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SOME ANTI-CORRUPTION ISSUES

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ABSTRACT

In this article, the author discusses the negative social impact of corruption on society as an immoral phenomenon, the forms and means of counteracting it. From a legal point of view, anti-corruption standards were studied. Based on an in-depth analysis of national and international norms, conducted opinion polls, scientifically grounded proposals and recommendations were put forward to resolve existing problems and shortcomings in the field of combating corruption.

KEYWORDS: *Corruption, Opposition, Immorality, National Standards, International Norms, Legal Status, State Employee*

INTRODUCTION

Despite the various forms, methods and means of combating corruption, the fight against it is becoming extremely complicated. Governments are adopting various state programs to combat corruption, but the results have not been as effective as expected [8].

In the ranking of the Corruption Perceptions Index for 2020, developed by Transparency International, Uzbekistan changed its position by 7 positions and ranked 146th out of 180 countries (153rd place in 2019). This is certainly a positive indicator compared to previous years, but it also means that we are still at the beginning of a big road in the fight against corruption. Uzbekistan remains on the list of countries with high corruption levels.

Consequently, corruption is highly flexible, changes its form and improves, skillfully exploits the gaps and shortcomings in the social legal system. According to published data, law enforcement agencies detect 1-2% of actual corruption cases, and the number of those prosecuted is even lower [12].

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 existing gross domestic product.

Various methods, forms and tools are used to combat corruption. In particular, the introduction of international anti-corruption standards is important in this regard. In recent years, large-scale activities have been carried out in Uzbekistan on the introduction of international standards in the fight against corruption and future tasks were identified. For example, the state anti-corruption program for 2019-2020 sets measures to gradually cover all public procurement entities and to introduce a system of certification of companies following the standards of procurement (ISO 20400) and anti-corruption (ISO 37001) [3]. The Anti-Corruption Agency of the Republic of Uzbekistan was established by the Decree of the President of the Republic of Uzbekistan of June 29, 2020, No. DP-6013 "On additional measures to improve the system of combating corruption in the Republic of Uzbekistan". According to it, the Agency is required to establish a requirement for the public customer to apply the anti-corruption standard ISO 37001 to prevent and combat corruption in public procurement [4].

In Uzbekistan, international standards for combating corruption have been studied almost from a scientific point of view, and some articles have been published in the press [14; 15; 16; 17; 18]. Therefore, at the beginning of the article, it is necessary to clarify the concepts of "standard", "anti-corruption standard". The word "standard" is derived from English and means "norm", "sample", "dimension", "model" in Uzbek, and is interpreted as a sample, template, standard, which is the basis for comparing other similar objects [19].

The literature and sources provide closely related definitions of anti-corruption standards. In particular, one source defines anti-corruption standards as *a set of behaviors and legal norms, prohibitions, restrictions, obligations [20] for the relevant area of social activity aimed at preventing corruption*, while another literature describes *the creation of a behavioral model as a single system of prohibitions, restrictions and permits that ensure the prevention of corruption in this area by forming anti-corruption attitudes and raising the general level of legal awareness and legal culture [11]*.

Hence, anti-corruption standards represent 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 norms that, from a legal point of view, have an anti-corruption effect on the subject of law and are of a strict or recommendatory nature as to what can be done, what cannot 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 use" and it is the first international standard in the world to include an international model to create an effective anti-corruption system in the 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, support, analysis and improvement of the anti-corruption management system and applies to bribery in the public, private and non-profit sectors; bribery by organizations; bribery by the organization or by employees working for it; bribery by 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; such as giving a bribe directly or through someone (e.g., a bribe provided or received by a third party) [21].

As noted above, several 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 carried out systematically. First of all, it is necessary to create a unified legal framework for the introduction of anti-corruption standards. The adoption of the Law “On combating corruption” on January 3, 2017, serves as a fundamental legal basis for regulating relations in combating corruption. However, this law does not contain anti-corruption standards and norms for their implementation.

In this regard, experience 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” of December 25, 2008, provides for the introduction of anti-corruption standards as one of the main activities to increase the effectiveness of government agencies in combating corruption (7-m.). 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) [22]. The Law of the Republic of Kazakhstan “On combating corruption” of November 15, 2015, provides for the formation and implementation of anti-corruption standards as one of the measures to combat corruption (Article 6). This 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) [23]. The Law of the Kyrgyz Republic “On combating corruption” of 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 increase the effectiveness of anti-corruption (Article 8) [24].

The Model Law “On combating corruption”, adopted by the Interparliamentary Assembly of the Commonwealth of Independent States on November 25, 2008, also provides for the development of anti-corruption standards for 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.

According to the mechanism of influence, anti-corruption standards consist of prohibitions, restrictions, obligations, etc. 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 several measures. In particular, the organization should develop its anti-corruption policy, appoint officials to monitor the implementation of anti-corruption measures, train staff, conduct corruption risk assessments, conduct a comprehensive examination of each candidate before hiring, transferring to another position or promotion, to verify the validity of the transfer and transfer to another position, to ensure that they comply with the requirements of anti-corruption policy and management system, to ensure that all types of incentives (bonuses, targets, etc.) are protected to prevent corruption in their application periodic analysis to be introduced directly by the internal documents of the organization.

Anti-corruption standards should be introduced not only in government agencies, but in all enterprises, institutions and organizations, regardless of their affiliation, ownership and form of 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 notes that anti-corruption standards are an integral part of the legal status of civil servants [9]. 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 [13]. According to G.Z. Tulaganova, the laws of developed countries have standard prohibitions and restrictions for civil servants. These measures are effective if strictly implemented [10].

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 specify the grounds for termination of an employment contract in terms of combating corruption when terminating an employment contract at the initiative of the employer [1]. Also, regardless of the affiliation, ownership and forms of management, the standard rules of internal labor of the enterprise, institution, organization [7] also do not contain anti-corruption norms. Our national legislation has a legal definition of "corruption offenses" [2], "administrative offenses related to corruption" and "corruption offenses" [6], but the issue of disciplinary offenses related to corruption remains open.

Corruption in the broadest sense occurs not only in labor relations, but also in the 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 Public Administration and Local Executive Bodies, approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 62 of March 2, 2016, provides a set of general principles of professional ethics and basic rules of conduct for employees [5]. However, these rules of conduct do not set anti-corruption requirements for the conduct of an employee outside of service.

Based on the above, the following suggestions can be made: *first*, Article 5 of the Law "On combating corruption" should include the *development and implementation of anti-corruption standards* as one of the main directions of state policy in combating corruption and control over their observance, the inclusion of measures to prevent corruption in public administration by relevant articles of this law (Article 19), measures to prevent corruption in the socio-economic development and entrepreneurship (Article 20), and the introduction of norms for the development and implementation of anti-corruption standards in the development of measures to prevent corruption in public procurement (Article 23); *second*, the adoption of a decision of the Cabinet of Ministers of the Republic of Uzbekistan, which provides 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 inclusion of anti-corruption standards in the labor legislation by 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 in determining the legal status of employees and their representatives; *fourth*, to ensure the development and implementation of anti-corruption

standards in all enterprises, institutions and organizations, regardless of departmental affiliation, the form of ownership and management; *fifth*, providing benefits to business entities 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 do not provide for administrative or criminal liability for employees working under an employment contract.

Thus, the development and implementation of national standards based on international standards in the effective fight against corruption will play an important practical role in eradicating corruption.

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