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REVIEW OF ANTI-CORRUPTION LEGISLATION OF THE REPUBLIC OF UZBEKISTAN AND ISSUES OF ITS FURTHER IMPROVEMENT

Abstract. The article is devoted to an analysis of legal acts of the Republic of Uzbekistan on counteraction against corruption. The article provides the classification and review of the anti-corruption legislation of Uzbekistan. The article also deliberates about the measures taken by Uzbekistan to implement relevant international legal standards into the national legal system. It considers not only the legal acts specifically aimed to prevent corruption, but also other legal acts and a wide range of other measures, which create necessary conditions and enabling environment in this regard. The author emphasizes that it is important to bear in mind that corruption cannot be reduced to a minimum or negated only by improving legal laws.

Keywords: corruption, codes of ethical conduct, anti-corruption policy and legislation, United Nations Convention against Corruption, Transparency International, public control, legal culture, e-government.

Аннотация. Статя посвящена правовым актам о противодействии коррупции. Автор дает классификацию и обзор этих правовых актов. В статье описываются меры, предпринимаемые Узбекистаном с целью реализации международных правовых стандартов, имеющих значение. В статье анализируются не только правовые акты, специально направленные на предотвращение коррупции, но также другие правовые акты и широкий спектр мер, которые создают необходимые условия и благоприятную среду в этом отношении. Автор подчеркивает, что важно иметь в виду, что коррупция не может быть сведена к минимуму или искоренена только путем совершенствования правовых законов.

Ключевые слова: коррупция, кодексы этического поведения, Конвенция ООН против коррупции, антикоррупционная политика и законодательство, Transparency International, общественный контроль, правовая культура, электронное правительство.

Аннотация. Мақола Ўзбекистон Республикасида коррупцияга қарши курашга доир қабул қилинган қонун ҳужжатларини таҳлил қилишга бағишланган. Муаллиф томонидан ушбу қонун ҳужжатларини таснифлаш, шарҳлаш ва ушбу масала моҳиятига алоқадор жиҳатлар очиб берилган, ҳамда коррупцияга олиб келадиган ҳатти ҳаракатлар олдини олишга қаратилган ҳуқуқий ҳужжатлар ва бу борадаги зарурий кенг кўламли чора тадбирлар таҳлил қилинган. Шу билан бирга муаллиф томонидан коррупция ҳолатини факатгина айнан норматив ҳуқуқий ҳужжатларни такомиллаштириш орқали минималлаштириш еки тамомила бартараф этиш мумкин эмаслиги таъкидланади.

Калит сўзлар: коррупция, БМТ нинг коррупцияга қарши кураш Конвенцияси, этика хулқ-атвор кодекслари, антикоррупцион сиёсат ва қонунчилик, Transparency International, жамоатчилик назорати, ҳуқуқий маданият, электрон ҳуқумат.

Introduction.

Corruption is one of the serious impediments for effective development of a state and represents a huge social threat. Therefore, the development of legal anti-corruption mechanisms is becoming one of the main priorities of state policy. Now, despite all the efforts made by the state, corruption has created a real threat to the national security of the country. It damages the stability and security of society, undermines the principles of good governance, the market economy and threatens the stability of state institutions. Hence, readiness for an effective fight against it is considered by the world community as the main indicator of the state's advancement, its commitment to democratic values.

In recent years, the leadership of Uzbekistan has been consistently and persistently taking necessary measures to further strengthen the rule of law to prevent the penetration of corruption into public institutions, politics and the economy.

The president of Uzbekistan Shavkat Mirziyoyev pays great attention to this issue. During his speech at the a joint meeting of the Chambers of the Oliy Majlis he stressed that “[w]e must take decisive measures to counter and prevent corruption in our society, various crimes and offences, ensure the implementation of the law on that the punishment for a crime is inevitable” [1].

Legal methods of fighting corruption should begin with the improvement of legislation. Legislative support for combating corruption is one of the most important conditions for successfully combating this phenomenon. In this regard, at the legislative level, there is a constant search for a balance of legal regulation of the most effective measures to combat this corrosion of public, state and managerial relations.

Purpose and objectives. The purpose of this scientific article is to identify the conditions for the effectiveness of legislative measures adopted in the Republic of Uzbekistan in order to combat corruption.

The objectives of the scientific article were to conduct a legal review of the anti-corruption legislation of the Republic of Uzbekistan, a comparative legal analysis of the anti-corruption legislation of the Republic of Uzbekistan and a number of foreign countries, the consideration of the basic theoretical and legal approaches to the content of the anti-corruption struggle, and the identification of conditions for the effectiveness of national anti-corruption legislation.

Methods. The main research methods were based on a complex of general scientific and special research methods, in particular, logical, comparative legal, systematic, system-structural methods and the method of analysis and synthesis.

Results and reflections. Based on the analysis of the legislation of a number of states, we can distinguish several groups of regulatory legal acts adopted in order to combat corruption:

- International legal acts;
- Basic documents that give a general idea of the understanding of the essence of the phenomenon of corruption in the country, defining the main terminology and fixing the main directions of anti-corruption policy;
- Regulatory legal acts establishing liability for corruption offences;
- Legislation on the procedure of public service, emphasizing its prestige and significance;
- Codes of ethical conduct for public servants;
- Other regulatory legal acts regulating corruption counteraction issues.

An effective legislative base has been created in Uzbekistan to combat corruption in all spheres of society. Legal foundations of anti-corruption activities in our country are contained in the Constitution of the Republic of Uzbekistan, which regulates the most important public relations. In recent years, a lot of work has been done to create a legislative, legal and institutional framework for combating corruption, ensuring transparency and openness of the society, accessibility of information and strengthening international cooperation in this field.

According to Khabrieva, T.Y. and colleagues (2012), currently, an increasingly prominent role in the legal framework for combating corruption is played by international acts, primarily international conventions of a universal and regional nature, creating conditions for the cooperation of states in this field and for harmonizing national anti-corruption legislation [2].

The Republic of Uzbekistan is an active participant in a number of UN conventions and other international organizations in the field of combating corruption and organized crime. Complying with relevant international obligations, our country consistently takes legislative, administrative and other anti-corruption measures within the framework of its legal system.

In 2008, the Republic of Uzbekistan ratified the United Nations Convention against Corruption [3]. In 2010, it joined the Istanbul Action Plan against Corruption of the Organization for Economic Cooperation and Development [4, p.4].

The country is taking steps to implement the provisions of the Convention into national legislation. Along with substantial work in this direction, it is worth mentioning the creation of an integrated anti-corruption system. **The Law of the Republic of Uzbekistan “On Combating Corruption”** is aimed at implementing

the norms of the Constitution and international legal acts. The Anti-Corruption Act, which entered into force on January 4, 2017, is serving as an important legal basis for taking comprehensive measures in this direction [5]. This law defines the legislative basis of the country's anti-corruption policy and consists of 6 chapters and 34 articles.

In order to ensure the effective implementation of the provisions of the Law "On Combating Corruption", timely and quality implementation of measures to prevent corruption in all spheres of society and the state by the Resolution of the President of the Republic of Uzbekistan "On Measures to Implement the Law of Uzbekistan "On Combating Corruption" of February 2, 2017, approved the State Anti-Corruption Program for 2017–2018 [6]. The state program provides for the implementation of more than 50 anti-corruption measures in five directions. In this regard, more than 60 ministries and departments of the republic developed and approved departmental anti-corruption plans. Under the leadership of the Prosecutor General, the Republican Interdepartmental Anti-Corruption Commission was formed, and its position was approved. The Prosecutor General's Office has been determined as the working body of the Republic Interdepartmental Anti-Corruption Commission. Currently, the Commission is working on the developing the draft of the Anti-Corruption Program of Uzbekistan for 2019-2021.

The Criminal Code of the Republic of Uzbekistan proscribes corruption as a crime [7]. Here, one should note that and this was also emphasized by professor Juravlev, V. (2016), the domestic and foreign anti-corruption practice demonstrate that strict penalties are usually effective means to eliminate corruption [8, p.88].

In the process of further improving the national legislation in the field of combating corruption, it should be noted that legal regulation should relate to two areas: preventing and controlling corruption, identifying and punishing perpetrators of related criminal activities, as well as measures to eliminate and compensate for harm. In this regard, Grib, V. and Oks, L. (2011) stressed the following measures: depriving immunities of various categories of persons, if they are accused in a corruption case, replacing income declarations of officials of various levels with expenses declaration, confiscating property, inevitability of responsibility of state employees for violations related to abuse of authority and personal use of official position, improving the work of the judicial system [9, p.83].

We note also that pursuant to the State Anti-Corruption Program for 2017–2018, the Government adopted the Resolution “On Approving the Model Rules for the Ethical Conduct of Government Employees and Local Executive Authorities” and the Implementation Plan for the implementation of this Resolution [10]. In order to establish common principles and rules of ethical behaviour, create the conditions for

the conscientious and efficient performance of official duties and prevent abuse by employees of the system of state bodies, ministries and departments number of internal by-laws have been adopted by those public bodies [11, p.22].

At the moment, the Ministry of Justice, with the support of the UNDP, has developed a draft law “On civil service”, which aims to advanced best foreign practices, which is currently being studied by state bodies [12].

In this respect, Rakhimova, U. (2019) is absolutely correct in saying that “the fight against corruption is a very complicated matter and requires a whole range of measures. Moreover, just with a salary increase, as some suggest, it is impossible to cope with corruption. Although the material support of civil servants is important” [13]. We fully agree with the opinion of Yusupov, Yu. (2019), who notes that the adoption of this law will help to create conditions for the formation of stable professional civil service personnel; streamlining the legal framework in the field of legal regulation of the civil service and the elimination of gaps and discrepancies in the legislation; prevention of corruption and other abuses in the civil service; the development of a unified system of rights, duties and restrictions related to the activities of civil servants at all levels [14]. At the same time, as I noted in my previous works (Rakhmanov, Sh. 2019), the concept of “conflict of interests” should be enshrined in this draft law, which should correspond to the definition given in the law of the Republic of Uzbekistan “On Combating Corruption”. In this regard, in order to ensure uniformity of law enforcement practice, detailed disclosure of this concept is also necessary for codes of ethics and official conduct [15].

It is relevant to note here that **the adoption of ethical codes** is a widely accepted practice in many foreign countries. In this regard, Belousov, A. and Parfenov, K. (2016) are right when they note that “In the United States, great emphasis has been placed on the prevention of corruption, which is implemented by virtue of to the “Code of Ethics of Government Service” of 1958 and the order of the President №12731 “Principles of ethics of conduct for officials and employees of the state apparatus”. Since 2003, Canada has a “Conflict of Interest and Postemployment Code for Public Office Holders”, which enshrines the norms of behaviour of civil servants aimed at minimizing the possibility of a conflict of interest in public service. In addition, in Estonia, there is the “Ethical Code of Public Service”, which regulates the rights and obligations of a public servant in the context of a conflict of interest and a number of other issues, with the aim of preventing corruption in the public service system” [8, p.32].

Bagratuni, K. and Danilina, M. (2016) also correctly point out that “One of the first countries that realized the seriousness of the problem of corruption and to

develop a system of measures to counter corruption in the 19th century was Sweden. Therefore, it is not surprising to see this country ranked third in the world, after Denmark and New Zealand, among countries with low levels of corruption. The close attention to the image of a public servant raises his high standards of morality, transparency and openness of his activities for society. The society has a very negative attitude towards corruption, which forces government officials to care of their reputation” [8, p.23].

Uzbekistan adopted a number of other regulatory acts aimed at combating and preventing corruption.

In order to improve the methodological framework for conducting anti-corruption expertise of draft legal acts, in accordance with the Law of the Republic of Uzbekistan "On normative legal acts", the Ministry of Justice approved a new edition of "Methodology for anti-corruption expertise of draft legal acts" [16]. In this regard, Rostova, O. (2016) notes that "Anti-corruption expertise or the examination of the corruption of legislation is one of the priorities in the fight against corruption." It is not only a recognized “corruption prevention tool” within the framework of the implementation of the “unified anti-corruption legal policy” of the state, but also an additional tool for ensuring the quality of acts, their greater effectiveness, contributing to the improvement of the quality of the rule-making process as a whole [17, p.22].

Agreeing with the opinion of Rostova, O. (2016), we also note the institute of Anti-Corruption Expertise of Regulatory Legal Acts is a recognized tool for preventing corruption in society, aimed at identifying and eliminating corruption-related factors in the norms of the current regional legislation. This type of expert assessment of legislation, of course, aims to improve the quality of regulatory legal acts in the framework of the implementation of a unified national anti-corruption policy of our state.

In addition, it should be noted that in order to further improve the system for assessing the impact of legislation on businesses by creating conditions for discussion on the Single Interactive Government Services Portal - www.my.gov.uz, the Cabinet of Ministers adopted a resolution “On Measures for Implementing an Impact Assessment System legislation on business” [18].

In fighting corruption, it is necessary to ensure the transparency of governance and administration, that is, to provide maximum availability of information. In this regard, the Law of the Republic of Uzbekistan “On the openness of state authorities and administration” was adopted [19]. This Law provides for the organization of the work of the information services of ministries and departments. In

all state and economic management bodies, information services function and responsible officers are appointed for access to information.

The Decree of the Cabinet of Ministers “On the implementation of a set of measures aimed at implementing the provisions of the Law of the Republic of Uzbekistan “On the openness of public authorities and management” approved a set of measures to implement the provisions of the Law, a Public Council for the coordination and monitoring of activities to ensure the openness of public authorities and control [20].

In addition, from January 1, 2016, a system for monitoring and evaluating the openness of the activities of state authorities and administrations was introduced. In all official websites of state bodies, an “Open Data” section has been created, where arrays of information providing public interest are posted and regularly updated. The Ministry of Finance regularly assesses the official websites of government agencies to ensure that individuals and legal entities have access to information about their activities, determines the ratings of ministries and departments based on this estimation [11, p.94].

The level of corruption determines the overall level of development of state and society. Hence, it is not surprising that effective practices in this area could be found in the Netherlands and Sweden. For instance, the Netherlands is providing open information on corruption cases, monitoring and controlling the activities of persons who may be subject to corruption, organizing educational seminars, the purpose of which is to inform the public officials of the negative impact of corruption, enhance the role of the media in covering cases of corruption, etc.” [8, p.23]. In Sweden, anyone can find out all the information concerning income, property, available vehicles, and even debts. The answer, if desired, will be sent by mail or via the Internet [21].

In ensuring the openness of state authorities and management, measures for the development of e-government become important. In this respect, Gromov, A. and Akendeev, Y. (2016) are correct in noting that “world experience shows that e-government is designed to combat the factors causing corruption, which means the implementation of such systems at the state level can reduce the level of corruption. Together with the improvement of e-government, the perception of corruption and the level of corruption itself decreases” [8, p.61].

Here, one should note that the Law of the Republic of Uzbekistan “On e-government” was adopted to regulate the relations in the field of e-government services base on advanced foreign experience, which also was the result of the realization of the effective influence of e-government to the level of corruption in the

country. In order to improve the current procedure for the provision of electronic public services, the Cabinet of Ministers Resolution “On Measures to Improve the Procedure for Providing Electronic Public Services” and the Regulation “On the implementation of measures to improve the procedure for providing electronic public services” were adopted. These acts provide for the analysis by government agencies and other organizations of the main causes of bureaucratic barriers, high time and financial costs in the provision of electronic public services. In addition, the Resolution of the Cabinet of Ministers "On further measures to implement the law of the Republic of Uzbekistan "On e-government" approved the Regulation “On the procedure for the provision of electronic public services through the Single portal of interactive public services and official websites of government bodies”, as well as the Regulation “On Government portal of the Republic of Uzbekistan on the Internet” [11].

We fully agree with Belsky, A. (2016), who rightly notes that “At the same time, one should not think that the implementation of the “e-government” project is a panacea for combating corruption in the activities of public servants. However, this will help minimize, and in the future, eliminate the elements of the so-called “traditional corruption” [8, p.35].

At the same time, we note that in the prevention of corruption, the adoption of the Laws of the Republic of Uzbekistan “On Administrative Procedures” [22], “On Public Procurement” [23], “On Distributing Legal Aid Information and Ensuring Access to It” [24], “On Public Control” [25], “On the protection of victims, witnesses and other participants in the criminal process” [26] is aimed at further enhancing reliable protection of private property, business entities, removing barriers stopping their accelerated development, as well as preventing all sorts of corruption crimes.

With further improvement of legislation in the field of combating corruption, it is important to take into account that **the role of the civil society in combating corruption is increasing**. This is also evidenced by foreign experience. For example, Belousov, A. and Parfyonov K. (2016) quite rightly point out that in China, citizens receive remuneration in the form of large sums of money for providing incriminating information about officials to law enforcement agencies; a hotline is in place where you can report corruption (8, p.32). Similar lines were also created in Uzbekistan [27]. In this regard, it can be noted that in many countries a set of standards have been adopted that protect the providers of this sort of information, the introduction of a system of financial incentives for citizens is also discussed.

In its turn, as Bolonkina, N. (2016) emphasizes, “this practice is applied in a number of states, it was recently introduced in Kazakhstan, and it has already proven its efficiency in the USA, Canada and South Korea” [8, p.36].

In addition to the above, various forms of dialogue with the population are being actively introduced in Uzbekistan, measures are introduced to strengthen the role of civil society and to increase legal awareness and legal culture in society. The Decrees of the President of the Republic of Uzbekistan “On measures to radically enhance the role of civil society institutions in the process of democratic renewal of the country” [28] and “On the fundamental improvement of the system of raising legal awareness and legal culture in society” [29] were adopted. Delegating the solution of a part of social problems to civil society institutions is one of the most effective means of combating grassroots corruption. However, as sociologists of law Urinboyev, R. and Svensson, M. (2017) note, there is a big difference between “law-in-books” and “living law” of the society which implies that any anti-corruption strategy should be sensitive to the legal culture of the society. In this regard, anti-corruption measures should also aim to change the legal culture [30].

This postulate is confirmed by the life practice and scientific speculations of many researchers. In particular, Davydova, Y. (2016) notes that “Public organizations are less bureaucratic and more subject to public control and could perform certain government functions, especially if they receive them after the competition and on the terms of the contract. Active cooperation of state regulatory bodies with public organizations and individuals is the key to effective social and legal control over corruption activities. It is necessary to facilitate the access of civil society institutions to objective information about the activities of officials at the legislative level” [8, p.69]. In this sense, Ivanov, S. and colleagues (2017) are correct in saying that “Punitive, criminal law methods used in all states of the world to combat various manifestations of corruption are as old as the world, but nevertheless they do not lose their relevance, as evidenced by the legislative experience of foreign states of recent years. However, the prevention of corruption in the public and private spheres, the formation of an anti-corruption culture in society play an equally important role in combating corruption [31, p.318].

Thus, the anti-corruption reform carried out in Uzbekistan will contribute to improving the country's position in the annual ranking of the international non-governmental organization Transparency International.

Describing this rating, domestic researchers Kurpayanidi, K., Ziedinova, N. and Tolibov, I. (2019) noted that, the index, which assesses 180 countries and territories on their estimated levels of public sector corruption, is estimated by experts

and businessmen to use a scale from 0 to 100, where 0 is very corrupt and 100 is very clean. In more than two-thirds of the listed countries this year the index has been estimated below 50, while the average is only 43. This shows that the continuing inability of most countries to significantly control corruption contributes to the crisis of democracy around the world. Although there are exceptions, the data show that, despite some progress, most countries cannot seriously intervene in the fight against corruption [32, p.40].

Despite the reforms aimed at combating corruption, unfortunately, Uzbekistan is listed in 158th place in this ranking [33].

The above domestic authors note that, “Countries with the least ranking are mostly African ones, and there are several Asian and South American countries also demonstrating this trend. Moreover, high results of Western countries are explained by many years of experience in fighting corruption and building democratic states with a strong civil society” [32, p.41]. Consequently, the Government of the Republic of Uzbekistan will attract international rating agencies for an objective assessment of the ongoing reforms and reforms in the country. Transparency International among them. In addition, the growth in the rating of Transparency International was included in the 2018 State Program as one of the priorities [34].

At the same time, we note that at the 20th monitoring meeting of the Istanbul Action Plan of the Anti-Corruption Network for Eastern Europe and Central Asia, the Organization for Economic Cooperation and Development (OECD) and the 24th meeting of the OECD Network Steering Group, 19th March 22 this year in Paris, a final discussion and adoption of the report of Uzbekistan in the framework of the 4th monitoring round, as well as discussion of the reports of the participating countries on the progress in implementing the recommendations, were held. Following the discussion, a monitoring report was approved, including ratings and 47 new recommendations. In particular, according to the results of monitoring, Uzbekistan received a rating on the availability of progress on all recommendations (total - 21), including full implementation - 3; execution mostly - 8; partial implementation - 10. At the same time, a negative rating of “non-compliance” was not put on any of the recommendations, which is the best result of Uzbekistan in the Istanbul Plan [35].

Conceptually, we note that anti-corruption lies in a systematic approach aimed not only at actual control and punishment but also at preventing corruption. As Kazakhstan’s researcher Ainabek, K. (2016) rightly notes, “All the above-mentioned legal acts are designed to ensure the prevention of corruption. At the same time, it is important to bear in mind that corruption cannot be reduced to a minimum or negated

only by improving legal laws. Here we need integrated approaches to identify the system of causes and ways to overcome them” [8, p.16].

In conclusion, the world experience in combating corruption shows that there are no universal methods to combat them in public authorities. In this sense, Belousov, A. and Parfenov, K. (2016) are correct in saying that, “In this context, much depends on the level of development of a country, its traditions, freedom and completeness of information, the maturity of civil society, the existing political system and other factors” [8, p.33].

Thus, it can be noted that a multi-level, multi-dimensional and systematized regulatory framework can guarantee the main ways to curb corruption. However, only the anti-corruption legislation cannot be the main element in the fight against corruption. The fight against corruption is a multidimensional phenomenon, incorporating political, legal, economic and socio-cultural aspects.

Findings.

Among the measures for the prevention of corruption and the formation of an anti-corruption legal conscience, it is possible to single out the following measures in addition to the anti-corruption legislative acts:

- further reforming the public service and improving the system and structure of state bodies, optimizing and specifying their powers;
- ensuring that the official salaries of civil servants and political figures are consistent with the extent of responsibility that they bear by virtue of their position, as well as bringing their wages into line with the level of monetary remuneration in the private sector, to the extent possible;
- training of competent personnel with knowledge of banking operations, transactions and fundamentals of professional activity in the securities market, taxes and administration;
- availability of special anti-corruption bodies;
- a balanced system of legal restrictions and prohibitions and restrictions, especially in the field of economic activity.
- revision of the sphere of state influence on the economy and social sphere, reduction of state mediation functions;
- revitalization of the real sector of the economy, development of mechanisms for removing some of the shadow economies from the underground;
- outreach and informational work with the population, aimed at conveying to the society the idea of the inadmissibility of corruption and the need to report it in all circumstances;

- stimulating public participation in the fight against corruption and the interaction of law enforcement agencies and civil society;
- improving the quality of public services, simplifying bureaucratic procedures, and translating them into electronic form;
- a change in the ethical norms and traditions prevailing in society; and, perhaps, the most important consolidation in order to solve these problems is the efforts of state bodies, private business, public organizations and individual citizens.

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(With English translation or transliteration)

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