

DOI: <https://doi.org/10.5281/zenodo.10904479>

INTERNATIONAL AND NATIONAL LEGAL FOUNDATIONS AND MODERN TRENDS OF THE INSTITUTION OF COMPLIANCE CONTROL IN THE PREVENTION OF CORRUPTION

Nabiyev Bexruz Nodir o'g'li

Huquqni muhofaza qilish akademiyasi magistranti

bexruznabiyevanticor@gmail.com

ABSTRACT

Currently, early detection, prevention and combating of corrupt situations, as well as elimination of the causes and conditions that create conditions for them, in particular, prevention of conflict of interests, formation of an intolerant attitude towards corruption are important in the bodies and organizations, their territorial and structural divisions. The introduction of preventive measures against corruption is considered to be of great importance. In particular, as a result of the reforms implemented in preventing and fighting corruption at the international level, preventive measures against corruption are entering not only state bodies and organizations involved in it, but also the private sector. This, of course, shows the relevance of preventive measures against corruption.

Keywords: *Corruption, corrupt offense, conflict of interest, bureaucracy, legal loopholes, institutional structures, international standards, preventive measures, compliance-control institute.*

АННОТАЦИЯ

В настоящее время в органах и организациях важное значение имеют раннее выявление, предупреждение и противодействие коррупционным ситуациям, а также устранение причин и условий, создающих для них условия, в частности предотвращение конфликта интересов, формирование нетерпимого отношения к коррупции. , их территориальные и структурные подразделения. Внедрение профилактических мер против коррупции придает большое значение. В частности, в результате реформ, реализуемых в области предотвращения и борьбы с коррупцией на международном уровне, профилактические меры против коррупции проникают не только в государственные органы и организации, участвующие в ней, но и в частный сектор. Это, конечно, показывает актуальность превентивных мер против коррупции.

Ключевые слова: *Коррупция, коррупционное правонарушение, конфликт интересов, бюрократия, лазейки в законодательстве, институциональные структуры, международные стандарты, превентивные меры, институт комплаенс-контроля.*

ANNOTATSIYA

Hozirgi kunda korrupsiyaviy holatlarni barvaqt aniqlash, olidini olish va unga qarshi kurashish hamda ularga sharoit yaratib berayotgan sabab va shart-sharoitlarni bartaraf etish, xususan manfaatlar to'qnashuvini oldini olish, korrupsiyaga nisbatan muhosasiz munosabatni shakllantirishda davlat organlari va tashkilotlarida, ularning hududiy va tarkibiy bo'limlarida korrupsiyaga qarshi preventiv choralar joriy etilishi katta ahamiyatga ega hisoblanadi. Xususan, xalqaro miqyosida korrupsiyani oldini olish va unga qarshi kurashishda amalga oshirilayotgan islohotlar natijasida korrupsiyaga qarshi preventiv choralar nafaqat davlat organlari va uning ishtirokidagi tashkilotlarga, balki xususiy sektorga ham kirib bormoqda. Bu, albatta, korrupsiyaga qarshi preventiv chora-tadbirlarning dolzarbligi ko'rsatib turibdi.

Kalit so'zlar: *Korrupsiya, korrupsiyaviy huquqbuzarlik, manfaatlar to'qnashuvi, byurokratiya, huquqiy bo'shliqlar, institutsional tuzimlar, xalqaro standartlar, preventiv choralar, komplayens-nazorat instituti.*

INTRODUCTION

According to the information given by UN Secretary General A. Guterres, cases of receiving and giving bribes in the amount of 1 trillion dollars take place every year on a global scale. Every year, the world economy loses more than 2.6 trillion US dollars due to corruption, which is 5% of the world's gross domestic product.¹

As for the development history of the anti-corruption compliance-control institution, the compliance-control system was first established in the USA in 1906. The need for this was connected with the establishment of companies and corporations aimed at ensuring security in the country's economy.

Today, according to the official data of the international law firm "Baker and McKenzie" in 2019, the anti-corruption compliance control system has been implemented in its companies in more than 150 countries.

Disputes with large companies from the second half of the last century to the present day (Daimler, Siemens (Germany) Odenbrecht, Petrobras (Brazil), Samsung Group, Hyundai Motor Co. (Republic of Korea), BAE Systems (Great Britain), Baker Hughes Inc., Panalpina World Transport (USA), etc.) fighting corruption in the private sector required a radical reform of the systems.

For example, 1 billion of Great Britain alone. This system, established in more than 800 corporations and banks with a capital of pound sterling, has been evaluated as a comprehensive protection against various corruption risks and is now widely used due to its effective aspects.

¹ Corruption is costing the global economy \$3.6 trillion dollars every year" 2018. [Электрон манба]. URL: <https://www.weforum.org/agenda/2018/12/the-global-economy-loses-3-6-trillion-to-corruption-each-year>.

In France, all corporations and banks with a capital of more than 800,000 euros are required to implement anti-corruption compliance control systems.¹

Foreign practice shows that in all countries based on the laws of the market economy, in accordance with modern management methods in the field of combating corruption, one of the most important preventive tools that ensure effective functioning is the introduction of a compliance-control institution in its structure.

METHODS

In conducting this study, we used several methods of conducting legal research. In particular, the research was carried out in a combined form of scientific and purely legal research methods. The norms of international law, the Constitution of Uzbekistan and legal documents, as well as other practical materials related to the research topic served as a source. The opinions and conclusions expressed by specialists and scientists of the Republic of Uzbekistan and foreign countries, in particular, the views of the compliance-control institute, as well as formal-legal, logical, comparative-historical and historical-legal analysis methods were widely used.

RESULTS

In researching the international standards and national legal frameworks and modern trends of the compliance-control institution in the prevention of corruption, we achieve the following results:

- Making proposals for our national legislation by analyzing the development history and modern trends of the compliance control institution in preventing corruption;
- Improving the national legal framework of the compliance-control institute; Improvement of the mechanisms of implementation of the compliance-control institution;
- Implementation of its norms into our national legislation by discussing the international standards of the anti-corruption compliance-control institution;
- Discussing the modern trends of the compliance-control institute and researching the issues of its application in the private sector.

DISCUSSION

The concepts of compliance, compliance control (Compliance control) mean consent, compliance and activity in accordance with clearly defined rules, standards and instructions.²

¹ Training manual on the compliance control structures of the anti-corruption agency <https://anticorruption.uz/uz>

² Ivanov E. Anti-corruption compliance in BRICS countries// Антикоруptionный комплаенс-контроль в странах БРИКС//Монография. -М.: Юриспруденция, 2015. – с.9. [Электрон манба]. URL: <http://files.sudrf.ru/774>.

The explanation of the concept of compliance-control is not available in our national regulatory legal documents, but this concept was first introduced in the decree of the President of the Republic of Uzbekistan No. 5729 “On measures to further improve the system of combating corruption in the Republic of Uzbekistan”. concept and paragraph 3 of the decision No. 5177 “On additional measures to effectively organize anti-corruption activities” and the decision of the Director of Anti-Corruption Agency No. 3319 registered by the Ministry of Justice “On Anti-Corruption used as internal control structures in the order “On approving the model regulation on the activity of internal control structures”.

At the same time, the interpretation of the concept of compliance-control structure, their legal status is not defined in our national legislation. But based on existing foreign research and experience, the concept of compliance-control can be defined as follows.

Anti-corruption “compliance-control” system - which ensures that the activities of state bodies and business entities, banks and the private sector are organized in accordance with international standards in the field of fighting corruption, laws and other regulatory legal documents, risks of corruption and an effective system that includes a number of preventive measures, such as the timely detection and elimination of conflicts of interest, the reporting of violations of the law and corruption.¹

Therefore, the anti-corruption “compliance-control” system in state bodies, organizations with state participation, as well as in the private sector, in accordance with international standards, normative and other normative legal documents, is the reason for early detection of corruption risks, their prevention, and the opportunity for them. and elimination of conditions, in particular, prevention of conflict of interests, is an effective system that combines several preventive measures.

According to the President's Decree No. PF-6013 dated June 29, 2020 “On additional measures to improve the anti-corruption system in the Republic of Uzbekistan”, one of the main tasks of the newly established anti-corruption agency 2020 In 2021, it was decided to gradually introduce anti-corruption internal departmental control systems in all state and economic management bodies, state enterprises and enterprises with a state share in the charter capital, including banks.

¹ Fight against corruption. Textbook // Responsible editor: A.SH. Bekmurodov: - Tashkent: "Akademiya", 2022.-344b.

In paragraph 3 of the President's decision No. 5177 “On additional measures to effectively organize anti-corruption activities”, the internal control systems are to identify and prevent corruption cases early, eliminate their causes and conditions, was appointed responsible for taking measures to prevent conflicts of interest and form an intolerant attitude towards corruption.

In accordance with the practice of countries with effective experience in implementing the compliance control system, the following two models of this service are most widely used:

1. The activities of the company and the organization are focused only on the organization in accordance with the established internal laws and regulations. In this case, the implementation of the compliance service is limited by the minimum rules.

2. The organization of the compliance control system is based on the recommendations of international organizations (recommendations of the Basel Banking Committee, International Compliance Association) in the assessment of corruption risks, and in this model, the status, function, scope of the compliance service is based mainly on international standards and recommendations.

According to the opinion of Bahodir Ismailov, Doctor of Legal Sciences, Director of the Anti-Corruption Research Center of the Academy of Law Enforcement, and Sardor Mamanov, Doctor of Philosophy in Legal Sciences, Head of the Department of Corruption Prevention and Compliance Control of the Anti-Corruption Agency as a different aspect of these two models, in the first model, the company or organization establishing the compliance control system is regulated by existing legal norms or internal rules developed by itself and is limited to the minimum requirements for implementation, and in the second model, he expressed an opinion that the organization of activities should be implemented not only on the basis of national legislation, but also on the basis of international standards and recommendations of organizations. In this form, it will be possible to introduce additional preventive rules that correspond to the risks of corruption, which are not provided for in the domestic legislation.

This experience is distinguished by its effectiveness and corresponds mainly to the practice of countries with large economic potential, such as the United States, Great Britain, Germany, and China.

It is also important that in most foreign countries, the compliance control system is regulated by a separate legal document. For example, in the USA “Foreign Corrupt Practices Act, 1977”, “Sarbanes-Oxley Act, 2002”, “Dodd-Frank Act”, 2010). At this point, the Slovenian legislation aimed at regulating this area is unique. In particular,

the Law “On the Slovenian sovereign holding Act, 2014” adopted on April 26, 2014 defines the status and powers of the compliance control system.

The peculiarity of the law is that it addresses the issue of personnel in the compliance service (**compliance officer**) and provides a clear rule and procedure for informing about violations related to corruption within the company (**whistleblowing policy**).

The implementation of the practice of compliance control system in the anti-corruption legislation of the Republic of Uzbekistan is one of the main tasks defined in this field in the Decree No. In order to strengthen measures to fight against corruption in enterprises and organizations with a state share in the charter fund, the task of implementing the compliance control system and systematic monitoring of its effectiveness was determined.

Based on the decree, starting from 2019, within the framework of the implementation of the project of the UN Development Program “Fighting corruption in Uzbekistan through effective, accountable and transparent management institutions”, in cooperation with the Prosecutor General's Office, the Ministry of Justice and other interested agencies, the state share in the charter fund will be 100% or 50% International audit with the participation of international audit companies “White and Case” (USA), KPMG (Italy) on the implementation of compliance control system as an experiment in the activities of economic entities whose activities are integrated with the foreign market above % tender processes were conducted.

Today, the processes of project implementation are being carried out in the system of “Uzbekneftgaz” and “Uzkimyosanoat” joint-stock companies and the Ministry of Justice of the Republic of Uzbekistan.

It should be noted that based on the effectiveness and effectiveness of the compliance control system, which is widely used internationally, in preventing the risks of corruption, the Ministry of Construction of the Republic of Uzbekistan, the Ministry of Higher and Secondary Special Education, the Ministry of Health , as well as government organizations such as Tashkent city hokimiy, Tashkent region hokimiy, Mirzo Ulugbek district and Boka district hokimities are implementing the project as an experiment.

Also, on March 15, 2020, at the initiative of the General Prosecutor's Office of the Republic of Uzbekistan, the Ministry of Internal Affairs of the Republic of Uzbekistan, the Ministry of Transport, the Ministry of Preschool Education, the Ministry of Energy, the Ministry of Employment and Labor Relations, the Ministry of Agriculture, the State Customs Service In cooperation with 9 state agencies such as the Ministry of Internal Affairs and Communications, in order to further improve anti-

corruption efficiency in these areas, the procedure for introducing a compliance control system was agreed upon and the “Roadmap for further improvement of the fight against corruption for 2020” was approved.

It should be said that today, in the practice of foreign countries, the gradual implementation of the compliance control system in the public and private sector shows that the study of this field is relevant in all respects.

It is generally recognized in the field of increasing the accountability and transparency of the activities of state bodies and organizations, strictly observing the rules of professional ethics by employees and reporting and resolving conflicts of interest in the performance of official duties, fighting against corruption. implementation of international standards and positive foreign experience and other priority results.

The legal basis for introducing a compliance-control system to organizations with state participation is the Decree of the President of the Republic of Uzbekistan No. PF-5729 "On measures to further improve the anti-corruption system in the Republic of Uzbekistan", Appendix 1 of this decree Clause 21 of (State Program in 2019-2020) to strengthen anti-corruption measures in organizations with a state share in the charter fund, including:

Introduction of “**compliance control**” system to combat corruption and monitoring of its effectiveness;

The task of establishing a certification procedure in accordance with the relevant anti-corruption standard (ISO 37001) is defined.

At the same time, in paragraph 3 of the Presidential Decree No. 5177 “On additional measures to effectively organize anti-corruption activities”, starting from October 1, 2021, all state bodies and organizations, including Karakalpag The Council of Ministers of the Republic of Estonia, regional and Tashkent city administrations have established the task of establishing internal control structures against corruption within the framework of existing state units. In paragraph 4, part 2 of this decree, the Anti-Corruption Agency, together with the Ministry of Justice, is instructed to implement the task of approving the model regulation on the activity of internal anti-corruption control structures within two months by the director of the agency by order No. 3319 the approved model regulation “On approval of the model regulation on the activity of anti-corruption internal control structures” was developed.

Anti-corruption compliance oversight institutions are very important organizations that must adhere to international standards. These standards, produced by international organizations such as Transparency International, provide guidance and assistance in various aspects unique to the fight against corruption.

The following international standards are recommended for anti-corruption compliance oversight institutions:

UNODC Anti-Corruption Forums: Forums organized by the UNODC for different living conditions provide the opportunity to identify and discuss anti-corruption efforts and supportive international assistance.

Anti-Corruption Partnerships: Partnerships against corruption that operate with additional independence and cooperation between international organizations, governments, and regulatory authorities are expected to be organized and supported.

Anti-Corruption Strategies: Develop anti-corruption strategies to identify and prevent corruption. These strategies encompass anti-corruption legislation and regulations, awareness and external communications.

Transparency International and Other Mutual Support Mechanisms: Transparency International and its mutual support mechanisms, particularly Transparency International monitoring and evaluation indices, can assist in evaluating and monitoring success in anti-corruption efforts according to international standards.

OECD Anti-Corruption Partnerships: Organizations such as the OECD, as well as Egmont, military, and law enforcement agencies, can serve as important platforms for organizing and supporting efforts to combat corruption.

Interpol and other international police and security organizations: Provide services for investigating corruption, extraditing corrupt officials, and enhancing international police cooperation.

International standards and organizations play a crucial role in ensuring cooperation in the fight against corruption. They provide assistance in understanding laws and regulations, learning best management practices, identifying and protecting against corruption, and aiding in recovery efforts.

CONCLUSION

Therefore, the urgency of introducing the compliance-control institution and its importance in preventing corruption, in particular, the international standards of the compliance-control institution, national legal bases, the legal status, rights and obligations of the compliance-control institution, the history of its development, modern trends and private prospects of introducing an anti-corruption compliance-control institute in the sector were discussed.

Nevertheless, it is considered possible to face several problems related to the compliance-control institution.

Firstly, although the institution of compliance-control has been introduced in Uzbekistan to prevent corruption, the concept of compliance-control is not reflected in our national legislation. In addition, no separate normative legal document has been

adopted on the legal status of the compliance-control institute, its powers, rights and obligations.

Secondly, there is no regulation on the procedure of service and recruitment of candidates in the compliance control system.

Thirdly, the institution of compliance control in preventing corruption is limited to implementation only in state agencies and organizations with state participation, this system has not yet been implemented in the private sector. However, it has been a long time since the introduction of the foreign experience compliance control system in the private sector.

Fourthly, the legal basis for regulating the activities of the compliance-control institute has not been improved. As long as the legal basis of this system is not improved, it is very difficult to show a sufficiently effective result in preventing corruption.

Fifth, there is a lack of qualified personnel working in the anti-corruption compliance control system. Of course, it is necessary to form the base of personnel working in this system based on the experience of foreign countries.

List of used literature:

I. Normative legal documents:

1.1 Decree of the President of the Republic of Uzbekistan No. 5729 “On measures to further improve the system of combating corruption in the Republic of Uzbekistan”;

1.2 Decision the President of the Republic of Uzbekistan No. 5177 “On additional measures to effectively organize anti-corruption activities”;

1.3 Decision of the Director of Anti-Corruption Agency No. 3319 “On Anti-Corruption used as internal control structures in the order “On approving the model regulation on the activity of internal control structures”;

1.4 President's Decree No. PF-6013 dated June 29, 2020 “On additional measures to improve the anti-corruption system in the Republic of Uzbekistan”.

II. Textbooks and training manuals:

2.1 Fight against corruption. Textbook // Responsible editor: A.SH. Bekmurodov: - Tashkent: "Akademiya", 2022.-344b.

2.2 Ivanov E. Anti-corruption compliance in BRICS countries// Антикоррупционный комплаенс-контроль в странах БРИКС//Монография. -М.: Юриспруденция, 2015. – с.9. [Электрон манба]. URL: <http://files.sudrf.ru/774>.

III. Internet sources used:

3.1 <https://www.scholar.uz.google.com>

3.2 <https://www.lex.uz>

3.3 <https://www.norma.uz>

3.4 <https://www.weforum.org>