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MODERN TENDENCIES OF THE “COMPLIANCE-CONTROL” SYSTEM
AGAINST CORRUPTION IN THE PRIVATE SECTOR

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ABSTRACT

The fact that the scale of corruption-related crimes in the world is increasing year by year indicates that it is necessary to improve the organizational and legal foundations of the "compliance-control" system in this field. According to the analysis, the global damage of corruption is about 3 trillion US dollars, of which about 1 trillion US dollars is caused by giving and receiving bribes. At the global level, up to 25% of public procurement funds are lost due to corruption. On the other hand, the fact that this number is 5% of the world's gross domestic product indicates that the fight against corruption remains in a negative state. In Uzbekistan, consistent measures are being taken to introduce a system based on advanced international standards for the prevention of corruption and an uncompromising fight against it. At this point, the introduction of "compliance-control" structures as one of the systems that have a positive effect in preventing corruption risks among all state bodies and organizations is of particular importance.

АННОТАЦИЯ

Тот факт, что масштабы преступлений коррупционной направленности в мире с каждым годом увеличиваются, свидетельствует о необходимости совершенствования организационно-правовых основ системы «комплаенс-контроля» в этой сфере. Согласно анализу, глобальный ущерб от коррупции составляет около 3 триллионов долларов США, из которых около 1 триллиона долларов США приходится на дачу и получение взяток. На мировом уровне до 25% средств госзакупок теряется из-за коррупции. С другой стороны, тот факт, что эта цифра составляет 5% мирового валового продукта, указывает на то, что борьба с коррупцией остается в отрицательном состоянии. В Узбекистане принимаются последовательные меры по внедрению основанной на передовых международных стандартах системы предотвращения коррупции и бескомпромиссной борьбы с ней. На данном этапе особое значение приобретает внедрение структур «комплаенс-контроля» как одной из систем, оказывающих положительный эффект в



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предотвращении коррупционных рисков среди всех государственных органов и организаций.

ANNOTATSIYA

Dunyoda korrupsiyaga oid jinoyatlar ko'lamini yildan-yilga ortib borayotganligi ushbu sohada "komplayens-nazorat" tizimining tashkiliy-huquqiy asoslarini takomillashtirish lozim ekanligidan dalolat bermoqda. Tahlillarga ko'ra, hozirda korrupsiyaning dunyo miqyosidagi zarari 3 trillion AQSH dollariga yaqin miqdorni tashkil qilmoqda, uning salkam 1 trillion AQSH dollarini aynan pora berish va olish holatlari tashkil etadi. Bunda, global miqyosda korrupsiya tufayli davlat xaridlari fondlarining 25 foizgacha qismi yo'qotiladi. O'z navbatida, ushbu raqam jahon yalpi ichki mahsulotining 5 foizini tashkil etishi korrupsiyaga qarshi kurashish ishlarining salbiy holatda saqlanib qolayotganligidan dalolat beradi. O'zbekistonda korrupsiyaning oldini olish va unga qarshi muvofiq ravishda kurashishning ilg'or xalqaro standartlarga asoslangan tizimini joriy etish bo'yicha izchil choralar ko'rilmogda. Bu o'rinda, barcha davlat organlari va tashkilotlari kesimida korrupsiyaviy xavf-xatarlarni oldini olishda ijobiy samara berayotgan tizimlardan biri sifatida "komplayens-nazorat" tuzilmalari joriy etilishi alohida ahamiyat kasb etmoqda.

Keywords: Corruption, corruption risks, conflict of interest, international standards and recommendations, private sectors, "compliance-control".

Ключевые слова: Коррупция, коррупционные риски, конфликт интересов, международные стандарты и рекомендации, частный сектор, "комплаенс-контроль".

Kalit so'zlar: Korrupsiya, korrupsiyaviy xavf-xatarlar, manfaatlar to'qnashuvi, xalqaro standartlar va tavsiyalar, xususi sektorlar, "komplayens-nazorat".

INTRODUCTION

According to the information of the official site of the **Anti-Corruption Agency**, The Executive Order of the President of the Republic of Uzbekistan dated June 29, 2020 "On additional measures to improve the system of combating corruption in the Republic of Uzbekistan" In accordance with Decree No. 6013, the Anti-Corruption Agency is to organize the implementation and effective operation of the anti-corruption internal control system based on the international means of combating corruption in state and economic management bodies, enterprises with a state share in the charter capital, including banks. , monitoring, as well as rating their activities in this field. For information: internal anti-



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corruption control structures take measures to identify and prevent corruption cases in state bodies and organizations, eliminate their causes and conditions, prevent conflicts of interest and form an uncompromising attitude towards corruption. is responsible for rice. Also, according to the Decision of the President of the Republic of Uzbekistan dated July 6, 2021 “On additional measures to effectively organize anti-corruption activities” PQ-5177, on July 1, 2021 From October, all state bodies and organizations, including the Council of Ministers of the Republic of Karakalpakstan, within the existing state units in the regions and Tashkent city administrations, have established the task of establishing anti-corruption internal control structures.¹

Also, if we look at the results of the work carried out by the Anti-Corruption Agency in the direction of introducing an internal anti-corruption control structure in the activities of state agencies:

- As of July 1, 2023, anti-corruption internal control structures consisting of **1,340 state units** were launched in **94 state organizations**, including banks;
- On the basis of international standards, 10 internal departmental anti-corruption documents and the Model Regulation “**On the activity of internal anti-corruption control structures**” regulating the activities of these structures were developed and applied to the activities of state organizations;
- With the participation of foreign experts, more than **1,000 employees** of internal control structures of state organizations were provided with training, and **555 (47%)** of the former employees were trained in advanced training courses according to the **ISO 37001** standard and received a certificate Internal control against corruption (compliance) 4 methodological manuals on system implementation were published;
- As of 2023, 33 state organizations and 1 private bank have received the **ISO 37001:2016** international standard certificate “**Anti-Corruption Management System**”. For information: based on the recommendation of international experts, the organization's acquisition of this certificate is one of the factors that will ensure the country's priority in international rankings, increase its investment attractiveness, and ensure the influx of investors.

METHOD

In conducting this study, we used several legal research methods. In particular, the research was conducted in a joint form of scientific and purely legal research methods. International standards and recommendations, Uzbekistan’s regulatory and legal documents

¹ The official site of the Anti-Corruption Agency is an open database, [Electronic source] <https://anticorruption.uz/en>



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related to this field, advanced experience of foreign countries and other practical materials related to the research topic served as a source. Opinions and conclusions expressed by specialists and scientists of the Republic of Uzbekistan and foreign countries were discussed, formal-legal, logical, comparative-historical and historical-legal analysis methods were widely used.

RESULTS

In the study of the modern trends of the “compliance-control” system in the field of combating corruption in the private sector, we achieve the following results:

- Analysis of international standards and recommendations on the anti-corruption “compliance-control” system for the private sector;
- To study the rules of international standards and recommendations, which are defined as a mandatory requirement for increasing the efficiency of the “compliance-control” system;
- Researching the modern trends of the “compliance-control” system based on the advanced experience of foreign countries;
- Analyzing the prospects of introducing an anti-corruption “compliance-control” system in private sector activities in Uzbekistan on the basis of international standards and recommendations and advanced experience of foreign countries.

DISCUSSION

In recent years, the issues of fighting corruption and its prevention in our country have risen to the level of state policy, and a number of measures are being defined in state strategies and programs. In particular, the purpose of Decree No. PF-158 No. 89 of the President of the Republic of Uzbekistan on the strategy “Uzbekistan – 2030” dated September 11, 2023 is to increase the effectiveness of the system for eliminating corrupt factors, to continue the work of forming an uncompromising attitude towards corruption in society. to continue, which includes achieving an increase of at least 50 points in the Corruption Perception Index published by the international organization “Transparency International” as one of the performance indicators of the goals to be achieved by 2030.²

Also, “By the Decree of the President of the Republic of Uzbekistan No. PF-200 dated November 27, 2023, the state program for combating corruption for 2023-2024 was approved. It includes the prevention of corruption in the fields of public administration, public service, administrative procedures, implementation of public procurement, socio-economic development and entrepreneurship, judicial system, improvement of the

² Decree No. PF-158 of the President of the Republic of Uzbekistan dated 11.09.2023 "On the Uzbekistan-2030 Strategy".



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institutional basis of fighting corruption, raising the legal consciousness and legal culture of the population, Measures aimed at forming an intolerant attitude towards corruption in society and strengthening international cooperation in the field of fighting corruption were determined.”³

Based on the decision of the President of the Republic of Uzbekistan No. PQ-5177 dated 06.07.2021, based on the requirements of the international standard ISO 37001:2016 "Anti-corruption management system", more than 100 state bodies and organizations of our republic have internal anti-corruption control structures. was introduced in more than 200 organizations, an anti-corruption internal control ("compliance-control") system was introduced, and today 41 organizations have received the ISO 37001:2016 international standard certificate for combating corruption. At the same time, consistent measures are being taken to introduce a system based on advanced international standards to prevent corruption and fight against it uncompromisingly. At this point, the introduction of "compliance-control" structures as one of the systems that have a positive effect in preventing corruption risks among all state bodies and organizations is of particular importance. In particular, 791, 4 bln. 149 persons and 74 officials were brought to disciplinary liability by law enforcement agencies as a result of financial violations of more than soums. Such factors indicate that the need to research and improve the organizational-legal, scientific-theoretical foundations of the "compliance-control" system, which is becoming a topical issue in the national practice of fighting against corruption, is one of the most urgent scientific issues in the near future.⁴

It has been determined that the negative factors of the spread of corruption among the private sectors lead to a decrease in the competitiveness of the national economy, the quality of public administration, undermine the foundations of free competition, and threaten the political stability and security of the country. With the spread of corruption, the business environment and the quality of corporate governance deteriorate, the reputation of companies decreases, and their investment attractiveness decreases. In addition, negative selection occurs in the markets of goods and services, monopoly and protectionism are growing. According to the rationale, corruption in the private sector undermines democratic values, legal nihilism, money laundering, and lack of accountability for crimes seriously harm the interests of society and the state, as well as the rights of citizens. These factors, of

³ *Decree No. PF-200 of the President of the Republic of Uzbekistan dated 27.11.2023 "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"*

⁴ *"Improving the organizational and legal foundations of the "compliance-control" system in the field of combating corruption" Doctor of Philosophy in Legal Sciences S. Mamanov, dissertation, Tashkent-2024, page 4.*



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course, make prevention of corruption in the private sector of urgent importance. The most effective preventive measure in the fight against corruption in the private sector is the “compliance control” system.

A number of standards and recommendations aimed at international legal regulation of the “compliance-control” system in the field of combating corruption in the private sector have been adopted. These standards focus on timely detection of corruption risks in the activities of state and economic management bodies, state-owned enterprises, banks and private sector participants, their prevention, openness and transparency, and internal departmental includes issues of timely elimination of corruption offenses by improving control mechanisms.

The following standards and recommendations aimed at international legal regulation of the “Compliance-control” institute can be indicated:

- United Nations Convention against Corruption;
- Standards and recommendations adopted by the Organization for Economic Co-operation and Development;
- “Combating Bribery of Foreign Public Officials in International Business Transactions”;
- “Good Practice Guidance on Internal Controls, Ethics and Compliance”;
- “Global principles of combating corruption. Guidance.”
- “Global Principles for Combating Corruption” developed by “Partnering Against Corruption Initiative”;
- “Compliance and the compliance function in banks The Basel Committee on Banking Supervision” adopted by the Basel Committee;
- **ISO 37001:2016** “Anti-bribery management systems” international standard
- **ISO 37001:2021** “Compliance management system” - recommendations and requirements for use.

Now we will explain one by one these international legal standards and recommendations aimed at regulating the “compliance control” system. One of the most basic and important standards aimed at regulating the “Compliance-Control” system is the “Anti-Corruption Convention” of the UN. This Convention was adopted by the General Assembly of the United Nations on October 31, 2003 at the United Nations Headquarters in New York. The convention includes a wide range of measures and recommendations aimed at taking preventive measures at the national level or strengthening cooperation between countries in the field of prevention. The United Nations Convention Against Corruption (UNCAC) is the first binding global instrument to combat corruption. **Every 5 years,**



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UNCAC member states must review the implementation of the main chapters of the convention. The purpose of this convention is to encourage, facilitate and support international cooperation in preventing and combating corruption, including asset recovery; support for the honesty, responsibility and proper management of state affairs and public property.⁵

With the adoption of the UN convention in the field of combating corruption, the measures to combat corruption were strengthened not only in state bodies, organizations with state participation, but also in the activities of private sector participants. For example, in **Article 12** of this convention “**Private sector**”, in **Article 21** “Extortion for bribery in the private sector”, in **Article 22** “Theft of property in the private sector”, in **Article 39** “National authorities and the private sector o Articles such as cooperation between” specify recommendations on the identification of corruption risks and the implementation of preventive measures for their prevention. **Article 12** of this convention states that “Each State Party shall, in accordance with the fundamental principles of its domestic law, take effective, proportionate and dissuasive measures to prevent corruption in the private sector, strengthen accounting reporting and internal auditing standards, and, where appropriate, to prevent non-compliance with these measures.” determines the procedures for setting civil-legal, administrative or criminal penalties”. This UN convention sets out a number of recommendations to prevent corruption in state agencies, state-owned organizations, and the private sector, as well as to eliminate the causes and conditions that cause it.

As we can see, in the UN Convention against Corruption, introduction of internal departmental control mechanisms in any organizations (state agencies, state-participated organizations, private sectors) in order to identify corrupt offenses, put an end to them, and prevent conflicts of interest. the issue is fixed. This standard shows that the implementation of internal control “compliance-control” structures in any organization's activities in the field of combating corruption, especially in the private sector, is of great importance and relevance.

In our opinion, it is appropriate to introduce this standard both in the public sector and in the activities of the private sectors, because the indicator of corruption offenses and conflict of interests is considered to be very important in the activities of the private sector as well as in the activities of the public sector. In addition, the requirements of this standard envisage implementation both in the activities of state agencies and in the activities of the private sector.

⁵ *The Law of the Republic of Uzbekistan dated July 7, 2008 "On the Accession of the Republic of Uzbekistan to the United Nations Anti-Corruption Convention (New York, October 31, 2003)"*



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What does the implementation of the “compliance-control” system in the field of combating corruption in the private sector in Uzbekistan give and what are its prospects?

First, the implementation of the “compliance control” system in the field of fighting corruption in the private sector in **Uzbekistan serves** not only to fight against corruption, to prevent conflicts of interest, but also to determine the reputation of organizations (**companies, corporations**) in the international arena. Because internal control structures have been introduced in any organizations of developed foreign countries. In addition, not one, not two, but about ten international standards and recommendations set strict requirements for the introduction of internal control structures in the fight against corruption.

Secondly, the introduction of internal control structures in the private sector is not only related to the perspective of the private sector, but to strengthen the position of the country in the internationally recognized ranking and indices (**Transparency International**) on the perception of corruption also leads to shrinkage. Because one of the necessary conditions for having positive positions in these indices is the introduction of internal control structures in the activities of organizations (**state agencies, organizations with state participation, private sectors**). In particular, in the process of studying the experience of foreign countries, all of the countries that have won high places in these international indexes (**for example, Scandinavian countries, Great Britain, France, the USA, Malaysia**) regardless of the form of ownership (state agencies, state-owned enterprises) organizations, private sectors) we can see the introduction of internal control structures and their positive results.

Thirdly, in our opinion, the country’s high ranking in international rankings helps to increase its investment attractiveness and the influx of investors and its expansion. Because before investing in a certain country, every investor analyzes its legal system, opportunities, preferences, rights and obligations and, of course, the level of corruption in the country. The reason is that these factors determine the perspective of the investor. The introduction of internal control structures in the activities of organizations serves as one of the necessary factors to strengthen its place in the international ranking and increase its importance.

CONCLUSION

In our opinion, it is appropriate to introduce internal control structures in the activities of the private sector in Uzbekistan not based on its authorized capital, but based on the amount of its turnover. Because in the conditions of Uzbekistan, the procedure of introducing internal control structures depending on the authorized capital of the private sector leads to a reduction of the authorized capital in order to avoid the introduction of the



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internal control system by its founders. In addition, our dissertation topic envisages the implementation of the “**compliance-control**” system not in the activities of the small and medium private sector, but in the activities of the large (giant) private sector, that is, the annual turnover of goods is **500 billion**. it is proposed to introduce an internal control system for the activities of the private sector (Artel, Korzinka, Evos, Feed up, Samsung,) that exceed soums.

Above, having analyzed about **10 international standards and recommendations**, each of them provides specific mechanisms for assessing corruption risks in private sector activities, combating it and dealing with it without compromise, in particular, preventing conflicts of interest, norms are defined as mandatory requirements. However, there is still no specific normative legal document or a specific chapter or part of the normative legal document aimed at preventing corruption in private sector activities in Uzbekistan, dealing with it intolerantly, especially the conflict of interests. Therefore, it is recommended to implement into the national legislation the norms defined as mandatory requirements in international standards and recommendations in the field of combating corruption in private sector activities. It is also proposed to adopt a separate regulatory legal document “On combating corruption in the private sector” based on the rules of international standards and recommendations in the field of combating corruption in the private sector.

Based on the experience of the **USA**, mandatory requirements aimed at preventing corruption in the activities of the private sector established in its legislation, in particular **1) state agencies with the private sector; 2) development of a separate normative-legal document** aimed at regulating relations between the private sector and state officials in the field of combating corruption, or the Law “On Combating Corruption” in the Law “On Combating Corruption” fight against” chapter, and it is recommended to include the rules defined as a mandatory requirement in it. Because we do not have any regulatory document aimed at regulating the relations between the private sector and state agencies and public officials in the field of fighting corruption.

Also, it is recommended to improve the mechanisms of implementation of the “**Compliance-control**” system in **sports activities**, especially in football activities. The reason is that now, in sports activities, especially in the field of football, the assessment of corruption risks and its prevention, and the elimination of conflicts of interest are becoming more important than ever. Preventive measures such as prevention of corruption, elimination of conflicts of interest, reporting of corrupt offenses are included in the function of the “compliance-control” system.



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List of used literature

I. Normative legal documents:

1.1 *“Decree No. PF-158 of the President of the Republic of Uzbekistan dated 11.09.2023 “On the Uzbekistan-2030 Strategy.”;*

Decree No. PF-200 of the President of the Republic of Uzbekistan dated 27.11.2023

1.2 *“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”;*

1.3. *The Law of the Republic of Uzbekistan dated July 7, 2008 “On the Accession of the Republic of Uzbekistan to the United Nations Anti-Corruption Convention (New York, October 31, 2003).”*

II. Textbooks and training manuals:

2.1 *“Improving the organizational and legal foundations of the “compliance-control” system in the field of combating corruption” Doctor of Philosophy in Legal Sciences S. Mamanov, dissertation, Tashkent-2024, page;*

2.2 *The official site of the Anti-Corruption Agency is an open database.*

III. Internet sources used:

3.1 [Interet resource] URL: <https://www.scholar.uz.google.com>

3.2 [Interet resource] URL <https://www.lex.uz>

3.3 [Interet resource] URL <https://www.norma.uz>

3.4 [Interet resource] URL <https://www.weforum.org>

3.5. [Interet resource] URL <https://anticorruption.uz/en>

