoring, teaching under civil-law contracts, paid online courses and corporate training fall into a grey zone and may be qualified as entrepreneurial activity. The problem is sharper with creative activity in social networks. The Law "On Informatization" defines a blogger as a natural person who places publicly accessible information on his or her website or web page [5], whereas income from advertising integrations, subscriptions, sales of goods and affiliate programmes has been recognised as a lawful form of self-employment [6]. Monetised content therefore borders directly on the entrepreneurial activity prohibited by Article 13.

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No rules on remuneration. The exception covers paid activity, yet the Law sets no criteria regarding the source, form or disclosure of remuneration, including grants and honoraria for research. The only indirect instrument is the general duty to declare income and property (Articles 12 and 20) [2], which operates after the fact and is not linked to the assessment of a particular activity.

Neither a notification nor an authorisation procedure. The Law provides no procedure for informing the employer before scientific, pedagogical or creative activity is commenced. The duty of written notification under Article 19 arises only once a conflict of interest has already occurred [2]; it is reactive rather than preventive. My observation of departmental practice suggests that this gap tends to be filled by informal requests for the head's permission, i.e. by an unregulated authorisation regime without deadlines, reasons or remedies.

No operational criteria for conflicts of interest. Article 19 contains a general definition of a conflict of interest and refers the procedure for its prevention and resolution to a separate law [2; 3]. The duty to avoid conflicts of interest is thus reproduced in Article 12, Article 19 and the special law, but none of these provisions specifies when a particular teaching, research or creative engagement creates such a conflict. This duplication of norms without operational content illustrates the problems of normative duplication and regulatory overlap described in the literature on legislative technique [15; 16; 17], and confirms the observation that service duties are often formulated declaratively, without clear legal consequences or a defined procedure for establishing a breach [14].

Working time and official resources. Article 34 establishes a five-day working week not exceeding forty hours [2], but the Law is silent on whether teaching or research may be carried out during working hours, for instance where a servant is invited to lecture at a public training institution. The general duties to use entrusted state property only for official purposes, not to use one's official position for personal purposes and to protect state and other legally protected secrets (Article 12) [2] do apply, but they are not adapted to the specific risks of research and publication, such as the use of non-public official data or of office resources for paid work.

Organisations connected with the servant's powers. Article 13 prohibits acquiring shares in organisations under the control of, or having links and interests with, the state body in which the servant works, and prohibits receiving any reward from natural or legal persons in exchange for performing or not performing official duties [2]. No comparable restriction applies to paid teaching, consulting or expert work commissioned by such organisations. This asymmetry leaves open precisely the channel through which a legitimate honorarium may turn into disguised remuneration for official conduct. Article 13 also provides that the list of paid activities in which a servant may not engage is to be determined by the specially authorised anti-corruption body and the civil service body [2]; until such a list is adopted and published, the boundary of the exception remains indeterminate.

4. Comparative perspective

Among the systems examined in my research, two models are particularly instructive because they resolve the same problem in different ways.

The Russian Federation follows a general notification model. Under Article 14(2) of Federal Law No. 79-FZ, a civil servant may, with prior notification of the employer's representative, perform other paid work provided that this does not entail a conflict of interest [11]. The model rests on the presumption of permissibility: the servant does not need consent, but bears the burden of informing the employer, and the conflict-of-interest test serves as the substantive limit. Its weakness is that it does not differentiate between types of activity and treats scientific work in the same way as any other secondary employment.

Germany applies a differentiated authorisation-and-notification model. Under the Federal Civil Servants Act (BBG), secondary activities are, as a rule, subject to authorisation (§ 99), whereas writing, scientific, artistic and lecturing activities are expressly exempt from authorisation (§ 100(1)

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No. 2) [12]. Where such exempt activity is remunerated, the servant must notify the service authority in writing or electronically before it begins, stating in particular its type and scope and the expected amount of remuneration (§ 100(2)); the authority must prohibit the activity in whole or in part if its exercise violates official duties (§ 100(4)) [12]. The German model thus combines three instruments: freedom of scientific and creative work, ex ante disclosure triggered by remuneration, and ex post prohibition subject to a clear legal test.

International standards point in the same direction. The UN Convention against Corruption calls on States to establish measures requiring public officials to make declarations regarding their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result (Article 8(5)) [8], while the International Code of Conduct for Public Officials requires that official position and public resources not be used for personal or financial advantage [9]. Against this background, the Uzbek model can be described as a general prohibition with an unconditional exception and no procedure: it provides neither the Russian presumption of permissibility coupled with notification, nor the German differentiation between activity types with a remuneration-based disclosure duty and a reasoned power of prohibition.

5. Proposed approach: a notification-and-control model

I argue that neither an absolute prohibition nor unrestricted freedom corresponds to the public-law nature of the civil servant's status. An absolute prohibition would deprive the civil service of qualified personnel and contradict the statutory duty of continuous professional development; unrestricted freedom would expose public administration to hidden conflicts of interest. The preferable solution for Uzbekistan is a notification-and-control model, in which scientific, pedagogical and creative activity is presumed lawful, the employer is informed in advance in defined cases, and restrictions may be imposed only on a statutory ground and by a reasoned decision. To this end, I propose to supplement the Law "On State Civil Service" with a separate article on the scientific, pedagogical and creative activity of a civil servant, establishing the following.

First, the right of a civil servant to engage in scientific, pedagogical and creative activity should be expressly included in Article 11, while Article 13 should retain the exception only as a boundary of the general prohibition. The Law should contain functional definitions: scientific activity (research, publication, participation in scientific events, supervision and peer review), pedagogical activity (teaching in educational organisations and training programmes under an employment or civil-law contract) and creative activity (creation of literary, artistic and other works, including those disseminated on digital platforms).

Second, a duty of prior written or electronic notification of the personnel unit should be established where the activity is remunerated (including grants and honoraria) or where the counterparty is an organisation connected with the state body. The notification should indicate the type of activity, the counterparty, its expected volume and the expected remuneration. Unremunerated publication of articles and textbooks and participation in conferences should not require notification.

Third, the activity should be prohibited in cases of a direct conflict of interest, namely where the counterparty is under the control or supervision of the state body, is in contractual relations with it, or is seeking decisions within the servant's competence. Income from advertising integrations, sale of goods and affiliate programmes on social networks should be qualified as commercial activity and prohibited, whereas authors' remuneration for scientific and creative works should remain within the exception.

Fourth, the Law should expressly prohibit the use, for the purposes of such activity, of official information not publicly available, administrative resources, state property and working time, unless the activity is assigned to the servant by the state body as part of his or her duties.

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Fifth, the servant should have the right to receive, within a period established by law, a reasoned decision of the head of the state body where the activity is restricted or prohibited; if no objection is issued within that period, the activity may be commenced.

Sixth, the servant should have the right to appeal an unjustified prohibition to a higher body, to the specially authorised civil service body or to a court. Disciplinary liability under Article 13(4) should arise only where the notification duty has been breached or the activity has been carried out despite a lawful prohibition.

6. Conclusion

The analysis shows that the current Uzbek regulation reduces the scientific, pedagogical and creative activity of civil servants to a bare exception from a prohibition, without definitions, procedure, rules on remuneration or criteria for conflicts of interest. As a result, the boundary of permissible conduct is set by informal practice rather than by law, while the legal risk rests on the servant. Normative specification of this right, through a notification-and-control model with procedural guarantees, should therefore be regarded simultaneously as a guarantee of the servant's professional development and as an anti-corruption mechanism: it keeps socially valuable knowledge within the civil service while bringing potentially conflicting outside engagements into the field of view of the employer before, rather than after, a conflict of interest arises.

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