



ANTI-CORRUPTION EXAMINATION OF DRAFT NORMATIVE-LEGAL ACTS IN THE REPUBLIC OF UZBEKISTAN: LEGAL REGULATION

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ABSTRACT: - This scientific work was prepared as part of the preparation of a dissertation for the degree of Doctor of Philosophy (PhD). The author has consistently reviewed the legal acts adopted in the Republic of Uzbekistan, which have become fundamental in the field of anti-corruption expertise, as well as contributing to the further reform of this institution. Also, proposals were put forward to improve the mechanisms for conducting anti-corruption expertise of draft legislation in the Republic of Uzbekistan.

KEYWORDS: Anti-corruption screening, projects of normative legal acts, corruption, normative-normative legal acts fight against corruption.

INTRODUCTION

Success in the fight against corruption largely depends on the timely identification of the causes and conditions that create opportunities for the development of corruption. Accordingly, the fight against corruption requires the development and application of systemic measures at many levels (political, informational, economic, legal, etc.). Taking into account the ability to

identify and eliminate corruption-related factors at an early stage, one of the main places in the fight against corruption rightfully belongs to the anti-corruption examination of draft regulatory normative legal acts. As the President of the Republic of Uzbekistan noted, "From eliminating the consequences of corruption we should move on to her early warning" [1].

**"ANTI-CORRUPTION EXAMINATION OF DRAFT NORMATIVE-LEGAL ACTS IN THE REPUBLIC OF UZBEKISTAN: LEGAL
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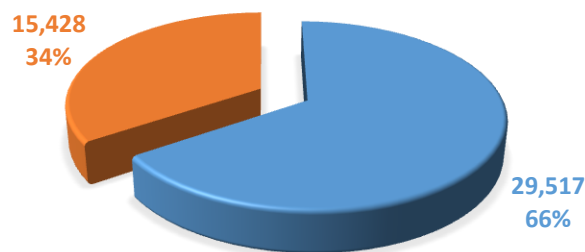
The ongoing large-scale reforms in the country, the daily desire to improve the quality of life of the population, without fail imply the improvement of the legislative framework and the rule-making process itself. In our opinion, the fundamental beginning in the process of social and economic development of the state is the prepared and adopted regulatory normative legal acts (NLA), which must unconditionally be of high

quality, and even more so be adopted in a format that excludes the slightest possibility for the appearance of corruption.

The Main Findings and Results

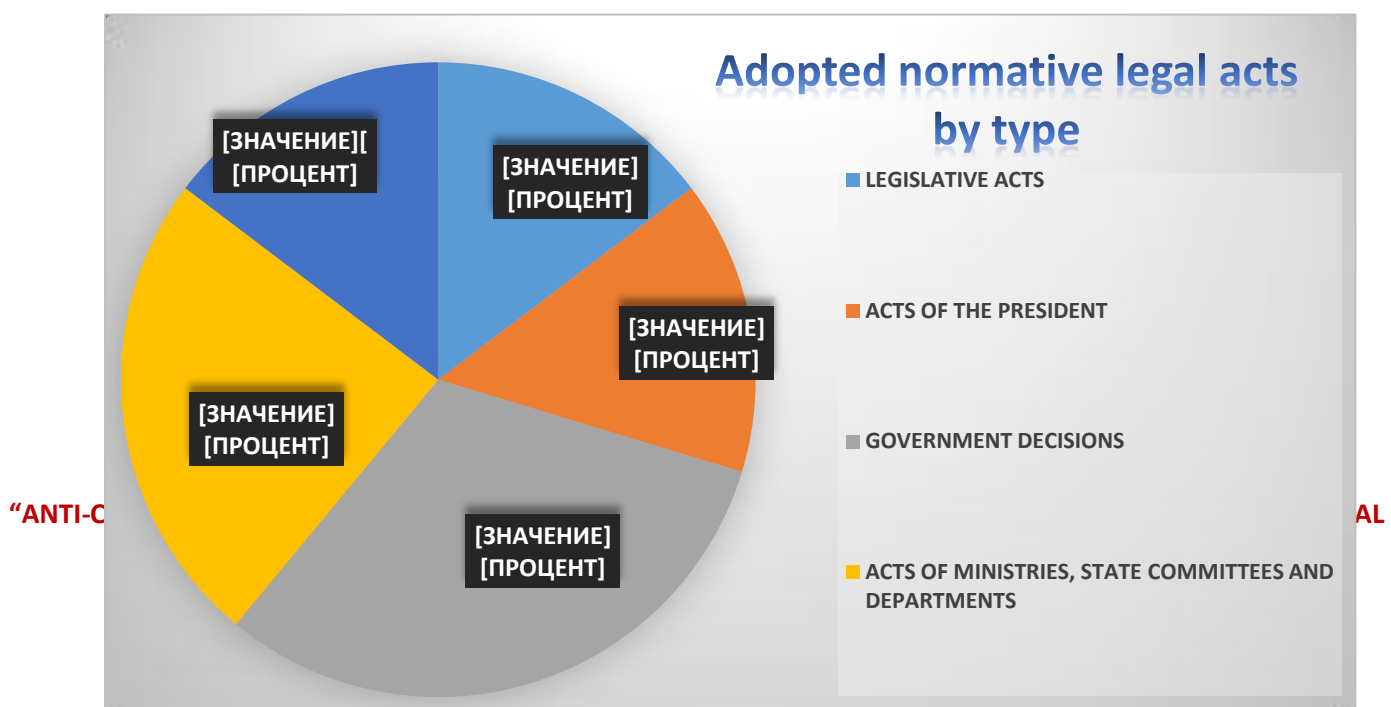
The large-scale reforms carried out in the country in recent years have significantly affected the number of adopted regulatory normative -egal acts, which is clearly shown in the following diagram.

COMPARATIVE INDICATOR OF ADOPTED NLA IN 2013-2016 AND 2017-2020



As can be seen from the diagram above, over the indicated 4 years, 14,089 more legislative acts were adopted compared to the previous similar period. And if we compare the data for 2021, we can conclude that this year alone, almost the same number of normative legal acts was adopted compared to the biennium 2015-2016 combined [2].

The picture of the legislation adopted to date as a whole shows that the National Legislation Base of the Republic of Uzbekistan includes more than 108,000 acts, of which 93,536 relate to regulatory normative legal acts [3].



Despite the fact that anti-corruption expertise in the Republic of Uzbekistan has not yet become an independent institution and is carried out within the framework of legal expertise, the Law of the Republic of Uzbekistan “On Combating Corruption” singles out the organization of anti-corruption expertise of draft regulatory legal acts as one of the separate measures to prevent corruption in the field of public administration. In addition, separate articles of this Law, as well as the Law “On normative legal acts” adopted in 2021, are devoted to anti-corruption examination of regulatory normative legal acts and their drafts.

Recently, a significant number of strategic planning documents have been adopted in Uzbekistan, which, among other things, provide for the improvement of existing and the introduction of new mechanisms for combating corruption, including fixing the norms for the development of the institution of anti-corruption examination.

Among such documents, which have a systematic and integrated approach in the relevant areas, it is proposed to highlight the following.

1. Action strategy for five priority areas of development of the Republic of Uzbekistan in 2017 - 2021, approved by the Decree of the President of the Republic of Uzbekistan [4], providing priority areas for ensuring the rule of law and further reforming the judicial and legal system, which included improving the organizational and legal mechanisms for combating corruption and increasing effectiveness of anti-corruption measures. It was this document of strategic importance that formed the basis for the creation of subsequent normative legal acts aimed at a systematic and integrated approach in specific areas;

2. The State Program for Combating Corruption for 2017-2018[5], approved by the Decree of the President of the Republic of Uzbekistan. This document included an instruction providing for the preparation of proposals for further improving the legal framework and increasing the efficiency of anti-corruption examination of regulatory normative legal acts and their drafts.

3. The concept of improving the rule-making activity, approved by the Decree of the President of the Republic of Uzbekistan [6]. The document was of great importance in the formation of a systematic legislative framework, the improvement of the legal support for the ongoing reforms, as well as the consistent implementation of tasks of strategic importance. In addition, this document is in its own way dear to the author of this scientific work, since he was one of the two direct developers of the Concept and put a lot of effort and work at the stage of creating the document.

4. The State Anti-Corruption Program for 2019-2020, approved by the Decree of the President of the Republic of Uzbekistan[7]. This document, among other things, provided for the introduction of the practice of posting information on the results of anti-corruption examination of draft regulatory normative legal acts on the portal of the official website of the then-existing Republican Interdepartmental Commission on Combating Corruption, which was subsequently transformed into the National Council of the Republic of Uzbekistan on Combating Corruption.

5. A significant achievement in the field of combating corruption, which we cannot leave out of sight of our work, was the formation of an independent anti-corruption body. The main goals of creating such a body were the

“ANTI-CORRUPTION EXAMINATION OF DRAFT NORMATIVE-LEGAL ACTS IN THE REPUBLIC OF UZBEKISTAN: LEGAL REGULATION”

need to improve the anti-corruption system, identify and eliminate the causes and conditions for committing corruption offenses, increase the efficiency of the formation and implementation of state policy aimed at preventing and combating corruption in all spheres of society and the state, as well as improving the position of the Republic Uzbekistan in international ratings in the field of combating corruption.

At the same time, a Decree and a resolution of the President of the Republic of Uzbekistan were adopted on improving the anti-corruption system and organizing the activities of the Anti-Corruption Agency of the Republic of Uzbekistan. One of the main tasks and activities of the Agency was to ensure the effectiveness of anti-corruption examination of draft regulations, analysis of this activity, as well as making proposals for its improvement.

6. State Program for Combating Corruption for 2021-2022, approved by the Decree of the President of the Republic of Uzbekistan[8]. The said document provides for further improvement of the procedure for conducting anti-corruption examination of legislative acts and their drafts based on the principle of “Legislation free from corruption”, by submitting to the Cabinet of Ministers a project that provides for the introduction of an updated procedure for conducting anti-corruption examination, including conducting scientific and independent examination, as well as increasing responsibility of state bodies and organizations, work plans for conducting anti-corruption examination, as well as measures to eliminate identified corruption norms.

All of the above normative legal acts are national documents of strategic importance, the scope of which has a wide range of impacts, including those aimed at improving

anti-corruption mechanisms, one of which, in turn, is the anti-corruption examination of draft normative legal acts.

Thanks to the consistent implementation of the measures provided for by these acts, the institute of anti-corruption examination has significantly strengthened its position at the level of legislative acts, as evidenced by the following.

1. If we talk about the preparation of draft Laws of the Republic of Uzbekistan, then at the legislative level, the possibility of conducting an anti-corruption examination was enshrined in Article 23 (Conducting an examination of a draft law) of the Law of the Republic of Uzbekistan “On the procedure for preparing draft laws and submitting them to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan”. It is considered acceptable to note the fact that this consolidation in the form of an addendum occurred only in 2018, while the law itself was adopted in 2006.

According to this article, after completion of work on a draft law, in order to assess its quality, by decision of the subject of the right of legislative initiative, the draft may be subjected to legal, anti-corruption and other types of examination. According to the results of the expert examination of the draft law , the experts present a corresponding opinion[9].

Further, Article 23 establishes that in order to ensure impartiality and independence, organizations and (or) persons who were not directly involved in the preparation of the draft law are involved as experts. At the same time, it is stipulated that scientists and specialists, including those from other states and international organizations, can be involved in the examination.

“ANTI-CORRUPTION EXAMINATION OF DRAFT NORMATIVE-LEGAL ACTS IN THE REPUBLIC OF UZBEKISTAN: LEGAL REGULATION”

It should be emphasized that the proposals and comments made during the discussion of the draft law or set out in the opinions of experts are advisory in nature, which in turn seems to be inconsistent with the requirements of modernity and creates prerequisites for further improvement of this procedure.

As proposals for improving the mechanisms for conducting anti-corruption expertise of draft regulatory legal acts, it is proposed to define a mandatory rather than advisory nature in relation to the consideration of comprehensively substantiated expert opinions, as well as to exclude the use of the wording “maybe”.

2. If we talk about conducting an anti-corruption examination of draft regulatory normative legal acts of all types, whether it is a draft Law or an act of the President, or a government decree, then in this case it is necessary to refer to the Law of the Republic of Uzbekistan “On normative legal acts”, adopted in 2021 in a new edition, and for the second time in its history. The first time this Law was updated in 2012 in relation to the one adopted in 2000.

The Law “On Regulatory Legal Acts” of 2000 did not mention anything about anti-corruption expertise, which cannot be said about its subsequent version of 2012. But in this case, it should be noted that the Law of 2012 was supplemented in terms of the possibility of conducting anti-corruption examination only in 2018, similar to the Law “On the procedure for preparing draft laws and submitting them to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan”.

The modern Law "On Normative Legal Acts" has significantly fixed the institution of anti-

corruption expertise at the legislative level. In particular, according to Article 25, a draft legal act is subject to mandatory legal and anti-corruption examination.

Even more important for us is the fact that a separate article devoted to anti-corruption examination has appeared.

Thus, Article 29 of the said Law establishes that anti-corruption examination of draft regulatory normative legal acts is carried out for the purpose of a general assessment of the consequences of their adoption, creating an opportunity for corruption manifestations, predicting the possibility of corruption risks in the process of applying regulatory normative legal acts. Based on the results of the examination, recommendations are developed and measures are taken to eliminate the identified corruption factors [10].

3. The following is proposed to note the Law, which is of fundamental importance in regulating relations in the field of combating corruption - the Law of the Republic of Uzbekistan "On Combating Corruption".

It was this Law that was the first, namely in 2017, to significantly strengthen the position of the institution of anti-corruption examination of draft regulatory normative legal acts at the level of a legislative act. According to Article 24 of the said Law, anti-corruption examination of draft regulatory normative legal acts is a process aimed at:

identification of corruption-related factors that create a possibility of committing corruption offenses;

general assessment of consequences of adoption of a draft creating a possibility of committing corruption offenses;

“ANTI-CORRUPTION EXAMINATION OF DRAFT NORMATIVE-LEGAL ACTS IN THE REPUBLIC OF UZBEKISTAN: LEGAL REGULATION”

forecasting a possibility of occurrence of risks of a corrupt nature in the process of application of regulatory normative legal acts; development of recommendations and adoption of measures aimed at elimination of the identified corruption-related factors [11].

Summing up, it is proposed to touch upon the document that determines the procedure for conducting anti-corruption examination of regulatory normative legal acts and their drafts - the Regulations on the procedure for conducting anti-corruption examination of regulatory normative legal acts and their drafts. It should be noted that this document was significantly transformed in 2021 by adopting a new edition.

In particular, this document defines:

the main purpose of the implementation of anti-corruption examination;

the main principles of conducting anti-corruption examination;

the main sources of information for the examination;

scheme for conducting anti-corruption examination;

a list of corruption-related factors is provided, as well as a methodology and a checklist for their identification.

As can be seen from this material, the legislation in the area under consideration consists of a considerable number of documents, which in turn implies the need for unification and a clear definition of tasks. In this regard, the author proposes the development of the Law "On anti-corruption examination" which would cover all aspects and regulatory mechanisms.

Also, given that the Ministry of Justice of the Republic of Uzbekistan is one of the links in the executive branch of government, which implies the possibility of exerting certain pressure from the Cabinet of Ministers and the heads of ministries and departments, who are also deputy prime ministers. It is proposed to transfer part of the powers for the mandatory anti-corruption examination of draft regulatory normative legal acts to the Anti-Corruption Agency and the Prosecutor General's Office. For example, to establish a procedure in accordance with which draft laws underwent mandatory anti-corruption examination in the Agency, decisions of the President and the Cabinet of Ministers - in the Prosecutor General's Office, and orders and resolutions of ministries, state committees and departments, as well as decisions of local government bodies - in Ministry of Justice.

CONCLUSION

It is also proposed to empower the Agency to carry out investigations in the field of anti-corruption expertise, by studying the entire chain of development of draft regulations (including those already adopted and creating conditions for the manifestation of corruption) from ministries and departments - developers and ending with structural divisions of the Presidential Administration and Cabinet of Ministers, acting as the final link in the preparation of projects. At the same time, it is necessary to pay special attention to the conclusions of the Ministry of Justice, as an authorized body in the field of legal and anti-corruption expertise. As a result, a clear picture should be presented, showing at what stage and for what reason an error was made in the rule-making process, which led to the presence of corruption-related norms in the legislation being developed and already in force.

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