



## How will the Legal Battle End in the Public Job: Sight of Jordan Issue

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### Abstract

*This study examined a very important issue within the framework of the public job. Conflict of interest, as an act of corruption, is considered a loose concept. Legal jurisprudence differed in defining its concept, but the salient feature of it is that it constitutes an act of a public job that calls for both disciplinary and criminal responsibility, as it constitutes a two-faced act, a criminal and a disciplinary aspect. It is necessary to define conflict of interest and its types within the framework of the public job and the elements of the crime. We concluded this study with a set of results, the most prominent of which was that the most common and dangerous conflict is the conflict between the public interest and the private interest. This condition is when the employee has a direct or indirect interest that affects the administrative decision-making process or any other administrative act. The article recommends that more details be given to the images of conflict of interests to avoid any legal lapse or loophole, which would result in the establishment of the largest possible criminal and disciplinary confrontation for this.*

### I. Introduction

The employee or the taxpayer serves him in general, and despite being a public official and charged with achieving the public interest, he, as a social being, still has material and moral goals that he seeks to achieve. He also has family and social relationships that may push him to provide assistance to his relatives and acquaintances in order to achieve a certain interest, and the relations of hostility and hatred may push

him to disrupt the interests of certain people. It is in the interest of the entity for which he works. This results in an overlap and conflict between the employee's personal and private interests on the one hand, and the public job interests that the employee must strive to achieve on the other hand, and this conflict between interests is one of the most prominent sources of corruption in the state.

All the actions of the public servant according to his functional powers must be within the limits of the public interest, away from the effects of private and personal interests, otherwise we will be facing a conflict between the public interest and the private interest of the public servant, for the private interest was and still constitutes a threat to the public interest.

The only consideration that must circulate in the mind of the public employee while he performs his job duties is to achieve the public interest without competing with any other interest. The general rule from which it is not permissible to deviate from is that priority is given to the public interest.

The importance of the subject of this study lies in the fact that serving the public interest is the primary goal of the public employee, and it must be the only consideration in his mind while he performs his job duties. Deviation from that goal and giving priority to private and personal interest over it puts in the circle of administrative corruption, which results in negative negative effects on the private interest, the integrity of the job and public trust, and stands as an obstacle to the embodiment of the principles of democracy, transparency and good governance in the state. Therefore, this study came to show the importance of objective confrontation of conflict of interests.

The study seeks to address and reflect on a very important topic, which is the conflict of interests in the public job. The problem of the subject of the study lies in the lack of clarity of the features of the actions of conflict of interests, despite the prevalence of the phenomenon of conflict of interests in the public job in Jordan, but the Jordanian legislation did not address this dangerous phenomenon as it should and did not put the necessary measures and mechanisms and ways to combat, address and manage the conflict of interests in public job. In addition to the fact that Jordanian legislation dealing with the issue of conflict of interests, despite its fewness, is scattered and scattered here and there and suffers from many gaps and deficiencies, so that it is difficult to predict the existence of a legal system, inclusive of the rules governing the conflict of interests in the public job in Jordan and the countries under study.

For the purpose of being aware of all the legal aspects of the conflict of interests in the public job and based on the nature of our study and our objectives, the researcher relied in this study on a number of different approaches such as the inductive and original approach by researching the legislation that examined the conflict of interests. In addition to the analytical approach to the legislation that dealt with the subject of the study and the opinions of some legal scholars on the subject of the study.

## II. Conflict of Interest Definition

Conflict of interests in the legal concept as one of the crimes of corruption is a term that differed in determining its nature. There are those who said the conflict of interests is a specific situation in which a public government employee, lawyer, politician or official in an institution, when performing their duties in a competitive and profitable position, becomes ineligible to perform their duties towards others fairly. And conflict of interests is achieved even if there is no evidence of an immoral use of power, it is generally an unnatural situation that destroys the confidence of individuals in that responsible person and the institution he follows in advanced societies ([Al-Zoubi, 2016](#)).

The concept of conflict of interests has not been the subject of attempts to define except recently, whether by international organizations (the European Council and the Organization for Economic Cooperation and Development OCDE) or by countries that have ratified in their legislation the laws related to conflict of interests such as Canada, Egypt and the Sultanate of Oman recently. The Organization for Economic Cooperation and Development (OCDE) defines it as:

*“Conflict of interests implies a conflict between the public mission and the private interests of a public official in which this public official has in a private framework interests that may improperly influence the manner in which he fulfills his obligations and responsibilities.”*

There are many types of conflict of interests, as they are classified according to its effect and according to the type of interest into the following:

### A. Conflict of Interests, Real or Actual

It is the direct conflict between the job duty (public interest) and the private interest or another public interest ([Hamad, 2012](#)). The general rule that cannot be deviated from and no exception is made is that all administrative decisions, without exception, must be aimed at achieving the public interest ([Khalifa, 2010](#)). But the public employee in this case stands before the fact that there is a conflict between two interests. In the first case, there is a conflict between the public interest and the private interest that pertains to the public employee, which puts him in a position that raises questions about his impartiality and integrity in his administrative behavior, that is, does he serve the public interest or serve his own interest? There is a clear and logical link between the performance of the public job and the private interest. For example, we may see an employee owning a plot of land adjacent to another plot that the public authorities are studying to include in a national park. Undoubtedly, this matter will raise the price of the public employee's real estate. Therefore, the public employee's participation in the deliberations is a real conflict of interest because there is a clear link between the impact of the public employee's participation in The administrative decision and his personal interest ([US, 1993](#)), then we are in front of a real and realistic conflict, because the public employee may

be in a situation affected by his own interest during the performance of his current duty ([Asian Development Bank, 2008](#)).

It is worth noting that some definitions, including the definition of the Organisation for Economic Co-operation and Development (OECD), coincide with the definition of a real conflict of interest, and they have the same meaning, where it is said that “the real conflict refers to the situation in which it is proven that a private interest affects the behavior of the person who exercises his job duties” ([OECD, 2019](#)).

## **B. Conflict of Apparent Interests**

It is a situation in which the employee’s own interests are naturally apparent and likely to affect the way he performs, without this being the case in reality ([Khalifa, 2010](#)). Consequently, it occurs when it appears that there is a special interest that negatively affects the public employee and makes him not neutral in the performance of his job duties. In fact, this interest is not related to the duties of the public employee and that the administrative act does not affect the private interest of the public employee, or that the interest is not sufficient to have an impact on the course of the administrative decision, but the legislator prevents the existence of an apparent conflict as he wants to eliminate the real conflict, because of their impact on The reputation of the public institution ([Faruk, 2009](#)), especially in countries that rely on the conflict of interests system as a mechanism to enhance the citizen’s confidence in the authority.

## **C. Potential Conflict**

It refers to the situation in which a person who occupies a public authority in view of his own interests, while exercising the functions of a certain public function (particularly after his appointment), which puts him in a situation of conflict of interest.

It occurs when a public official has special interests closely related to his job, so it is very natural for a conflict with the duties of the public job in the future ([OECD, 2019](#)). Consequently, these interests pose a danger to his honest and objective performance of his job duties and responsibilities, because they are a source of real and apparent conflict.

Possible sources of conflict are out-of-function activities and positions, acceptance of gifts and other benefits such as honorary titles, club membership, hospitality, business interests, family and personal relationships of the employee, debts, loans and property ([OECD, 2019](#)).

## **D. Financial conflict**

It is the conflict that occurs between the public interest and the employee’s financial interest ([OECD, 2019](#)). This type of conflict is based on a realistic expectation

(prediction) that the employee is directly or indirectly subject to gain or benefit of financial value, or to suffering or loss of financial value ([Crime and Misconduct Commission, 2019](#)). This type includes financial benefits, direct or indirect to the employee, or financial problems ([OECD, 2019](#)), it is not required to be monetary, it may be related to raising the value of a specific land ([Child, 2005](#)), or the interest is periodic income, property, additional work, debts, or it may be Sponsoring a person in official contracts and agreements, or others that guarantee future income, insurance contracts, or other interests that can be estimated with money ([OECD, 2011](#)). This type of interests constitutes a widespread threat to the integrity and objectivity of the decision and any administrative act, and it is the most important factor of conflict of interests and administrative corruption ([Faruk, 2009](#)), and financial conflict is usually treated by law more strictly than non-financial conflict, which is difficult to combat with legal rules in order to prevent it from happening ([Child, 2005](#)).

### III. Conflict of Interest Images

For a deeper understanding of the conflict of interests, we must realize that the conflict of interests is not limited to the conflict between the public interest and the private interest ([Crime and Misconduct Commission, 2019](#)), but rather includes situations in which two interests conflict so that the administrative decision process is deviated because of it. Although the most common case is the case of the influence of the private interest on the public interest, which occupies the largest share of legal treatment and is dealt with more severely in the law, although the conflict of public interests must be taken into account, at least independently, for two reasons: first, the public interest is distinguished from the private interest, and secondly, both conflicts constitute corruption, threaten the correct course of the administrative decision and pose a threat to the purity of administrative work ([Peters & Handschin, 2012](#)). Accordingly, we will discuss the conflict of interests, as well as the following:

#### A. Conflict of interests between public and private interest

Obviously, the most common and dangerous form of conflict is the conflict between the public interest and the private interest. This is when the employee has a direct or indirect interest that affects the administrative decision-making process or any other administrative act, so that it is possible to deviate the administrative act from its correct path. In this context, the employee must maintain a distance between public duty and private interests.

This interest may be a financial (material) or non-material (moral) interest, or it may be the interest of the public employee himself, the interest of his family or friends, or the interest of an institution in which he was working in return for a wage or donation for an issue he is insured for, or who is on Emotional relationship with him or any other private interest that affects administrative work. Usually,

this image is dealt with more severely by the law, and the largest share is in legal treatment and regulation ([Peters & Handschin, 2012](#)).

The Jordanian legislator stipulated in paragraph (a) of Article 148 bis of the Companies Law No. 22 of 1997 and its amendments that it is not permissible for anyone who occupies a public position to be a member of the board of directors of any public joint stock company unless he is a representative of the government or any official public institution Or to a public legal person. And it is stipulated in Article (5) of the Code of Judicial Conduct that a judge is prohibited from doing business or being a member of the boards of directors of companies and institutions or any other authority, and is also prohibited from assuming other jobs or professions.

## **B. Conflict of interests between two public interests**

The concept of conflict of interests may also apply to the general conflict of interests themselves, as the conflict is not limited to departure from the public interest, as is the case in the conflict of public interest with private interest. The conflict of interests may be represented by the conflict between two public interests, as the public employee is responsible for achieving the public interest that the legislator wanted to achieve in accordance with the rule of allocating objectives ([Khalifa, 2010](#)). There is another public interest conflicting with it, and some forms of conflict between two public interests can be counted, as follows:

1. A conflict of interest can arise when the public employee or the administration itself is responsible for achieving more than one goal or purpose. The existence of a difference in the objectives of the executive authority (and thus the different tasks assigned to the executive body) leads to the difficulty of determining the first and most important goal, and a clear step arises in sacrificing one goal for the sake of achieving another ([Peters & Handschin, 2012](#)). For example, the existence of local interests distinct from national interests ([Latif, 2007](#)).
2. A state of conflict of interest may appear in the event that the administrative institution engages in an economic activity, and on the other hand participates in the process of managing companies in which the state contributes or owns a share of its shares (the mixed sector), where the company's interest conflicts with the institution's strategy that includes the public interest in it ([Peters & Handschin, 2012](#)).
3. As for the most important case, it is the case of "combining two public jobs." The public employee here has multiple roles, such that he occupies two public jobs, and is responsible for performing two public duties at the same time, and this is the clearest form of conflict between two public interests. Therefore, the Jordanian legislator intervened and promised to combine two public positions in violation of the law according to a constitutional rule as stipulated in Article 76 of the Constitution, which states that it is not permissible to combine the membership of the Senate or the House of Representatives with public positions.

His salary is from public funds, and this includes municipal departments, as well as the membership of the Senate and the House of Representatives is not permissible, unlike the Egyptian legislator, which allowed the deputy to keep his job according to Article 107 of the 2014 constitution. And the prohibition of combining government membership with parliament membership remains in accordance with Article 164 of the 2014 Egyptian Constitution.

#### IV. Elements of the Crime of Conflict of Interest

##### A. The Supposed Corner

Exposure to this pillar requires referring to several matters to find out its truth, and to clarify the various aspects in it, and to determine the nature of the employee's specialization and powers and the importance of that and what come out of the scope of the job and its work. As well as to determine the nature of the power of attorney and the consequent performance of management work and disbursement of public funds, and in detail, it is necessary to specify the capacity of the public employee

The penal code in each country is independent of identifying and defining the persons who are considered employees, for the purposes of implementing the provisions of the law, as there are crimes that do not occur except from the employees, as the employee's capacity is an assumed element in these crimes that "in this sense fall within the category (crimes of capacity)" Which are subject to special provisions, perhaps the most important of which is that it is not imagined that he will be considered a principal actor except for those who carry that capacity required by law ([Amer, 1989](#)).

In some legislation, the definition of a public servant may be in the manner of enumerating the persons who take the status of a public servant, for the purposes of implementing the provisions of the Penal Code ([Hosni, 2012](#)).

It is pointed out here that Article 2 of the Economic Crimes Law No 20 of 2004, which is applied to the perpetrator of the conflict of interests crime as a corruption crime, considered that the word "employee" for the purposes of this law includes every job, employee or worker from the competent authority in any One of the following:

1. Ministries, departments and public official institutions.
2. The Senate and the House of Representatives.
3. Municipalities, village councils and the Joint Services Council.
4. Syndicates, federations, associations and clubs.
5. Banks, public shareholding companies and specialized lending institutions.
6. Political parties.
7. Any party whose budget is mainly supplemented by the state budget.

8. Any party whose funds are stipulated by law as public funds.

It also includes the heads and members of the councils of the bodies mentioned in items (3-8) and everyone who has been assigned a public service, with or without pay.

### **B. The Material Pillar**

The material element in the crime means all the material elements that the offender creates by his behavior, and that leads to a change in the outside world that affects the interest that is criminally protected by law and is called the materiality of the crime ([Hosni, 2012](#)). The material element of the conflict of interests' crime consists of the criminal act, the means of achieving it, the criminal result, and the causal relationship that links the act to the result. organisation. Therefore, the material element of these crimes will be discussed with the use of general rules to the extent necessary to clarify this element, with a focus on the special provisions of these crimes, in accordance with the criminal legislation researching the provisions of the conflict of interest crime in its various forms in the subject of this study and the available jurisprudential and judicial opinions on this subject. During the investigation of the criminal act and the means of achieving it, the criminal outcome and the causal relationship that links the act to the result, as the employee's obtaining personal benefits from behind the job he holds and the management transactions on which it is based are almost the most prominent picture of a conflict of interest crime, and most of the legislation agrees in the text on such a crime, it is The most prevalent image, and the most committed crime. The legal texts in different countries varied when exposed to this form of crime, and accordingly differed the nature of the activity that constitutes the material pillar of this crime, and this applied to the concept of personal benefit, and to clarify this ambiguous image in the text, complex in meaning.

### **V. Criminal behavior in the crime of conflict of interest**

The text of Article 16/A/4 of the Integrity and Anti-Corruption Law came as a traditional general text, in which there are generalities and interpretations that cannot be limited or excluded, and in addition to the ambiguity and generality of that text, the Jordanian legislator did not refer to the nature of the material activity committed by the perpetrator of that the crime. He went beyond that to the result directly, referring to the means of not disclosing or announcing the benefits, investments or properties that the employee may use with the intention of evading the text of the incrimination and moving away from the circle of suspicion and accusation.

This approach is dictated by the nature of the conflict of interests crime, and it is imposed by the impossibility of setting specific criteria and clear controls for the employee to obtain personal benefits from the work of his position.



In view of the Jordanian legislator's reluctance to explain the nature of the behavior that constitutes the material element of this crime, it is not possible to limit the actions and activities that can be considered a personal benefit to the employee. Therefore, it must be said that the crime is defined according to the consensus of criminal jurisprudence as every act or omission of an act for which the law determines a penalty or a measure. This means that every crime has an actor who commits a positive act or a negative omission, which is linked to intent and a consequence and causes harm or threatens an interest that is protected by law.

#### **A. Positive activity**

The material element of the conflict of interests crime is achieved according to Article 16/A/4 of the Jordanian Integrity and Anti-Corruption Law No. 13 of 2016 and Article 16 of the Law on Prohibition of Conflict of Interests of Egyptian State Officials No. 106 of 2013, when the offender (the employee) did not inform the presidential authority of a conflict of interests Personal with the public interest, and this would affect the performance of his duties in a way other than concluding a contract, agreement or public deal.

#### **B. Negative abstinence**

If the crime is an act or an omission that is criminalized by law, then it does not come into existence without a change that shows its effect in the outside world. The actor, and given that the employee obtains the personal benefit from his job, we find that this benefit may be achieved for the employee without showing any material activity or positive action. This is what the Jordanian legislator stipulated by the act of abstention, which represents the special nature of the act in Article 16/A/4 of the Jordanian Integrity and Anti-Corruption Law. Here, the offense, in the opinion of the researcher, takes the form of abstaining from the act because the lesson is the personal benefit, regardless of the nature of the act or omission.

The researcher believes that through the text of Article 16/A/4 of the Jordanian Integrity and Anti-Corruption Law, and by reviewing the provisions of the Jordanian Court of Cassation and the opinions of jurists, that there is no specific and objective criterion for passive abstinence by the employee, as the personal benefits that the employee obtains from his job Countless. However, the association of benefit obtaining with one of the management transactions to which the employee specifically belongs may be inferred from him that the form of abstinence has been achieved.

We can say that the personal benefit is obtained against the employee in the form of his abstaining from his silence and his reluctance to refuse any benefit related to one of the management's transactions with him. He may resort to this, according to the text of Article 16/A/4 of the Jordanian Integrity and Anti-Corruption Law, to seek the assistance of persons borrowed from his relatives or friends, so that the

employee himself does not undertake any work or material activity. Rather, the personal benefit is in his favor, regardless of the borrowed person's share of that benefit, and this is in contrast to the Egyptian legislator, who indicated that the profit may be for the benefit of others, and this is a sounder approach in the opinion of the researcher.

## **VI. The Means by Which Criminal Behavior is Achieved in the Crime of Conflict of Interest**

### **A. Non-disclosure of Financial Interests of Employees**

This case is one of the most common cases of conflict of interests, as the public employee is generally prevented from participating in an administrative work related to his financial interest directly or indirectly. The financial interest is direct if it is related to his person, and it is indirect if it is related to another person with whom he has a personal connection.

The financial interest of the public servant is the most worrying legislator with a year of civil service legislation, so he takes several precautions and procedures to separate the public and private interests, and conflict of interest laws usually require the public servant to disclose his interests ([OECD, 2019](#)), and declaring a state of conflict of interest is the responsibility of the employee Personal year, which results in the disqualification of administrative decision-making, but provided that there are negative effects on the integrity, objectivity and independence of administrative work, so it is expected according to the natural course of things ([Trost & Gash, 2008](#)).

### **B. Non-disclosure of the Practice of External Activities**

Besides the public job, a public servant may seek additional sources of income by working in other professions or for-profit business activities, or engage in non-profit activities that he performs for free. These activities may represent a potential conflict of interest ([Reed, 2008](#)). And because a public job is a mandate for its incumbent to perform a public service in accordance with the public interest, he may not exploit it for private benefit. Rather, the public employee must preserve the dignity of the public job by refraining from engaging in any work or profession that creates suspicions about his job performance ([OECD, 2019](#)), and therefore the laws gave This issue is of particular importance, as the legislator usually does not ignore this issue and restrictions are placed on the external activities of the public servant ([Basset, 2005](#)).

Common, substantive forms of prohibition on the conduct of external activities include prohibition of holding any job or undertaking any activity inconsistent with job duties, and prohibition either in whole or in part. The total ban means that the public servant cannot engage in this activity definitively, so

it is considered one of the absolute prohibitions. This restriction is considered a restriction of a wide scope that the legislator often resorts to regulate the activities of public officials with high positions in the State or to engage in business of a commercial nature, for example the Canadian Conflict of Interest Law, the public servant from practicing any profession or job In addition to the public job, even if it is not related to his job.

As for the partial ban, it is to prevent a public servant from engaging in any activity related to the work of his administrative job, whether for payment or not (41). For example, Canada prevented ministers of the crown, ministers of states, or members of Parliament from contracting with any of the public sector institutions ([Trost & Gash, 2008](#)). Some countries have prohibited the employee from engaging in certain commercial activities or the necessity of obtaining permission before practicing them.

The purpose of the ban is that these activities cause relationships that undoubtedly affect the performance of the duties of his job objectively, thus creating another loyalty to the public employee, and it must be noted that some Western laws distinguish between expressive and non-expressive activities (non-expressive) and these laws treat expressive activities more severely than non-expressive activities ([OECD, 2019](#)). For example, expressive activities give lectures, write articles, books, or memos, even if they are far from a public job, or that they cannot negatively affect the performance of his duties. In the American Ethics Reform Act 1989, very strict rules were established for these expressive activities, known as honoraria bans, which forbid a public official from accepting any honorary job (usually without pay) that requires representing a particular party and making speeches for this. Entity A is writing articles or other activities, and although this law represents a flagrant violation of the public servant's right of expression, the American legislator preferred not to harm public confidence, at the expense of the constitutional rights of the public servant, despite the fact that the legislation of this restriction was objected and criticized severely by some ([Trost & Gash, 2008](#)).

### C. Accepting Gifts

Gifts represent temptations that can undeniably affect the public servant, and thus the performance of his duties. The public servant must maintain the reputation of his job and his reputation by taking precautions against accepting gifts, bids, grants, honorary titles and others, which create a situation of conflict of interest or even raise doubts about the existence of Conflict of interest, and therefore the public servant has the obligation not to enter himself in any situation in which he might clash with a private interest ([Sakkijha, 2000](#)). many laws are concerned with regulating the issue of gifts, and determining what is acceptable and what is not ([Boyce & Davids, 2009](#)). Sometimes a gift cannot be a bribery,

but it still constitutes a conflict of interest. For example, a bouquet of flowers sent to a secretary who was cooperating does not represent a valuable gift, so that it becomes a crime of bribery, but gifts of nominal value may constitute a conflict of interest ([OECD, 2019](#)).

#### D. Information not available to the public

It is very natural for the public employee, by virtue of his responsibilities, to access information related to the activities of the administration, and he must refrain from using information that is not disclosed to the public for his own benefit, because the employee's knowledge of this information is considered trustworthiness, and using it after insulting the credibility of the government and undermining its integrity and harming the principle of public interest first ([Boyce & Davids, 2009](#)).

Exploiting information that is gained from a public job for a private benefit is an aspect of the conflict of interests ([OECD, 2019](#)), and therefore the employee may not benefit from and profit from it in any way other than the legitimate way ([Boyce & Davids, 2009](#)).

### VII. The Criminal Outcome in the Crime of Conflict of Interest

The criminal outcome is an essential element of the material pillar, and jurisprudence determines it has two meanings, material and legal ([OECD, 2019](#)).

Some jurisprudence defines the result in its physical sense as: "the change that occurs in the external world as an effect of criminal behavior ([Hosni, 2012](#)).” Others define it [Hosni \(2012\)](#) from Fiqh:

*“It is that effect, either on a person or on a thing. The effect on a person may affect his body, his psyche, his relationship with a person or thing, or his behavior, and that the effect on a thing may affect his subjectivity or his relationship with others. of things or someone.”*

As for the result, with its legal meaning, some jurisprudence defines it as “an assault on a right or interest that is protected by criminal law, which may take the form of harming a right or a protected interest or exposing it to danger.” Others of jurisprudence [Benham \(1997\)](#) see it as: “An aggression that obtains an interest or a right as determined by the law as worthy of criminal protection” ([Hosni, 2012](#)). The crime of conflict of interests entails a presumed quality of the offender, namely that he is an employee or a person in the same position; The crime does not occur without the availability of this characteristic ([Wazir, 2003](#)); The penal code is not devoid of any legislation stipulating this crime in order to protect the public office and the employee's integrity and impartiality. In this case, the Jordanian legislator stipulated that the employee obtain the personal benefit from one of the management transactions to which he belongs, regardless of the value of the benefit obtained by the employee, whether it is a direct or indirect material or moral benefit.

The Jordanian legislator also stipulated that the benefit would actually be obtained for the establishment of this form of the material pillar, provided that this benefit was obtained by the employee through non-disclosure or announcement of investments, benefits or property.

The Jordanian legislator has taken precautions about the means to which the perpetrator of these forms may resort to from the material element of the conflict of interests' crime. So, whether the employee obtains the personal benefit directly or indirectly, as stipulated in Article 16/A/4 of the Integrity and Anti-Corruption Law, which is a sound approach for the Jordanian legislator as the researcher sees, but the difficulty lies in determining the nature of the benefit or the extent to which it is achieved, which is what happens the burden of proof is on the trial court, regardless of the value of the benefit.

#### **A. The Moral Element of the Conflict of Interests' Crime**

The will is the basis of intentionality, it is the cause of the committed act and is in control of it in all stages, whether the committed act is positive or negative, as the positive act is a voluntary organic movement that the offender comes to, while the negative act is the offender's reluctance to perform an act awaited by the law in certain circumstances. If it is proven that it was possible to carry out this act and that he has a legal duty to perform it.

This means that the premeditated character of the perpetrator of the criminal act is negated in the absence of the will element. The researcher believes that the act committed in such circumstances falls under the non-intentional crimes, as the perpetrator of the act carried out the activity that caused the result, and at the same time his will did not have control over this act and he did not expect the result ([Hosni, 2012](#)).

This pillar leads us to talk about criminal intent in general, as it is the basis of this pillar. Criminal intent is knowledge of the elements of crime and a will that tends to accept these elements, that is, it is based on two basic pillars, namely knowledge and will, which is either general intent or specific intent.

#### **B. The General Criminal Intent of a Conflict of Interests' Crime**

The conflict of interests' crime is considered a premeditated (intended) crime and it cannot be imagined otherwise, as it requires criminal intent consisting of two elements: knowledge and will.

Knowledge and will are the two elements of the general intent, which is the will to commit the crime as defined by the law, and jurisprudence and the judiciary are often satisfied with the commission of this crime as one of the intended crimes is the availability of the general intent, that is, the offender's knowledge of the availability of the elements of the crime, and the direction of his will to commit the component act and achieve its result ([Hosni, 1984](#)).

In the crime of conflict of interests, the offender's knowledge is to commit an illegal act, which is a violation of the provisions of Article 16/A/4 of the Jordanian Integrity and Anti-Corruption Law and Article 3 of the Law on Prohibition of Conflict of Interests of Officials in the Egyptian State No. 106 of 2013, so he commits it Despite his knowledge of this in addition to the knowledge of the act of the assault and its place as a result that affects a right or an interest protected by law. Knowledge may require at least the offender's anticipation of the result when he commits the act ([Al-Majali, 1998](#)), and it is assumed that the offender is aware of the conflict of interests of the constituent elements of the crime and that he commits a prohibited act and a punishable offence.

As for the will of the offender in the conflict of interests' crime, it is a psychological activity that tends to achieve a specific purpose through a specific means. So the will is a psychological phenomenon that a person uses to transform it into a force through which it affects what surrounds him of people or things ([Al-Zoubi, 2016](#)), and it is necessary until the criminal intent is available to the offender as well as the availability of knowledge about the direction of the will to behavior and the result thereof. Behavior without the result lags behind the criminal intent ([Hosni, 2012](#)).

The tendency of the offender's will to give preference to private interests over the public interest, the offender must be aware that he is a public official, that he is competent, and that he is in a situation of conflict of interest, and that he did not inform the peaceful authority of that.

The tendency of the will to obtain a benefit is the essence of the general criminal intent itself. If his will is not directed to that, the crime is negated, as if a criminal intended to harm the interest of the state or the body used, due to the existence of a grudge between him and his superior or for not obtaining his rights.

The private criminal intent of a conflict of interests crime is the same as general criminal intent based on knowledge and will, but it is not limited to knowledge and will as the pillars and elements of the crime, but rather knowledge and will must extend to facts that are not in themselves of the elements of the crime or are not considered according to the law of the elements of the crime.

Since intent is a psychological phenomenon, general or private criminal intent requires the use of evidence, which is a matter subject to the authority of the subject judge. This is something that is understood in the Emirates and external appearances, but the Supreme Court has the supervisory authority over the subject judge in determining this idea, given that the criminal intent in itself is a legal issue.

## **VIII. Conclusion**

This article concluded with several results and recommendations, the most prominent of which are: first, conflict of interests in the legal concept as one of the crimes of corruption. It is a term that differed in defining its nature; second, the crime

of conflict of interests referred to in the Jordanian Integrity and Anti-Corruption Law, does not occur merely by following the criminal behavior that represents the material element of the crime, but the act should be linked to the intent so that it can be said that that act is criminalized; third, the most common and dangerous form of conflict is the conflict between the public interest and the private interest. Recommendations: first, it is necessary to work on the implementation of anti-corruption laws at all levels as a complete system in order to fight corruption, and thus reduce conflict of interests; and second, we wish the comparative legislation to provide more details of the forms of the conflict of interests' crime in order to avoid any legal lapse or loophole, which will be achieved by extending the largest possible degree of criminal confrontation of conflict of interests.

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