
Some Issues of Improving Anti-Corruption Legislation in the Republic of Uzbekistan

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Abstract: This article analyzes some legal aspects of openness and public control, which are one of the most important factors in ensuring democracy and fighting corruption.

The article also examines various state anti-corruption programs, international standards adopted by governments of developed countries, as well as scientific proposals and conclusions on the implementation of international standards to combat corruption in our country.

Keywords: corruption, anti-corruption, standard, international standards, ISO 37001:2016, ISO 20400, Anti-Corruption Agency of the Republic of Uzbekistan.

Today, despite the various forms, methods and means of fighting corruption, the fight against it is extremely difficult. Governments are adopting various government anti-corruption programs, but the results are not as effective as expected.

In the ranking of the Corruption Perceptions Index for 2021, developed by Transparency International, Uzbekistan changed its position by 6 places and took 140 place out of 180 countries (146rd place in 2020, 153rd place in 2019). This figure is definitely a positive indicator compared to previous years, but it also means that we are still at the beginning of a long journey in the fight against corruption. Uzbekistan remains on the list of countries with high levels of corruption¹.

Consequently, corruption is very flexible, changes its forms and improves, skillfully exploits gaps and shortcomings in the social and legal system. According to the published data, law enforcement agencies identify 1-2% of real cases of corruption, and the number of those brought to justice is even smaller.

According to the UN, the world economy loses \$ 2.6 trillion every year due to corruption. It accounts for more than 5 percent of the world's current gross domestic product².

Today, various methods, forms and tools are used to combat corruption. In particular, in this regard, it is important to introduce international standards for combating corruption. In recent years, some work has also been done in our country to introduce international standards in the fight against corruption, and tasks for the future have been identified. For example, the state anti-corruption program for 2019-2020 also provides for measures to gradually cover all subjects of public procurement and introduce a certification system for companies in

¹ <https://www.gazeta.uz/uz/2022/01/25/corruption-index-2021/>

² Коррупцияга қарши “вакцина” қачон яратилади <http://darakchi.uz/uz/101950>

accordance with procurement (ISO 20400) and anti-corruption (ISO 37001) standards³. Also, by the Decree of the President of the Republic of Uzbekistan dated June 29, 2020, № PD-6013 “On additional measures to improve the anti-corruption system in the Republic of Uzbekistan”, was created the Anti-Corruption Agency of the Republic of Uzbekistan.

According to this, in order to prevent and combat corruption in the field of public procurement, the Agency is required to establish a requirement for the state customer to apply the anti-corruption standard ISO 37001⁴.

International standards for combating corruption in our country have been studied almost from a scientific point of view, and some articles have been published in this regard, mainly in the press⁵. Therefore, at the beginning of the article it is necessary to clarify the concepts of “standard”, “anti-corruption standard”. The word “standard” comes from the English language and means “norm”, “sample”, “size”, “model” in the Uzbek language and is interpreted as a sample, template, standard, which is the basis for comparing other similar objects⁶.

The literature and sources provide similar definitions of anti-corruption standards. In particular, one of the sources defines anti-corruption standards as a set of behavioral and legal norms, prohibitions, restrictions, obligations established for the relevant area of social activities aimed at preventing corruption, in other literature, this is described as a unified system of prohibitions, restrictions and permits, preventing corruption in this area by creating a model of behavior, forming an anti-corruption worldview and raising the general level of legal awareness and legal culture.

Thus, anti-corruption standards are exemplary methods, forms and means of preventing and combating corruption. It is clear from the above definitions that anti-corruption standards consist of a set of rules of conduct and legal norms, prohibitions, restrictions, obligations, and a single system of restrictions and permits.

Anti-corruption standards are legal or anti-corruption norms that are strict or recommendatory in relation to the subject matter of the law and what can be done, what cannot, what can be done.

One of the most popular anti-corruption standards is the international standard ISO 37001: 2016 “Anti-corruption management systems-Requirements and recommendations for application”, and it is the first international standard in the world to include an international model for creating an effective anti-corruption system in an organization.

An important aspect of anti-corruption standards is that they apply to both public administration and the private sector. For example, ISO 37001: 2016 contains requirements and guidelines for the development, implementation, maintenance, review and improvement of an anti-bribery management system and applies to: bribery in the public, private and non-profit sectors; bribery by organizations; taking bribes on behalf of the organization or by employees working for it; taking bribes on behalf of the organization or by partners acting in its favor; bribery of the organization; bribery of employees of the organization related to the activities of the organization; bribery of partners related to the activities of the organization; circumstances such as giving a bribe directly or through someone (for example, a bribe

³ Ўзбекистон Республикаси Президентининг Фармони, 27.05.2019 йилдаги ПФ-5729-сон
<https://lex.uz/docs/4355387?ONDATE2=07.07.2021&action=compare>

⁴ <https://uznews.uz/posts/korruptsiyaga-qarsi-kurasis-agentligining-maqomi-va-asosii-vazifalari-belgilab-berilmoqda>

⁵ <http://uzmarkaz.uz/uploads/2020/12/zamoatcilik-nazorati.pdf>

⁶ <https://qomus.info/encyclopedia/cat-s/standart-uz/>

provided or received by a third party)⁷.

As noted above, a number of measures have been taken to introduce anti-corruption standards in the country, and relevant tasks have been set in this regard. However, the introduction of anti-corruption standards should be done systematically. This requires, first of all, the creation of a unified legal framework for the introduction of anti-corruption standards. The adoption of the Law “On Combating Corruption”, adopted on January 3, 2017, serves as a fundamental legal basis for regulating relations in the field of combating corruption. However, this Law does not contain anti-corruption standards and norms for their implementation

Specific experience in this area has been accumulated in foreign countries. In particular, referring to the experience of the Commonwealth of Independent States, the Federal Law of the Russian Federation "On Combating Corruption" dated December 25, 2008 provides for the introduction of anti-corruption standards as one of the main measures to improve the efficiency of government agencies in countering corruption (7th Art.). It is also envisaged that one of the obligations of organizations to take anti-corruption measures is to develop and implement anti-corruption standards of the organization (Article 13.3)⁸. The Law of the Republic of Kazakhstan “On Combating Corruption” adopted on November 15, 2015 provides for the formation and implementation of anti-corruption standards as one of the measures to combat corruption (Article 6). The law also defines the concept and development of “Anti-Corruption Standards” (Article 10), the development of standards in the fight against corruption in business (Article 16)⁹. The Law of the Kyrgyz Republic “On Combating Corruption”, adopted on August 8, 2012, also provides for the introduction of anti-corruption standards as one of the main activities of state bodies and local governments to improve the effectiveness of combating corruption [Article 8)¹⁰.

In the Model Law “On Combating Corruption”, adopted on November 25, 2008, in a new version, adopted by the members of the states by the Interparliamentary Assembly of the Commonwealth of Independent States, provides for the development of anti-corruption standards in relevant areas as one of the priorities of anti-corruption legislation. This model law also provides for the development of anti-corruption standards, including the powers of the national anti-corruption body.

By the mechanism of influence, anti-corruption standards include prohibitive, restrictive, mandatory. This requires the introduction of relevant norms not only in the general normative legal acts, but also in departmental normative legal acts and internal local documents of organizations. For example, ISO 37001: 2016 requires an organization to implement a number of measures.

Specifically, the organization must develop its own anti-corruption policy, to be entered directly into the organization's internal documents, such as appoint officials to oversee the implementation of anti-corruption measures, train staff, conduct a corruption risk assessment, conduct a comprehensive screening of each candidate before hiring, reassigning or promoting, verifying the validity of their recruitment and transfer to other positions, ensuring that they meet the requirements of anti-corruption policy and management system, all kinds of other incentives (bonuses, targets, etc.) periodic reviews, to ensure that adequate safeguards are in place to prevent corruption in their application.

⁷ <https://huquqiyportal.uz/news/2020/08/07/korrupsiyaga-qarshi-standart-iso-37001-2016/536>

⁸ http://www.consultant.ru/document/cons_doc_LAW_82959/

⁹ <https://adilet.zan.kz/eng/docs/Z1500000410>

¹⁰ https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-ENG.pdf

Anti-corruption standards should be introduced not only in government agencies, but in all enterprises, institutions and organizations, regardless of departmental affiliation, ownership and management.

In developed countries, the fight against corruption is also embedded in the responsibilities of the employee in labor relations. In particular, A.Yu. Vatel argues that anti-corruption standards are an integral part of the legal status of civil servants. In this case, of course, it is not necessary to prosecute the employee criminally or administratively. Disciplinary action will also be taken against him. R.S. Sorokin also believes that the legal framework and mechanism for dismissal from public service should be developed as a measure to combat corruption. According to G.Z. Tulaganova, the laws of developed countries contain standard prohibitions and restrictions for civil servants. These measures have been shown to be effective if strictly implemented.

Based on the above, let's take a look at the labor legislation of the Republic of Uzbekistan: The Labor Code of the Republic of Uzbekistan does not indicate the grounds for terminating an employment contract in terms of combating corruption when terminating an employment contract at the initiative of the employer¹¹. Also, regardless of departmental affiliation, forms of ownership and management, an enterprise, institution, organization is in the generally accepted rules of the internal labor schedule there are no anti-corruption norms either. Our national legislation has a legal definition of “corruption offenses”, “administrative offenses related to corruption” and “corruption offenses”, but the question of disciplinary offenses related to corruption remains open.

Corruption, in the broadest sense, occurs not only in labor relations, but also in non-labor relations of the employee. Therefore, it is necessary to set anti-corruption requirements for the employee's off-duty behavior. The Model Code of Conduct for employees of the state administration and local executive bodies, approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 62 dated March 2, 2016, contains a set of general principles of professional ethics, basic rules and professional behavior. However, these rules of conduct do not set out anti-corruption requirements for the conduct of an employee outside of service.

Based on the above, can be made the following rewards:

First of all, Article 5 of the Anti-Corruption Law should include the phrase “Development and implementation of anti-corruption standards and control over their observance” as one of the main directions of state policy in the field of anti-corruption. Also, the relevant articles of this Law to introduce norms provide for measures to prevent corruption in the field of public administration (Article 19), measures to prevent corruption in the field of socio-economic development and entrepreneurship (Article 20) and corruption in the field of public procurement, development and compliance with anti-corruption standards in development of preventive measures (article 23);

secondly, the adoption of a resolution of the Cabinet of Ministers of the Republic of Uzbekistan providing for the development and implementation of anti-corruption standards for government agencies and the creation of a common legal framework for monitoring their compliance;

third, the Ministry of employment and labor relations, the Council of the federation of trade unions of Uzbekistan and the Chamber of commerce and industry of the Republic of Uzbekistan should include anti-corruption standards in the labor legislation in determining

¹¹ Ўзбекистон Республикасининг Меҳнат Кодекси <https://lex.uz/docs/142859>

the legal status of employees and their representatives;

fourth, to ensure the development and implementation of anti-corruption standards in all enterprises and institutions, regardless of their affiliation, form of ownership and management;

fifth, to provide benefits to businesses that have received international certificates for the development and implementation of anti-corruption standards;

sixth, to improve disciplinary liability for acts that have signs of corruption but are subject to administrative or criminal liability for employees working under an employment contract.

Thus, the development and implementation of national standards based on international standards is of great practical importance in the effective fight against corruption.

Иқтибослар/Сноски/References

1. <https://www.gazeta.uz/uz/2022/01/25/corruption-index-2021/>
2. Коррупцияга қарши “вакцина” қачон яратилади <http://darakchi.uz/uz/101950>
3. Ўзбекистон Республикаси Президентининг Фармони, 27.05.2019 йилдаги ПФ-5729-сон <https://lex.uz/docs/4355387?ONDATE=07.07.2021-&action=compare>
4. <https://uznews.uz/posts/korruptsiyaga-qarsi-kurasis-agentligining-maqomi-va-asosii-vazifalari-belgilab-berilmoqda>
5. <http://uzmarkaz.uz/uploads/2020/12/zamoatcilik-nazorati.pdf>
6. <https://qomus.info/encyclopedia/cat-s/standart-uz/>
7. <https://huquqiportal.uz/news/2020/08/07/korruptsiyaga-qarshi-standart-iso-37001-2016/536>
8. http://www.consultant.ru/document/cons_doc_LAW_82959/
9. <https://adilet.zan.kz/eng/docs/Z1500000410>
10. https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-ENG.pdf
11. Ўзбекистон Республикасининг Меҳнат Кодекси <https://lex.uz/docs/142859>