

THE IMPLEMENTATION OF THE REQUIREMENTS OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION IN UZBEKISTAN

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Abstract. This article studies and analyzes the practice of the requirements of the United Nations (UN) Convention against Corruption in Uzbekistan.

Keywords: Convention, corruption, threats of corruption, selfishness, ethics, anti-corruption behavior, uncompromising environment against corruption, standard of honesty, anti-corruption education.

Introduction. As is known, it is a pressing issue today to educate employees of the national economy that “at the current stage of our country’s development, corruption is one of the most serious threats to the development of the state and society of Uzbekistan” [1]. Indeed, corruption is a serious threat that harms all of humanity, undermines the foundations of all societies, violates the rule of law, and hinders the development of democratic institutions [2].

According to the analysis, the current global cost of corruption is estimated at around 3 (three) trillion US dollars. “These large figures do not fully reflect the true situation and the exact amount of real damage caused by corruption. The worst thing is that the scale of moral damage suffered by society cannot be measured by anything” [3]. It should be rightly recognized that one of the most negative consequences of current socio-economic contradictions is the direct impact of corruption on the legality of the activities of state bodies.

As is known, the first and most important structural element of the state mechanism is a state body. The Law of the Republic of Uzbekistan “On Combating Corruption” establishes the prevention of corruption in state bodies. The protection of legal norms by the state includes the obligation of state bodies, the implementation of various organizational, organizational-technical, educational and warning measures by citizens.

These measures are given great importance in a legal state, because they create the possibility of establishing legal order in society without using the repressive apparatus of the state. Coercive measures exist in any society and are one of the methods of maintaining unity and order. With their help, a member of society is forced to fulfill his duty and observe prohibitions.

For many centuries, law and violence have been considered the same thing. “If you have a hero at your feet, you will not be called upon to another people,” there is a proverb. It is incomprehensible that the Greek goddess of justice, Themis (or the goddess of punishment, Nemesis), holds in one hand the scales on which law is measured, and in the other hand a sword, a symbol of its protection and power. According to the German jurist Iering, “a sword without scales is open violence, and scales without a sword are the weakness of law” [4].

State coercive measures used by a democratic legal state have the following characteristics: firstly, they serve to protect the interests of society and the state; secondly, they are an auxiliary, complementary method of governing society. The main method, which reflects the set of ways, methods and means of consciously forming in a person the idea of understanding, voluntarily observing and implementing legal norms, is the method of persuasion.

The Corruption Perceptions Index (CPI) released by the international organization “Transparency International” for 2023 shows that the anti-corruption activities of the countries of the world amount to 43 points, and the most regrettable is that more than two-thirds of the countries of the world have an indicator in this regard of less than 50 points[5], which indicates that human

development and security are under threat, and this shows how serious the need is to improve international and national mechanisms for preventing corruption.

Therefore, the tasks set to improve the system for assessing corruption risks that arise in the performance of tasks and functions of state bodies, introduce integrity standards in the civil service, eliminate bureaucratic obstacles and reduce the "shadow economy", and at the same time radically increase the effectiveness of corruption prevention require identifying the causes and conditions of corruption and creating an effective system for eliminating them.

A state body is a link (element) of the state mechanism that participates in the performance of state functions and has the authority to do so. A state body consists of civil servants who are in separate legal relations with each other and with the body. The status, rights and obligations of civil servants are determined by legislation, ensuring their legal status. The scope and procedure for the exercise of their powers of authority are determined by legislation and are explained in job descriptions, staff lists, etc.

Given the global nature of corruption threats in the modern world, the use of universal international legal standards that allow for the widespread promotion of effective examples of combating corruption based on advanced international experience, as well as the unification of the efforts of the international community in combating this phenomenon, primarily through the use of traditional mechanisms, is of great importance.

The convention (treaty) mechanism is part of the international law mechanism and constitutes a set of instruments and institutions that implement international law norms[6].

International standards for combating corruption are set by a number of multilateral international treaties[7]. Uzbekistan is currently a party to the UN Convention against Corruption and the UN Convention against Transnational Organized Crime.

These documents, along with other measures, establish general mandatory standards for criminalizing bribery, which are considered as a key element of the application of a comprehensive and multifaceted approach to combating bribery and corruption in general.

The realization of the relevance of the problem worldwide has given rise to the creation of an international system for combating corruption. The formation of an international legal mechanism in this area has gone through several stages, from acts on specific problems of combating corruption, the main means and tasks of combating corruption in certain spheres of state and public life, to the UN Universal Convention against Corruption (October 31, 2003).

The main document in terms of establishing international standards against corruption in the world is the UN Convention against Corruption, which is a universal international treaty that unites 186 states of the world. Since the majority of the world's states[8] have participated in the UN Convention against Corruption, its provisions have the character of universally recognized norms of international law. By joining this Convention, Uzbekistan undertakes obligations to harmonize national legislation with the requirements established therein, including from the point of view of criminalizing corruption.

Uzbekistan's accession to the UN Convention against Corruption on July 7, 2008, and to the Istanbul Action Plan on Combating Corruption, adopted in 2010 within the framework of the Organization for Economic Cooperation and Development, was an important step in creating a legal basis for combating corruption.

The provisions of Chapter 3 of the UN Convention against Corruption define the characteristics of criminal acts of a corrupt nature, therefore, in the theory of international and criminal law, such acts are called ordinary crimes, since the norms of international treaties serve as the basis for their criminalization.

Corruption is conditional, and in various scientific works it is also called differently[9], namely international crimes, transnational crimes[10].

An analysis of international standards in the field of criminal liability for passive bribery of national officials made it possible to identify the main rules aimed at creating effective means of combating corruption.

In particular, Article 15, paragraph 1, subparagraph “b” of the UN Convention against Corruption provides for the mandatory recognition as a crime of intentional acts committed by a public official in the form of extortion or acceptance, any undue advantage, personally or through intermediaries, for the official himself or for another person or legal entity to perform any act (action or inaction) in the performance of his official duties. At the same time, this Convention provides for the rules related to criminalizing other forms of passive bribery, along with criminal liability for bribery of national officials.

Thus, Article 16, paragraph 2, of the UN Convention against Corruption provides for “consideration of the possibility of criminalizing intentional acts of extortion or illicit gain committed by a foreign public official or an official of an international public organization.”

In addition, Article 21, paragraph 1, subparagraph “b” of the Convention provides for “consideration of the possibility of criminalizing offences committed by a person who directs or works for a private sector entity in the course of its economic, financial or commercial activities.”

The main requirements of the Convention are divided into three categories according to their level of obligation: mandatory requirements, which provide for the obligation to take legislative or other measures to implement them; optional requirements, which provide for the obligation to consider their implementation; and finally, voluntary measures, which are measures that States Parties wish to consider.[11]

As noted in the Legislative Guide to the Implementation of the United Nations Convention against Corruption, private sector bribery and passive bribery of foreign public officials or officials of international public organizations are not mandatory standards by their nature, but rather so-called voluntary requirements, i.e. they imply a reduced obligation of States Parties to consider their implementation, while mandatory requirements imply the unconditional inclusion of the Convention’s norms in national legislation[12].

“Soft law” norms are of great importance in the formation of international anti-corruption standards, as well as in the implementation of anti-corruption measures. For Uzbekistan, one of the important sources of “soft law” in the field of combating corruption, including from the point of view of establishing criminal liability for corruption-related crimes, is the subregional initiative - the Istanbul Action Plan against Corruption of the Organization for Economic Cooperation and Development[13].

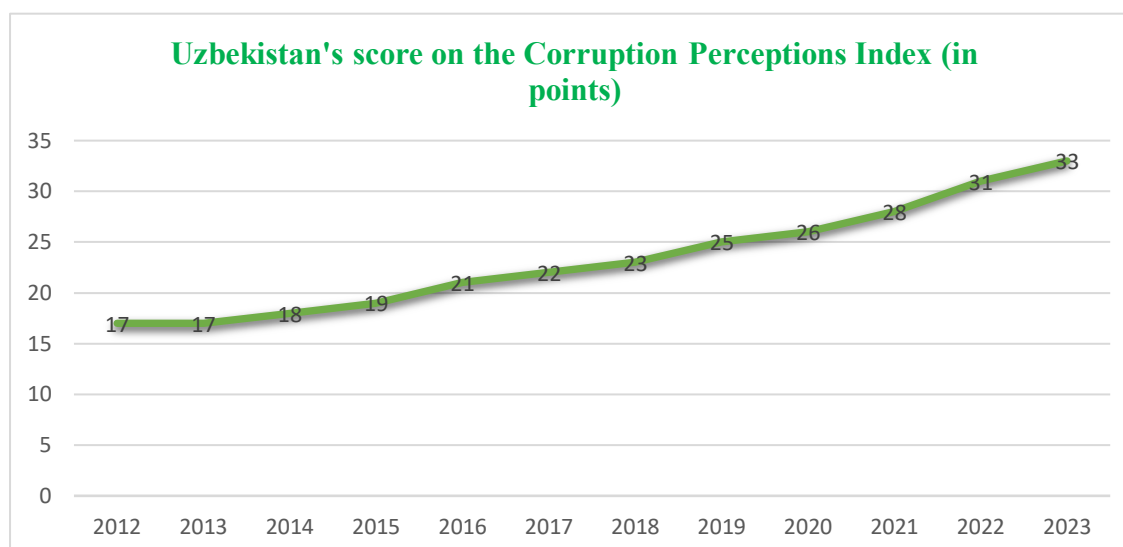
The Action Plan is not a legally binding document. The governments of the participating countries undertake political commitments to voluntarily implement the indicated directions of policy reform in this area.

The main mechanism for implementing the Action Plan is the mutual assessment of the national anti-corruption systems of the participating countries, the development of recommendations for their improvement, as well as monitoring the implementation of these recommendations.

In 2019, 47 recommendations[14] were adopted in Uzbekistan as part of the 4th round of monitoring within the framework of the Istanbul Action Plan, including recommendations on the need to introduce international standards in the field of criminalization of bribery.

An analysis of the provisions of international standards shows the importance of the set of all the main elements of the criminal offense, which are of fundamental importance in making a decision on their correct implementation in national legislation.

Since 2017, state programs and roadmaps have been approved in Uzbekistan, which determine its priority policy in the field of combating corruption and serve to increase the effectiveness of the fight against corruption, and measures in this direction are being implemented step by step.



In our opinion, the introduction of anti-corruption standards in the criminal legislation of Uzbekistan, as enshrined in international law, will determine an important direction in the fight against corruption.

Indeed, the Decrees of June 29, 2020 “On additional measures to improve the anti-corruption system in the Republic of Uzbekistan” (No. PF-6013), the Resolution “On the organization of the activities of the Anti-Corruption Agency of the Republic of Uzbekistan” (No. PP-4761), the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On approval of the Regulation on the procedure for encouraging persons who reported corruption-related offenses or otherwise assisted in the fight against corruption” No. 829 of December 31, 2020, the Decree of the President of the Republic of Uzbekistan “On measures to create an environment of uncompromising attitude to corruption, sharply reduce corruption factors in state and public administration and expand public participation in this” (No. PF-6257), and the Resolution “On additional measures to effectively organize anti-corruption activities” (No. PP-5177) was signed with the aim of transforming New Uzbekistan into a corruption-free country.

It should be noted that by the Resolution of the President of the Republic of Uzbekistan No. PP-5177, the Third State Program on Combating Corruption of our country for 2021-2022 was adopted.

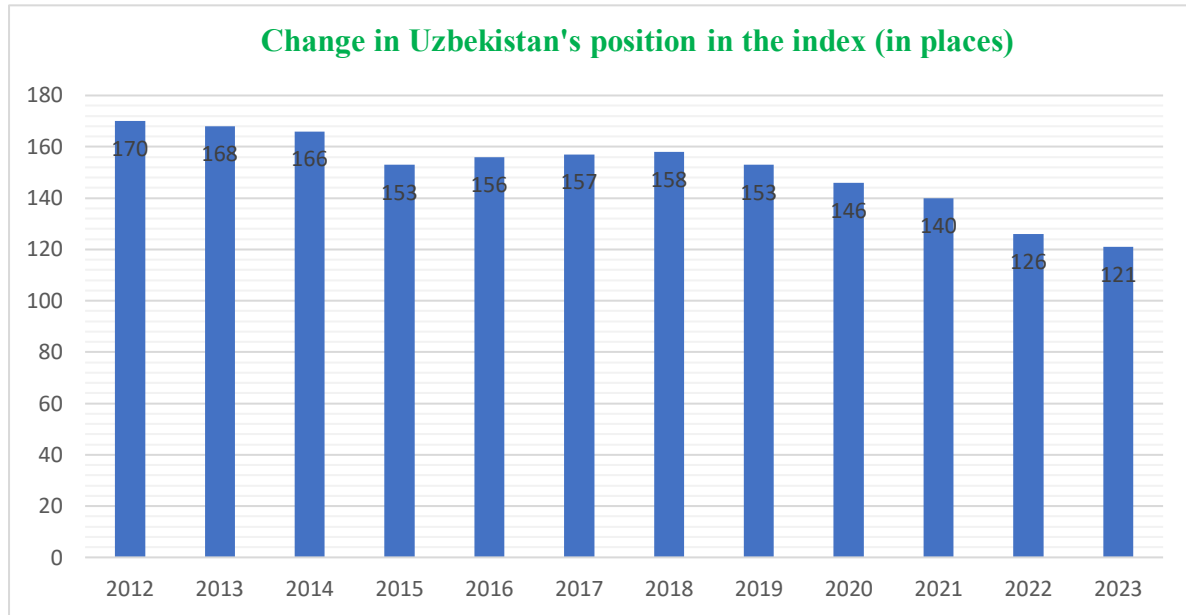
Decree No. PF-6257, in accordance with the requirements of the UN Convention against Corruption (2003), established a clear list of articles in the Criminal Code that fall under the category of corruption-related crimes, increased the penalties for corruption-related crimes to long-term imprisonment, established liability for illegal gain identified during the declaration of income and property, and established restrictions on the application of mitigating norms in serving criminal sentences against persons who committed corruption-related crimes.

In Uzbekistan, which has entered a period of fundamental reforms in recent years, a consistent fight against corruption, a universal human evil that hinders progress, is being waged. The fight against corruption has risen to the level of state policy.

On January 30, 2024, the international organization Transparency International published the Corruption Perceptions Index for 2023. According to its results, Uzbekistan has consistently improved its position in the index, taking 121st place out of 180 countries with 33 points.

(Diagram-1 and 2):

annual grade point average



It should be noted that, in accordance with the 89th goal of the Decree of the President of the Republic of Uzbekistan No. PF-158 “On the Strategy of Uzbekistan - 2030” dated September 11, 2023, it is necessary to increase the effectiveness of the system for eliminating corruption factors, to create a positive image in society. Target indicators aimed at forming an uncompromising attitude towards corruption have been set. These are: [15].

To achieve an increase of at least 50 points in the Corruption Perceptions Index published by the international organization “Transparency International”;

To achieve a 2-fold reduction in violations of the requirements of legislative acts on public procurement;

To fully implement public control to prevent cases of embezzlement of funds and exceeding the market value of goods and services when conducting public procurement through direct contracting;

To ensure that 100% of regulatory legal acts are developed on the basis of corruption-free legislation.

Let's talk about another important document. Decree of the President of the Republic of Uzbekistan No. PF-200 dated November 27, 2023 “On measures to further improve the system of combating corruption and increase the effectiveness of the system of public control over the activities of state bodies and organizations” was adopted.

The decree expanded the list of publicly available information to 5 (from 35 to 40). Including:

Information on the single online queue of pilgrims waiting in line for the Hajj events in the regions (date of entry of the pilgrim’s application into the queue, serial number in the list and type of pilgrimage);

Information on the queue (list) of applications submitted for admission to a state preschool educational organization (date of entry of the application into the queue, serial number in the list, age group and organization number);

Internal departmental procedure of the procurement commission (regulation, regulation, instruction or other internal departmental document) determining the procedure for conducting public procurement in state bodies and organizations;

Information on vacancies (in central, regional and system organizations), conditions for employment, requirements for candidates and documents that must be submitted;

Information on grant and social order projects provided by state bodies and organizations to non-governmental non-profit organizations, including information on the winning non-governmental non-profit organizations and their reports on the work performed within the framework of the order;

Also, this Decree approved the State Program for Combating Corruption for 2023-2024. The State Program set 30 tasks in 9 areas. All of the following are aimed at ensuring the implementation of the requirements of the United Nations Convention against Corruption (2003) in Uzbekistan and this is of great importance in transforming Uzbekistan into a corruption-free country.

The UN Convention against Corruption (2003), which allows us to combat corruption on a global scale, is aimed at ensuring the priority of preventive measures in defining and implementing anti-corruption policies in countries around the world. The adoption of the UN Convention against Corruption is a clear demonstration of the international community's commitment to preventing and eradicating corruption. The Convention is a strong reminder that corrupt individuals will no longer be tolerated if they fail to live up to the trust of society. The Convention reaffirms the importance of integrity, respect for the rule of law, accountability and transparency in promoting development and in working to improve the world we live in for the benefit of all.

The UN Convention against Corruption, Chapter 2, Article 6, paragraph b, entitled "Measures to prevent corruption", sets out the task of "expanding and disseminating knowledge on corruption prevention issues". In December 2018, the 4th round of monitoring was conducted, as a result of which a number of new recommendations were made. The fact that Recommendation 23 of the monitoring report, among others, recommends "ensuring continuous training and professional development on issues of combating corruption and instilling moral integrity and honesty among prosecutors, as well as developing relevant training materials with a practical focus in this regard and introducing them into the training process" also indicates the urgency of the issue. The need for widespread use of anti-corruption education in the fight against corruption is emphasized in the laws and decrees of the President of the Republic of Uzbekistan aimed at improving the quality of legal education, increasing the legal literacy of employees of state bodies and other organizations, raising legal culture in society, and improving the activities of law enforcement agencies.

Science-based education and awareness are the theoretical basis for combating corruption. The role of statistical data in anti-corruption education is invaluable. Statistical data plays an important role in clarifying the state, nature, scale, changes and trends of corruption. It serves to increase the effectiveness of the implementation of state policy in the field of combating corruption.

So far, there are not enough textbooks and manuals on the problem of corruption in our country. Therefore, the adoption of the Law of the Republic of Uzbekistan "On Combating Corruption" of January 3, 2017[16] is of great importance.

In accordance with the requirements of this law, work has begun on the creation of monographs, textbooks and manuals on the problem of corruption.

There is a huge amount of literature published in the world on corruption problems. This serves as a full-fledged foundation for the creation of new textbooks and manuals on this subject. Textbooks and manuals on the problem of corruption actively influence the formation of anti-corruption legal awareness, legal culture and legal thinking, and provide scientific and practical legal and economic knowledge.

Starting from the 2021/2022 academic year, a new master's degree program in the specialty 70420126 - "Fighting Corruption and Compliance Control" has been opened at Tashkent State Law University, a special curriculum has been developed and approved by the Ministry of Higher Education.

This master's degree program is new in the republic and allows you to train qualified specialists for internal control structures operating in state organizations.

Starting in 2019, full-time and part-time cadets and students of the Academy of the Ministry of Internal Affairs will be taught the subject "Prevention of corruption in internal affairs bodies and formation of anti-corruption behavior among employees", and starting in the 2021/2022 academic year, "Organization of the fight against corruption" will be taught to students of the Master's degree program 70420401 - organizational-tactical management, and "Anti-corruption and compliance control" to students of the Master's degree program 70420402 - organizational-strategic management, based on a special curriculum.

The Decree of the President of the Republic of Uzbekistan No. PF-60 dated January 28, 2022 "On the Development Strategy of New Uzbekistan for 2022-2026" [17] creates the basis for taking the necessary measures to increase the role of civil society institutions in the socio-economic development of the country, strengthening effective relations between the population and government bodies.

As set out in the 83rd goal of the New Uzbekistan Development Strategy, "Implementation of integrity standards in the civil service," the gradual introduction of a system of declaration of income and property of civil servants and the creation of effective mechanisms to prevent conflicts of interest in the civil service, ensuring transparency in anti-corruption activities, and expanding public participation will serve to increase the effectiveness of our efforts. The fact that the 84th goal of the Development Strategy of the New Uzbekistan, entitled "Identifying sectors and industries prone to corruption, increasing the effectiveness of the system for eliminating corruption factors, and forming an uncompromising attitude towards corruption in society," [17] also indicates how urgent and urgent the publication of our textbook is.

The study of the problem of corruption as a negative socio-political, economic and legal phenomenon in society is especially relevant.

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

firstly, our retrospective analysis has shown that corruption is a manifestation of the desire for money and power, which has made it possible to substantiate the idea of the inextricable link between corruption and power, as well as the impossibility of completely eliminating bribery and embezzlement (it is not without reason that the Russian Federation magazine "Money and Power" was published);

secondly, our monographic studies made it possible to establish that the political stability, national and economic security of states in different periods of historical development are directly related to the effectiveness of measures taken by the state apparatus to combat corruption and abuse;

thirdly, based on the results of our studies, it is necessary to cite many examples that identify a high level of corruption as the main factor that led not only to economic decline and collapse of the state system and countries in general, but also to the spiritual crisis and immorality of man;

fourthly, it is necessary to establish that an effective fight against bribery and embezzlement of public funds is possible only through the application of a complex set of measures that are an integral part of the correct criminalization of all forms of corruption, and it is necessary to determine the proportional types and amounts of punishments for their commission;

fifthly, it is necessary to substantiate historical situations in which, despite the existence of rules and norms of punishment against the widespread spread of corruption, corruption was partially an integral element of public administration;

Sixth, it is time to analyze the role and importance of religion in combating corruption, which is reflected in all world religions, to study and promote the potential of religious education and its impact on the state of corruption crimes;

Seventh, it is necessary to accelerate the creation of books on the positions of ancient Eastern thinkers and statesmen who put forward progressive views on corruption for their time, and to encourage authors;

Eighth, it is necessary to actively study and promote the role and importance of universal international legal standards in forming a national model of combating corruption;

Ninth, it is necessary to systematically improve national organizational and legal mechanisms to ensure the correct implementation of the provisions of international treaties after their ratification (accession);

tenth, to clarify the essence and content of the main legal term called "International Anti-Corruption Standard", to accelerate the implementation of current international standards, primarily the requirements of the UN Convention against Corruption, into national legislation;

eleventh, to establish a process of identifying the main inconsistencies and differences between the provisions of international standards that establish the relevant requirements of national criminal legislation and to coordinate work in this regard;

twelfth, to clarify that over the past six years, based on the conducted analyses, there has been a clear global and regional trend of introducing generally recognized international standards in the field of criminalization of corruption into national legislation;

thirteenth, to conduct a comparative study of the structures of norms providing for liability for passive bribery in foreign countries, to identify and analyze their characteristic features that differ from similar norms of the Criminal Code of Uzbekistan.

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