

Fighting Corruption in Eastern Europe and Central Asia

Anti-corruption reforms in Uzbekistan

4th round of monitoring of the Istanbul Anti-Corruption Action Plan

ANTI-CORRUPTION NETWORK FOR EASTERN EUROPE AND CENTRAL ASIA

Anti-Corruption Reforms in UZBEKISTAN

Istanbul Anti-Corruption Action Plan
Fourth Round of Monitoring

Unverified translation from Russian



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Acronyms

| | |
|------------|--|
| ACN | Anti-Corruption Network for Eastern Europe and Central Asia |
| CAO | Code of Administrative Offences |
| CC | Criminal Code |
| CCI | Chamber of Commerce and Industry |
| CCP | Code of Criminal Procedure |
| CoI | Conflict of Interest |
| EITI | Extractive Industries Transparency Initiative |
| FATF | Financial Action Task Force on Money Laundering |
| GRECO | Group of States against Corruption Council of Europe |
| IAP | Istanbul Anti-Corruption Action Plan |
| ICT | Information and Communication Technologies |
| KPIs | Key Performance Indicators |
| MIA | Ministry of Internal Affairs |
| MLA | Mutual Legal Assistance |
| NGO | Non-Governmental Organisation |
| ODIHR/OSCE | Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe |
| OECD | Organisation for Economic Cooperation and Development |
| OSCE | Organisation for Security and Cooperation in Europe |
| PEPs | Politically Exposed Persons |
| RIA | Regulatory Impact Analysis |
| RIC | Republican Anti-Corruption Interagency Commission |
| RoUz | Republic of Uzbekistan |
| SOE | State-Owned Enterprise |
| STC | State Tax Committee |
| TSB | Tax Service Bodies |
| UN | United Nations |
| UNCAC | UN Convention Against Corruption |
| UNDP | United Nations Development Programme |
| UzRCE | Uzbek Republican Commodity Exchange |
| WGB OECD | OECD Working Group on Bribery of Foreign Public Officials |

Executive Summary

The monitoring report offers a review and evaluation of the latest developments in the anti-corruption sphere in Uzbekistan. It positively highlights the fact that for the first time in many years the top political leadership in the country has initiated reforms in many areas, often of a radical nature. These measures being at the initial stages of development and introduction, it is too early to assess their practical outcomes. Having welcomed such initiatives, the report goes on to throw a critical light on the state of affairs in various spheres of public administration that relate to anti-corruption activities, and offers a number of detailed and specific recommendations aimed at allowing for fundamental changes in legislation and enforcement practices.

Anti-corruption policy

Uzbekistan undertook a number of **key reforms** in the area of anti-corruption policies. The adopted Law “On Anti-Corruption” established the legal framework for the activities in this area and mechanisms for the implementation of anti-corruption measures. Its implementation was supported by national and departmental action plans, which were updated and published on a regular basis. Statements made at the highest level of the country pledging commitment to fight corruption had a positive effect improving openness and transparency of government and local public authorities and facilitating dialogue with representatives of the non-governmental sector.

While the report welcomes these reforms, it notes that it is time to systematise the **anti-corruption policy**, making it strategic in nature, identifying priorities and clearly defining the expected impact on the level of corruption in the country. Uzbekistan is currently in the process of developing its new anti-corruption policy document, it is therefore encouraged to undertake a thorough review of the situation, having analysed corruption risks and the effect of the earlier measures. It is also important to have such documents regularly reviewed and updated in view of the changing situation, objectives and requirements. Such an approach should be applied both in developing and implementing action plans at the departmental and national level. The system of monitoring should be further improved through involvement of the representatives of the civil society, academia, international partners, members of the business community and general public.

The report notes a growing interest in **anti-corruption studies** in Uzbekistan. A number of surveys have been carried out at the national level and across different sectors with the publication of their results. However, it is important that such surveys be more actively applied in the development of anti-corruption policies and their impact assessment.

Uzbekistan has carried out a vast number of **anti-corruption awareness and training** measures, organised by the government authorities or together with representatives of the civil society or with their support. These measures have been stipulated in the Anti-Corruption Law, reflected in the national programme and in departmental action plans. In addition, anti-corruption training programmes have been introduced across educational establishments. Moving forward, and given financial and other resource costs needed to ensure good quality of such measures, it is recommended that this work be more focused and implemented in line with an appropriate strategy. Any such strategy should be based on the corruption risks assessment and highlight specifically rights and appropriate remedies, as well as innovative solutions that come to the fore owing to the ongoing reforms

in the country. Its outcomes should be subject to regular assessment allowing for the review and development of follow-up actions.

The public authorities of Uzbekistan have initiated **dialogue and co-operation with the non-government sector**. Public councils are being set up to advise the government authorities. Efforts have been made to evolve the system of public review of draft legal regulatory acts and involve representatives of the civil society in the development and implementation of the national anti-corruption programme. However, in the future it is important to ensure better feedback and define clearly the mechanism for civil society involvement in government work stemming from transparent and objective criteria.

Selected **institutional approach for the development, co-ordination and implementation of anti-corruption policy** through set up of interdepartmental commissions at the national level (Republican Inter-agency Commission) and across the regions (territorial inter-agency commissions) has allowed to cover the broadest possible range of government authorities, including those in the regions, and to rely on their different sectoral approaches, skills and knowledge. In doing so, due to efficient coordination the Republican Inter-agency Commission (RIC) has not lost sight of the general picture of anti-corruption efforts and progress needed to support further development of anti-corruption policy. At the same time, human and financial resources at these commissions fall short of their significance or scope of their objectives. It is therefore recommended, *inter alia*, that a permanent secretariat for the RIC be instituted, complete with the staff specialising in matters of prevention of corruption. It is also recommended to ensure development of specialised skills and knowledge for relevant officers at the national, regional and departmental levels.

Prevention of corruption

There is still no one uniform law in the area of **civil service** in Uzbekistan. While the concept has been approved, and a draft law developed, the reform of civil service continues to remain at the stage of discussion, and earlier recommendations remain largely unfulfilled. In particular, there are no general principles underpinning the design and functioning of the system of civil service, nor are there any uniform requirements as to its staffing, admission to, working for or dismissal from civil service; there is no division in law between career and political public officers, etc. All these issues are regulated by internal departmental acts of the state authorities, and some of the agencies have offered but limited initiatives to reform them. The report recommends Uzbekistan to adopt, as soon as possible, and ensure uniform implementation of an overarching law on civil service in line with international standards.

While provisions on the prevention of **conflict of interest** have been introduced in the legislation, their proper enforcement requires further regulation. It is important, *inter alia*, to broaden liability, which should not be limited to disciplinary sanctions. It is necessary also to improve other anti-corruption tools. For instance, it is recommended ensuring control over efficient enforcement of **codes of conduct**; more active follow up on the **reports of alleged corruption** and **protect whistle-blowers**, by allowing consideration of anonymous reports.

There are no norms regulating **assets and interest declarations by civil servants**. In the light of this, the report recommends introducing a uniform system of disclosure of assets and interests by all public servants (including political officials, judges and prosecutors). Such system should ensure filing and publication of electronic declarations online, together

with mandatory risk-based verification of declarations and be complete with effective sanctions for the non-submission of declarations or submission of false declarations. It is equally important to assign or set up a body that will be responsible for the collection, verification and publication of declarations by public officials, providing it with appropriate level of independence, resources and powers.

Judiciary is one of the areas where Uzbekistan needs to conduct substantial reforms to ensure genuine judicial independence and integrity and to support anti-corruption reforms in other spheres. The report notes that the judicial reform has been initiated with the decisions by the President, in particular, by establishing the Supreme Judicial Council and an agency that supports activities of the courts and is subordinate to the judiciary, and by introducing the new practice of publication of court decisions. These are, however, only first steps which in itself are not enough to build a modern judicial system. The current system remains hierarchical, with excessive influence of the court presidents, political bodies and prosecution authorities, there is also no genuine independence of judges.

The report encourages to abandon the practice of supervisory review of final judgments, including through prosecutorial protest, as such institute undermines legal certainty and contradicts the rule of law principles, bearing with it significant corruption risks. Key matters of the organization and functioning of the judiciary, and support to courts and judges should be regulated not by acts of the President or Cabinet of Ministers, but by law, where only technical or procedural matters are relegated to the level of secondary legislation. The report goes on to recommend reviewing the role and scope of powers of the Supreme Court and its president in the organization of the judiciary, in particular, in matters of courts financing and judicial remuneration.

It is with regret that the report notes that following the reform, the appointment of judges was to be for two terms before they may be allowed to remain in office indefinitely. Of the total number of judges only about 3% are appointed for life. This undermines judiciary independence significantly. Should the provisions for the temporary appointment of judges be retained, the report recommends that such appointment be limited to one term only with the proviso that upon the expiration of such term the continuation in the office can be refused to such judge only in case of non-compliance with clear criteria subject to an impartial and transparent assessment.

Other recommendations have to do with the introduction of clear and fair criteria for the selection of candidate judges, ensuring transparency of such selection process, abolition of the qualification classes of judges, assessment of judges based on precisely formulated, transparent and uniform criteria and procedures defined by law.

The monitoring report also recommends to rule out any possibility for conducting inspection of courts by a judiciary inspection or performing any other inspections (analyses of work) of courts apart from carrying out an investigation prompted by a complaint within the framework of a specific disciplinary proceeding on the grounds and in the manner as prescribed by law. It is important to ensure transparency and other safeguards of due process when considering dismissing any judge from office or exposing him or her to disciplinary sanction, and provide, in law, clear grounds for such a liability.

An important issue is paying a sufficient and transparent remuneration to judges. The report recommends that the law specifies directly the amount of such remuneration, excluding any possibility for discretionary bonuses payable to judges.

No less significant reform is required by the system of **prosecutorial authorities**, which is entrusted with important functions, including supervision. With the development of

administrative court jurisdiction, creation of a system of legal aid to the general public and strengthening of the institute of Ombudsman, it is advisable to abolish or restrict to the maximum extent possible any supervisory powers given to prosecutors, limiting them to the areas of pre-trial investigation and execution of criminal punishments. It is also recommended continuing with divesting the prosecution office of inappropriate functions, transferring relevant duties to the executive branch of power.

Despite the formal safeguards established by the law, the monitoring experts concluded that prosecutorial authorities cannot be deemed sufficiently independent of political influence. It has to do, first and foremost, with the procedure for the appointment and dismissal of the Prosecutor General, which has a political nature. It is important to provide for a transparent mechanism of appointment to the office of the Prosecutor General based on the assessment of merits of relevant candidates and consultations with the civil society.

The status, independence, selection and career of prosecutors, like with judges, should be clearly stipulated in law and be based on transparent and objective criteria. The report recommends that Uzbekistan set up bodies of prosecutorial self-government, to play a key role in the competitive selection of nominees to the office of the Prosecutor General, his deputies and other prosecutors; consider matters of their disciplinary liability and assess their performance, as well as look into other important issues underpinning the organization of the work of the prosecution system.

It is important to introduce an up-to-date system to assess performance of prosecutors; have established in law a clear list of grounds for their disciplinary liability together with detailed procedures for imposing such liability on them, complete with safeguards to prosecutors' procedural rights, and publishing information about the sanctions applied.

The report welcomes reforms in **administrative justice**, and most of all the adoption of the important Law on Administrative Procedures. However, Uzbekistan still needs to systematise administrative procedures across all branches and areas of public administration, harmonize laws that regulate separate types of administrative procedures and subsequently review a vast body of regulatory acts. In addition, the report recommends considering the removal of administrative offences cases out of the jurisdiction of administrative courts as such cases have a different nature.

The efforts applied by Uzbekistan to introduce **e-government** tools and make use of modern technologies in providing the general public with services and information have a positive anti-corruption effect. It is advisable to continue to develop and improve them, implementing even more advanced interactive services.

Uzbekistan has made steps to implement the law on openness of bodies of government and administration, with an effective system of monitoring of its implementation. There is a uniform electronic system in place for the publication of information by public authorities, although some parts of it are still at the launching stage. Across all public authorities there are appointed officers responsible for ensuring access to information, but they need training. There has been an important achievement in the electronic publication of draft and adopted normative legal acts. Implementation of these initiative should be continued and followed through with the standards and rules for the online publication of open data, having established rules for their free repeat use, together with the minimum list of mandatory sets of data, as well as ensuring a functioning national portal of open data. It is important to ensure publication of publicly important registers.

In terms of improving the legislation on access to information, previous recommendations remain pertinent. It is necessary to have this legislation harmonized with international standards by updating laws on state and official secrets to harmonise them with the main law on access to information, ensuring that they may not be used for any unreasoned exclusion of information from the public domain. Uzbekistan is still to set up a mechanism of state oversight over compliance with the law on access to information, giving it adequate powers, including that of sanctioning and issuing mandatory orders concerning access to information. The criminal liability for **defamation and insult** has not been repealed and, regrettably, is actively applied in practice. It is therefore necessary, as recommended before, to decriminalise all offences of defamation and insult, limiting their restraining effect on the freedom of mass media and in particular investigative journalism and exposure of corruption.

Public procurement in Uzbekistan remains a high corruption risk area. Until recently the regulatory environment had not been conducive to any mitigation of such risks. However, over the time since the previous monitoring round, Uzbekistan made a qualitative move into a new system for the organisation and regulation of public procurement. April 2018 saw a new version of the Public Procurement Law coming into effect. Despite the vast progress in reforming public procurement, the results of the implementation of the new law and a new system for the organisation and regulation of procurement are still to be seen.

The report recommends adopting a separate law (or introduce relevant provisions into the effective general law) on procurement for strategic enterprises and their affiliated legal entities, first of all for the purpose of increasing the share of competitive bidding in their procurement. Going forward, it is important to ensure separation of legislative (regulatory), executive and controlling functions and a system of appeals against actions of procuring agencies or bidders, divesting/transferring such functions to institutions that will be independent of each other. It is recommended further improving e-procurement, implementing additional modules covering all methods of procurement, and making the system open to non-residents. It is important to ensure regular publication of updated information on procurement in machine-readable formats, improve the rules for blacklisting bidders from public procurements, strengthen mechanisms for the detection and prevention of the conflict of interest in public procurement. It is equally important to adopt a Law “On Public-Private Partnership” allowing for the widest use of competitive procedures.

Development and improvement of **business integrity** was made part of the anti-corruption programme. This practice should be continued, with active involvement of business community in the process. Compliance practice at national companies and in small and medium business remains underdeveloped, anti-corruption tools are implemented by multinational companies, foreign-equity firms or large state-owned enterprises. Uzbekistan should develop methods of incentivising businesses that are prepared to introduce anti-corruption instruments. The newly established agency of the business ombudsman should be built up further, as this office may become an efficient mechanism for the protection of the rights of entrepreneurs. The report also recommends supporting the role of business associations in ensuring business integrity.

Criminal liability for corruption

There have been no significant changes in the area of criminalization of corruption. However, the report has been positive about the policy-level decision to start introducing relevant international standards and comply with the previous ACN recommendations. The

authorities should use this opportunity and ensure that the new criminal and criminal procedure legislation that Uzbekistan plans to adopt comply with all mandatory requirements stated in international instruments and in the recommendations of the monitoring report.

It concerns, among other things: the criminalization of the mandatory elements of the bribery offences in private and public sectors, criminalizing trading in influence, introducing liability of legal entities for corruption crimes, revising elements of the offence of abuse of power or office as well as money laundering, making all existing bribery offenses criminal, considering criminalizing illicit enrichment and broadening jurisdiction of Uzbekistan vis-a-vis corruption crimes.

The report also recommends that Uzbekistan should revise provisions relating to the confiscation and recovery of assets in line with the UN Convention Against Corruption, and concerning the procedure for lifting immunity from relevant persons. It is recommended aligning the definition of politically exposed persons (PEPs) in the anti-money laundering legislation with international standards, and regulating appropriately the manner in which bribery imitation operations are planned and executed. Also, the report recommends broadening provisions of the CPC on international cooperation in criminal cases.

An important element of the reform of the system of criminal liability for corruption is strengthening the independence and specialization of relevant law enforcement agencies and prosecutors to make possible the criminal prosecution of corruption at the highest level. The statistics analysed in the report and specific examples of corruption cases in general point to low numbers of criminal corruption cases against high-level public officials, most of whom are judges and prosecutors.

The report also criticizes entrusting functions of combatting economic and corruption crimes to state security bodies, and it recommends considering divesting them of such functions because of their high corruption risk. It is also advisable to set up or designate a body (unit) which will be responsible for detecting, tracing, seizing and managing assets subject to confiscation, including assets abroad.

Prevention and prosecution of corruption in a selected sector – Tax Administration

The State Tax Committee (STC) of the Republic of Uzbekistan collects about 75 per cent of tax and other revenues in the budget, controls and offers services to over 15 million taxpayers, and employs more than 11,000 workers. The area of tax administration is prone to a high risk of corruption. The top leadership in Uzbekistan acknowledged this problem and made statements about the need for fundamental reforms. Public surveys and statistics of corruption offences support this need.

Uzbekistan has initiated broad reforms in the tax area. However, to offer a systemic response to corruption and tax risks, it is necessary to introduce mid- and long-term **strategic tax service management**, stating the objectives and ways to achieve them, provide for a system of KPI-based assessment of performance of responsible officers, and allocate the resources.

It is important to continue with the development of risk-based **departmental anti-corruption plans**, complete with the instruments for efficient monitoring of performance, and allocate the specially trained staff whose functions will be limited to exactly these tasks. The system of planning and risk assessment at the level of the tax service is in need of

considerable improvement. Anti-corruption measures in the tax area must also be reflected and emphasised in the national anti-corruption policy document.

The report highlights in a positive light a number of initiatives, including those on **raising awareness and advising on tax issues** through call centres, and implementation of electronic declarations by businesses, which is all bound to improve their trust in tax administration and reduce potential opportunities for corruption together with the level of perception of corruption.

Since **tax inspections** have resulted in inadequate administrative burden for business, and often have been corrupt, some non-traditional measures have been introduced, including temporary moratorium on inspections and transferring their co-ordination to the Office of the Prosecutor General. The State Tax Committee is facing a task of setting up an efficient procedure for tax audits, resistant to corruption, one that will be trusted by tax payers and general public. To this end, it is necessary to prescribe clearly all types of control measures, duties and rights of tax officials and tax payers, and audit procedures, and enforce a system of selection of tax payers for inspections and other audits based on risk assessment using information technologies. These procedures should be stipulated in the new Tax Code, which is to have direct application with the minimum amount of references to secondary legislation. It is important also to streamline and continue to **reduce the number of tax benefits**, which must be established and regulated exclusively in law.

Opinion of the business community, the statistics presented by the Tax Committee and the report of the Audit Chamber all testify to the lack of trust in the process of appeal against additional tax charges or sanctions. The lack of reliable review process is directly linked to corruption vulnerability of tax administration. It is therefore important to establish an efficient **system of review of tax complaints**, which will be trusted by tax payers and general public. Among other things, establishing a functioning, independent institution outside the Tax Committee, with the authority to settle tax disputes outside court and with the right to reject, uphold or alter the Tax Committee's decision to apply additional tax charges would be advisable.

To strengthen tax service integrity, the report recommends to enhance autonomy and efficiency of the internal security units within the tax service, and consider introducing an open competitive selection for positions of head and deputy heads of the State Tax Committee, ensuring transparent and impartial selection of other tax officials and their promotion based on clear criteria and methods of assessment. It is also recommended abolishing forming the tax service budget based on the financial sanctions for violating tax legislation and fines, as well as paying employee bonuses depending on the amount of taxes and fines collected.

Table 1. Summary table of implementation of the recommendations of the Third Round of Monitoring of Uzbekistan

| Recommendations of the Third Round of Monitoring of Uzbekistan | Compliance ratings for previous recommendations | | | |
|--|---|---------|-----------|---------------|
| | Fully | Largely | Partially | Not Compliant |
| 1. Anti-Corruption Policy | | + | | |
| 2. Anti-Corruption Research | + | | | |
| 3. Anti-Corruption Education and Awareness Raising, Public Participation | + | | | |
| 4. Specialized Anti-Corruption Policy and Corruption Prevention Institutions | | + | | |
| 5. Criminalization of Corruption (Offences and Elements of Offence, Subjects of Corruption Offences) | | | + | |
| 6. Criminalization of Corruption (Training for Academia) | | + | | |
| 7. Confiscation | | | + | |
| 8. Confiscation | | + | | |
| 9. Asset Recovery | | | + | |
| 10. Immunities | | | + | |
| 11. International Cooperation | | | + | |
| 12. Criminal Intelligence and Surveillance Operations | | + | | |
| 13. Law Enforcement Specialization, Financial Investigations, Access to Statistics | | | + | |
| 14. Integrity in Civil Service | | | + | |
| 15. Integrity in Civil Service | | + | | |
| 16. Administrative Procedures, Anti-Corruption Expertise | | + | | |
| 17. State Financial Control and Audit* | - | - | - | - |
| 18. Public Procurement | | + | | |
| 19. Access to Information | | | + | |
| 20. Access to Information | | | + | |
| 21. Political Corruption* | - | - | - | - |
| 22. Integrity in the Judiciary | | | + | |
| 23. Business integrity | + | | | |

* The topics “State Financial Control and Audit” and “Party Financing/Political Corruption” are not covered by the IAP Fourth Round of Monitoring.

Fourth Monitoring Round Recommendations to Uzbekistan

Chapter 1. Anti-corruption policy

New recommendation no. 1

1. Develop and adopt a new anti-corruption policy document identifying priorities and expected results of its impact on the corruption level in the country.
2. Review on a regular basis and update anti-corruption policy documents, taking into account changes in the situation, objectives and needs.
3. Continue development and implementation of action plans at the national, departmental and local levels based on risks and needs. Ensure the high quality of documents, including effective implementation measures and evaluation indicators of their impact on the level of corruption within their scope of application.
4. Continue improving the monitoring system and involving a wide range of stakeholders from civil society, academia, international partners and donors, business community and general public.

New recommendation no. 2

1. Continue and expand regular research on corruption with the view to evaluate the level of corruption, perception of and personal experience with corruption, as well as the level of trust in public institutions and the impact of anti-corruption measures.
2. Use the results of anti-corruption studies in the development of anti-corruption policy, its monitoring and evaluation of the impact of anti-corruption measures.

New recommendation no. 3

1. Organize well-planned and well-targeted public awareness and education campaigns. Ensure an integrated and strategic approach to the development of such measures, based on a review of the risk of corruption and paying special attention to the rights, methods of protection of violated rights, innovative solutions resulting from the reforms carried out in the country.
2. Assess the results and impact of anti-corruption education and training activities. Based on such assessment make the necessary adjustments and apply the results of such assessment in preparation and implementation of follow-up measures.
3. Improve involvement of the civil society in the process of development and implementation of anti-corruption measures, providing a quality feedback and clearly defining the mechanisms for their involvement in the activities of public bodies, based on transparent and objective criteria. Ensure equality of representatives of different non-public sectors, taking into account their resources and skills, the representativeness of the non-public sector, periodic rotation, meaningful effect in decision-making.

New recommendation no. 4

1. Provide the bodies in charge of co-ordinating and monitoring anti-corruption policies with the

human and financial resources necessary for efficient and independent activities.

2. Provide for a permanent special Secretariat for the Republican Interagency Commission with staff specializing among other issues in the prevention of corruption, clearly delineating the functions of criminal investigation, prosecution and prevention of corruption.
3. Ensure the development of specialized knowledge and skills of professionals in charge of the prevention of corruption at the national level, in the regions and in specific government agencies.

Chapter 2. Prevention of corruption

2.1. Integrity in the civil service

New recommendation no. 5

1. Adopt and ensure effective implementation of the uniform law on civil service.
2. Enact legislation providing for the introduction of a transparent system of a competition-based selection of personnel for the civil service, as well as their appointment and promotion on the basis of their personal and professional merits. Introduce definition of professional officials and political officials.
3. Introduce a transparent system of remuneration of the civil service employees, and define a procedure and criteria for the payment of the variable part of the wages.
4. Define, in law, the basic provisions on preventing and resolving conflicts of interest and ensure the proper application in practice of the relevant provisions of the law. Establish an administrative responsibility for violation of the rules on reporting and resolving of the conflict of interest. Consider introducing a criminal liability for decision-making by an official in a situation of conflict of interest in order to obtain benefits for himself or a connected person.
5. Introduce by law a uniform system of mandatory disclosure of assets, income, obligations, expenditures and interests by public officials (including political officials, judges, prosecutors), providing for online filing and publication of declarations (with the exemption from publication of narrowly defined in the law exceptions), mandatory risk-based verification of declarations, a system of effective sanctions for non-submission or filing false statements. Designate (or establish) a body responsible for the collection, verification and publication of declarations of officials, providing such a body with an appropriate level of independence, resources and authority.
6. Improve codes of conduct and monitor their effective implementation.
7. Enhance reporting of the facts of corruption and protection of whistle-blowers through monitoring the reports from civil servants, providing training, improving information channels, allowing consideration of anonymous reports. Continue development of legislation on whistle-blowers, provide practical training, designate a responsible state body, collect statistical data.
8. Assess the impact of integrity policies in civil service.

New recommendation no. 6

Ensure the development of integrity policies based on corruption risk assessment at the national, regional, local, sectoral and departmental levels. Develop and adopt a uniform methodology for such assessment.

2.2. Integrity of political officials

New recommendation no. 7

1. Ensure that provisions on the prevention of conflict of interest in the activities of political officials are properly enforced in practice.
2. Improve codes of conduct and provide for monitoring of their effective implementation.

2.3. Integrity in the judiciary and public prosecution service*Judiciary***New recommendation no. 8**

1. To continue reforming stages in the appeal against court decisions through further step-by-step abolition of the institute of the supervisory review of judicial acts in all judicial proceedings together and of the right of prosecutors to recall and challenge court cases.
2. To stipulate that the Prosecutor General, other representatives of agencies outside of the judicial system may participate in the meetings of the Supreme Court's Plenary Assembly and meetings of other judicial bodies only if invited.
3. To regulate in laws main issues related to the functioning of courts and exclude the regulation of such matters through acts issued by bodies outside of the judicial branch. Among others, the law should determine: a list of courts, amount of salary rates and allowances for judges, procedure for appointing and terminating the office of court chairpersons, composition, method of formation, mandate, and functioning rules of the Higher Judicial Qualification Board, the body supporting court activities and other judicial bodies.

New recommendation no. 9

1. Transfer the powers of the Supreme Court's Chairperson related to the matters of court funding and rewarding judges, including the right to appoint and dismiss the Head of the Department for Supporting Court Activities, to the Supreme Judicial Council or other judicial community body.
2. Revise the procedure for forming and using funds of the Fund for the Development of Judicial System Bodies by ensuring its transparency and accountability to the judicial community bodies as well as eliminating the dependence of its formation from actions of bodies outside of the judicial system. To ensure that judicial salaries are paid exclusively from the state budget funds.

New recommendation no. 10

Establish in the law that judges are appointed for life. If provisional regulations envisaging the appointment of judges for a fixed term remain temporarily effective, limit such appointment to one term only and stipulate that upon its expiration the judge may be refused confirmation in office only if he fails to meet clear criteria based on an impartial and transparent evaluation procedure.

New recommendation no. 11

1. Revise the composition of and procedure for the Supreme Judicial Council formation, in particular, by transferring powers to form its composition to the judicial convention or other judicial community body, considerably expanding civil society representation in its membership,

and removing from its composition members representing law enforcement and executive bodies. Ensure transparent selection of the Supreme Judicial Council members and set out in law a procedure for early termination of office of the Council's members.

2. Regulate in law the procedure for formation and activities of the judicial qualification boards. Transfer powers to form composition of the boards to judicial community bodies and eliminate the influence of court chairpersons on the support of the boards' activities.

New recommendation no. 12

1. Consider removing political bodies (Parliament, President) from participation in the process of appointing judges of all levels while assigning the respective powers to the Supreme Judicial Council whose composition would be aligned with international standards. Where such role is retained (e.g. with the President), it should be confined to a formal confirmation of the candidates submitted by the Council with a limited possibility for their rejection in the manner and on the grounds set forth clearly by law as well a possibility to override the rejection by Council's decision.
2. Provide in law clear objective criteria for the selection of judicial candidates along with detailed and transparent procedures for the evaluation of candidates on the basis of such criteria. Consider changing the judicial selection process by simplifying it, including by abolishing the procedure for the incorporation in a reserve. Restrict the influence of local self-government bodies on the judicial appointment to prevent parochialism.
3. Publish detailed information about the results of all stages of the competitive selection of candidates for judicial positions.
4. Decisions on judicial selection shall be motivated and conveyed to candidates who shall have the right to appeal a decision on the grounds specified by law.

New recommendation no. 13

Ensure that the issues related to the initial and in-service judicial training are regulated by law and judicial authority acts defining the curricula and procedures for training judges and judicial candidates.

New recommendation no. 14

1. Abolish the system of judicial qualification grades and ensure the evaluation of judges on the basis of clearly defined transparent and uniform criteria and procedures determined by law.
2. Exclude the possibility for conducting court audits (inspections) by the Supreme Judicial Council's Judicial Inspection or any other inspections (analyses of performance) of courts, with the exception of inquiries prompted by a complaint within a specific disciplinary proceeding conducted in the manner and on the grounds set forth by law.

New recommendation no. 15

1. Limit the scope of mandate of court chairpersons to representative and administrative powers that have no effect on the remuneration and material support of judges as well as their disciplinary liability.

2. Change the procedure for the appointment of court chairpersons by transferring the appropriate powers to the gathering of judges serving in the respective court or other judicial community body.
3. Ensure the right of a judge to attend the meetings, give explanations and use legal counsel when the matter of his/her dismissal is being considered. Provide for a possibility to file appeal against the dismissal from the judicial office. Ensure transparency and other due process safeguards when considering the matter of judicial dismissal.
4. Ensure an automated case allocation in courts for all categories of cases and online publication of the results of such allocation; in the event of “manual” allocation because of the long-term malfunctioning of the automated system, such allocation must be substantiated in writing, be guided by the same criteria as the automated allocation, and its results should be published.

New recommendation no. 16

1. Enact detailed legislative provisions on conflict of interest of judges with due account for the specifics of judicial office as well as the need to observe the safeguards of judicial independence.
2. Ensure in practical implementation of a mechanism for providing consultations and recommendations to judges (including confidential ones) concerning conflict of interest, disclosure of assets and interests, rules of conduct and other anti-corruption restrictions. Prepare and disseminate practical guides, methodological and educational manuals on these issues designed specifically for judges.
3. Ensure that the training in the field of ethics, anti-corruption and integrity is included in the curricula for the initial and in-service training for judges and has a practical focus.

New recommendation no. 17

1. Establish in law clear grounds of disciplinary liability of judges, procedure for conducting disciplinary proceedings as well as a system of proportionate and dissuasive sanctions including termination of judicial office.
2. Consider assigning the authority to impose disciplinary sanctions to the Supreme Judicial Council and establishing a special unit within the structure of the Council responsible for handling disciplinary matters and performing investigations prompted by complaints submitted to disciplinary inspectors.
3. Envisage in law sufficient procedural safeguards for judges in the course of disciplinary proceedings including the possibility of preparing and submitting their opinion, right for legal counsel, and the possibility to appeal decisions in court.

New recommendation no. 18

1. Abolish the requirement to receive consent of the Supreme Court Plenary Assembly to be able to bring a judge to responsibility or take him/her into custody.
2. Provide for immediate mandatory notification of the Supreme Judicial Council, should a judge be apprehended in flagrante delicto.

New recommendation no. 19

1. Set in law the amount of the judicial remuneration including the salary rates and all possible increments that in total must reach the level ensuring judicial independence. Exclude the possibility of making extra incentive payments to judges.
2. Increase financial security of judges and make legislative provisions ensuring elimination of the practice of placing informal financial obligations on judges' shoulders and engaging them in non-core labour activities. Non-compliance with such prohibition should entail legal liability.

Public prosecution service**New recommendation no. 20**

1. Ensure a gradual alignment of the functions of the prosecution authorities of the Republic of Uzbekistan with international standards and recommendations.
2. Consider limiting the role of political bodies in the appointment and dismissal of the Prosecutor General in accordance with international standards; to determine an exhaustive list of the grounds for the early release of the Prosecutor General from office.
3. Envisage the formation of a body (bodies) of prosecutorial self-governance, the majority of members of which will be elected by a regularly held conference of prosecutors and which will include representatives of the civil society. Such a body (bodies) should be independent of the Prosecutor General and play a key role in the competitive selection of candidates for the post of Prosecutor General, his deputies and other prosecutors, consider issues of their disciplinary liability and evaluation of their performance.

New recommendation no. 21

1. Regulate in law the procedure for the recruitment of prosecutors and their service. Foresee an open competitive selection for all positions in the bodies and institutions of the prosecutor's office on the basis of personal qualities, integrity and previous experience.
2. Selection and appointment, including for senior positions, should be based on clear criteria and assessment methodology with online publication, among other things, of the information about vacancies, the results of all stages of selection. Ensure the openness of regulations that govern these issues. Provide the candidates with the possibility of appealing the selection results.

New recommendation no. 22

Introduce a modern system for evaluating the performance of prosecutors based on performance indicators, limiting the use of indicators of the number of acquittals and other quantitative indicators.

New recommendation no. 23

1. Establish detailed rules for preventing and resolving conflicts of interest of prosecutors, taking into account the powers and specifics of the work of prosecution bodies
2. Implement in practice a mechanism for providing prosecutors and other employees of bodies and institutions of the prosecutor's office with consultations, including confidential ones, and recommendations on issues of conflict of interest, disclosure of assets and interests, rules of conduct and other anti-corruption restrictions. Prepare and distribute practical guides, methodological and educational manuals on these issues, designed specifically for prosecutors and other employees of the prosecutor's bodies.
3. Ensure regular on the job training and professional development of prosecutors on issues of ethics, integrity and prevention of corruption, as well as developing appropriate training materials having a practical focus.

New recommendation no. 24

1. To establish in law: a clear list of grounds for the disciplinary liability of prosecutors; a system of sanctions proportional to the act; detailed procedures for bringing to disciplinary liability with guarantees of procedural rights of the prosecutor.
2. Change the procedure for consideration and adoption of decisions in disciplinary cases with regard to prosecutors, ensuring impartiality and fairness, separating the functions of the investigation from making a decision (for example, by creating a disciplinary commission under the body of prosecutorial self-governance).
3. To ensure the publication of information on disciplinary sanctions applied to prosecutors.

New recommendation no. 25

1. Establish in the Law on the Prosecutor's Office the amount of salary rates of prosecutors and an exhaustive list of possible increments to them. The amount of monetary remuneration of prosecutors should be sufficient and ensure the minimization of corruption incentives and not provide for discretionary payments (incentives).
2. Ensure the publication of detailed information on the structure and amount of remuneration of prosecutors.

2.4. Administrative procedures, accountability and transparency in the public sector

New recommendation no. 26

1. Ensure the effective implementation of the Law on Administrative Procedures, including streamlining of administrative procedures across all branches and areas of public administration, and develop the relevant legislative framework; monitor the effectiveness of the implementation of this law and, if necessary, improve its provisions and practice of its application.
2. Consider removing cases of administrative offences from the jurisdiction of administrative courts.
3. Ensure high-quality provision of electronic services and continue expanding the potential of e-government aiming to increase the range of interactive services.
4. Ensure that citizens are regularly, widely and effectively informed about available e-government tools, especially in the regions. Teach them to use these tools, especially those with low levels of computer literacy.

New recommendation no. 27

1. Revise the legal provisions on access to information in order to bring them in line with international standards and best practices. In particular, review laws on state and official secrets in order to harmonise them with the basic law on access to information and ensure that these laws are not used to unreasonably exclude information from public domain.
2. Establish an independent mechanism of the state oversight with adequate powers, which should include the right for application of sanctions and adoption of obligatory decisions concerning access to information.
3. Decriminalise all offences of defamation and insult as having a strong deterrent effect on the media freedom and, in particular, on investigative journalism and the uncovering of corruption.
4. Carry out campaigns to raise citizens' awareness of their rights and obligations regarding access to information, with a focus on the regions of the country.
5. Continue the effective implementation of the unified electronic system for publishing information by the authorities and government agencies, having also provided the publication of information on revenues and expenditures of the state budget.
6. Develop the standards and the procedure for publishing open data on the Internet (machine-readable data), establishing rules for their free reuse, a minimum list of mandatory data sets; ensure the functioning of the national open data portal.
7. Ensure the publication of registers on ownership of movable and immovable property, registration of legal entities, including information on the beneficial owners of legal entities, and other socially significant registers, including in the open data format.

2.5. Integrity in public procurement

New recommendation no. 28

1. Adopt a separate law (or introduce relevant provisions in the current general law) on procurement for strategic enterprises and legal entities affiliated with them, primarily with the aim of increasing the share of competitive procurement procedures.
2. Improve the Law “On Public Procurement”, in particular, to order to broaden the use of economically objective evaluation criteria and achieve a wider coverage of contract execution issues.
3. Further improve the e-procurement system by introducing additional modules covering all procurement methods provided for by the Public Procurement Law, and opening it for the use by non-residents.
4. Ensure the regular publication of updated procurement information in the form of open data (machine-readable data), including information on procurement participants and procurement results, statistics on complaints and information about their consideration.
5. To improve the rules for the debarment of entities from public procurement in relation to cartel agreements and entities who were brought to liability for corruption offences.
6. Strengthen mechanisms for identifying and preventing conflicts of interest in public procurement (in particular, by expanding the provisions relating to affiliation, disclosure of information about the ultimate beneficial owners of procurement participants).
7. Procurement organizations should be encouraged to introduce mechanisms to prevent and combat corruption, so that in the medium term they can be certified according to ISO 37001 anti-corruption standard.
8. Introduce mandatory provision of anti-corruption statements by procurement bidders.
9. Adopt the Law on the Public-Private Partnership that provides for the broadest possible use of competitive procedures in concluding Public-Private Partnership agreements.
10. Intensify regular training for the private sector and procurement organisations on public procurement and integrity at the central and local levels, as well as for law enforcement agencies and public oversight organizations on public procurement procedures and the prevention of corruption.
11. Consider developing an Anti-Corruption Charter and having it signed by private sector enterprises, especially those participating in public procurement.

2.6. Business integrity

New recommendation no. 29

1. In a dialogue with the business community, develop a business integrity policy taking into account risk factors, for example, as part of an anti-corruption strategy or another national / sectoral or local policy.

2. Further develop the institution of a business Ombudsman. Provide and use reliable channels for reporting corruption.
3. Promote the development of compliance programmes, protect persons reporting offenses (whistle-blowers), promote business integrity throughout the entire supply chain.
4. Develop and exercise control over anti-corruption measures at enterprises with state or municipal ownership or control; consider the possibility of certifying such enterprises under the ISO 37001 anti-corruption standard.
5. Encourage collective anti-corruption business actions.
6. Assess the impact of business integrity measures and make necessary adjustments.
7. Ensure the centralized collection and publication of information on the beneficial owners of legal entities. Establish requirements for disclosing information on the composition of the boards of directors and the audit committees, on compliance systems for private and public enterprises.

Chapter 3. Criminal liability for corruption and its enforcement

New recommendation no. 30

1. To amend the Criminal Code, providing that:
 - a. any undue advantage, including intangible and non-monetary benefits, are recognized as a bribe of any persons in both the public and private sectors;
 - b. all mandatory elements of bribery offences in both the public and private sectors are criminalised, including the promise and offer of a bribe, a request, acceptance of a promise / offer of a bribe, a bribe in favour of a third party, “personally or through an intermediary”;
 - c. trading in influence is criminalised according to international standards;
 - d. provisions on abuse of power or official authority are amended to define the meaning of the term “substantial harm” by setting criteria separately for material and non-material harm.
2. To ensure that all bribery offences, including those provided for in the Administrative Liability Code, are covered by the Criminal Code.
3. To establish and ensure implementation in practice of the dissuasive and effective liability of legal entities for corruption crimes in accordance with international standards. Conduct training and provide investigators, prosecutors and judges with practical guides and explanations on the effective application of the liability of legal entities.
4. Consider establishing criminal liability for illicit enrichment.

New recommendation no. 31

1. Establish directly in the criminal law the possibility of bringing to liability for money laundering without the need of prior or simultaneous conviction for the predicate act.

2. To conduct training of investigators, prosecutors and judges on effective prosecution of money laundering cases, including on the autonomous nature of such liability according to international standards.
3. Explain in the resolution of the Plenary Assembly of the Supreme Court and in other guidelines for the investigating authorities, the prosecutor's office and the courts the need to conduct a financial investigation and the autonomous nature of the crime of money laundering with a view to its more active use in practice.

New recommendation no. 32

1. To include in the Criminal Code autonomous definitions of a foreign public official and an official of an international organisation and bring them in line with international standards.
2. To conduct training of investigators, prosecutors, judges, representatives of the diplomatic missions of Uzbekistan on the effective detection, investigation, prosecution and adjudication of criminal cases concerning foreign bribery.
3. To provide in the Criminal Code the jurisdiction of Uzbekistan in cases of corruption crimes committed in the territory of another state: a) against a citizen of Uzbekistan or a state of Uzbekistan, by defining relevant criteria; b) committed by foreign citizens or stateless persons in complicity with the citizens of Uzbekistan.
4. Consider establishing a universal jurisdiction for cases of foreign bribery bribing and other corruption crimes, namely establishing jurisdiction over such crimes regardless of the nationality of the person who committed the crime or the place of its commission.

New recommendation no. 33

Amend sanctions provided for in Article 192-10, part 1 of Article 213, part 1 of Article 214 of the Criminal Code of Uzbekistan, to include an alternative punishment in the form of imprisonment for a term of not less than 1 year.

New recommendation no. 34

1. Take measures that allow effective application of the confiscation of proceeds from corruption crimes in accordance with international standards, in particular:
 - a. Include in the criminal/criminal procedure law a legal definition of the terms “confiscation”, “proceeds and other valuables acquired by criminal means”;
 - b. Extend, in the criminal/criminal procedure law, confiscation regime to:
 - proceeds from crime that have been converted or transformed, in whole or in part, into other property;
 - proceeds from crime that were added to property acquired from legitimate sources;
 - profits or other benefits derived from the criminal proceeds, from property into which such criminal proceeds were converted or transformed into, or from property to which such criminal proceeds were added.
2. Consider the introduction of extended confiscation if a person was convicted for corruption crime.

3. Regularly collect and analyse statistics on confiscation in corruption cases and use such analysis to improve legislation and practice, as well as ensure publication of such statistics and analysis.

New recommendation no. 35

1. Take measures to enable direct recovery of property in accordance with the procedure provided for in Article 53 of the UNCAC, including:
 - 1) measures to permit another State Party to initiate civil suits in its courts to establish title to or ownership of the property acquired as consequence of committing any of offences established as an offence in accordance with the UNCAC;
 - 2) measures proved necessary to permit domestic courts to order those who have committed offences established in accordance with the UNCAC to pay compensation or damages to another State Party that has been harmed by such offences;
 - 3) measures proved necessary to permit domestic courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as claim of a legitimate owner of property acquired through the commission of an offence established in accordance with the UNCAC.
2. Consider adopting provisions that enable confiscation of crime proceeds without a criminal conviction in cases where the offender cannot be prosecuted by reason of death, concealment or absence or in other appropriate cases.
3. Take measures to enable the return and disposal of assets as it is established by Article 57 of the UNCAC.

New recommendation no. 36

1. Adopt a simple, clear and transparent procedure for depriving immunity of those categories of persons for whom such procedure is not provided by law.
2. Limit the categories of officials benefiting from immunity, as well as the frames of inviolability, so that immunity of officials only applies to acts committed by them when performing their official duties.
3. Provide clear regulations of possible investigative and / or criminal proceedings against persons benefiting from immunities before their immunity is deprived so that the immunities do not impede effective investigation and prosecution of corruption-related cases.

New recommendation no. 37

1. Extend statutes of limitations and change the procedure for their calculation or completely abolish limitation period as a ground for exempting from liability for corruption crimes.
2. Bring provisions on the discharge from liability for corruption offences due to effective regret in accordance with international standards.

New recommendation no. 38

1. Establish in the law the obligatory consideration of anonymous reports about possible corruption crimes that are verifiable.
2. Bring the concept of politically exposed persons (PEPs) in the legislation on countering the laundering of criminal proceeds in line with international standards.
3. Raise the effectiveness of the use of financial monitoring information for initiating criminal cases on corruption, ensuring a wider use of financial monitoring data in criminal prosecution of such crimes. Conduct additional joint training on these issues for the staff of investigating authorities and the financial monitoring body.

New recommendation no. 39

1. Provide direct access for investigative bodies engaged in financial investigations to databases of tax and customs authorities, property registries subject to due protection of personal data.
2. Ensure that investigative authorities have a direct access to the centralised register of bank accounts which will contain, among other things, the information established by the banks on beneficial owners of their clients, and persons with the right to sign accounts, in order to quickly identify the bank accounts during financial investigations.
3. In order to guarantee human rights and ensure the admissibility of the evidence collected, regulate in detail in the law the procedure for planning and carrying out bribery imitation, clearly distinguishing the permissible imitation and the prohibited bribe provocation. Approve detailed guidelines on the issue for operative officers, investigators and prosecutors, as well as conduct appropriate training.

New recommendation no. 40

1. Expand the provisions of the Criminal Procedure Code on international cooperation in criminal matters, including by regulating the procedure for conducting interrogation at the request of law enforcing authority of a foreign state, including by means of a video or telephone conference, on the procedure for tracing, arresting and confiscating assets, on the procedure for creating and operation of the joint investigative teams, providing grounds for refusal to provide mutual legal assistance.
2. Adhere to the Chisinau Convention of CIS countries on legal assistance and legal relations in civil and family matters and in criminal cases.
3. Consider accession to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism signed in 2005.

New recommendation no. 41

1. Ensure collection, summarising and publication on the Internet of regularly updated statistics on corruption crimes (with the breakdown by separate offences), in particular, regarding the number of reports on such crimes, the number of cases started, the results of investigation, criminal prosecution and court proceedings (indicating the penalties imposed and the categories of the accused depending on their position and place of work). Statistical data should be accompanied by an analysis of trends in corruption offenses.
2. Revise the established list of corruption crimes used for statistical purposes.

New recommendation no. 42

1. Ensure that law enforcement agencies dealing with corruption cases are operationally and structurally independent.
2. Ensure an effective specialisation in the investigation and prosecution of corruption crimes in accordance with international standards.
3. Consider excluding functions of combating economic and corruption crimes from the mandate of the state security bodies.
4. Create (or designate) an authority or unit responsible for identifying, tracing, seizing and managing the assets subject to confiscation, including abroad.

New recommendation no. 43

1. Continue regular practical training of investigators and prosecutors in conducting investigations and prosecutions of complex financial crimes, on the use of ICT and various sources of information, including abroad, in conducting investigations.
2. Ensure adoption and implementation of an effective law on the protection of witnesses and other participants in criminal proceedings, allocate sufficient funding for its enforcement.

Chapter 4. Preventing and prosecuting corruption in the tax administration of Uzbekistan**New recommendation no. 44**

1. Introduce the strategic tax service management for the long and medium term to ensure systematic and consistent resistance to interrelated corruption and tax risks. The strategic plan should identify the objectives and ways to achieve them, include performance measurement system based on key performance indicators, identify persons in charge and allocated resources.
2. Introduce a tax risk management methodology (Compliance Strategy) as part of strategic tax administration governance. The compliance strategy should identify the main fiscal risks assessed by the methodology for systemic and cyclical IT risk analysis. Control (minimisation) methods should include the means of control, service delivery, information, cooperation, etc.

New recommendation no. 45

1. Clearly prioritise the tax sector in the next national anti-corruption policy document, identify specific measures to prevent and fight corruption in this sector, their performance indicators and assessment mechanisms.
2. Create an efficient system to assess and minimise corruption risks within the tax service as a part of its overall risk management system including:
 - a) develop and regularly update a register of corruption risks and a list of tax service positions and functions most affected by the risk of corruption;
 - b) ensure efficient operation of a corruption risk management commission responsible for the regular assessment of corruption risks, planning and implementing measures to remove such risks;
 - c) assign specific functions among the staff to assess and manage corruption risks;
 - d) train the tax service staff in assessing corruption risks and planning mitigation actions;
 - e) involve the civil society and experts in the risk assessment exercise;
 - f) regularly poll the tax service staff on corruption to analyse and identify possible risks, plan and adjust the effective action plan.
3. Ensure adoption and implementation of the action plans to prevent and fight corruption in the tax administration based on risk assessment and measurable performance indicators, developing such plans through meaningful consultations with a wide range of stakeholders representing business, civil society and research community.
4. Strengthen independence and effectiveness of internal security units within the tax service, in particular, by:
 - a) making it a duty of internal security units to directly report uncovered corruption offences to law enforcement authorities;
 - b) introducing modern ICT-based data analysis methods;
 - c) expanding the channels for reporting possible misconduct including through verification of anonymous reports or reports submitted via online tools;
 - d) considering authorising internal security units to perform operative and detective measures.

New recommendation no. 46

1. Consider introducing an open competitive selection procedure for the State Tax Committee leadership positions, based on professional qualities and experience.
2. Revise the procedure for the competitive selection during the recruitment and promotion of staff in the tax service bodies, ensuring transparency and objectivity of the selection based on clear criteria and assessment methodology, and appointing candidates with the highest ratings and assessment scores, without mandatory procurement of recommendation letters, characteristics, guarantees, and other similar documents. Provide for a procedure to appeal results of the competitive procedure.
3. In the mid-term perspective (within 2-3 years) abrogate the formation of the tax service's budget funding based on the financial sanctions for tax law violations and penalties, and discontinue bonus payments to the employees dependent on the amount of taxes and payments collected. Bonuses to tax officers should be based on a transparent assessment of performance results on the basis of clear criteria and performance indicators, and should not directly depend on the amount of taxes or

penalties (sanctions) collected. Increase the share of the basic salary rate in the employee payroll structure (for example, to 80%).

4. Ensure regular practical training of tax officers, including in executive positions, on the issues of ethics, integrity and corruption prevention, and develop relevant training materials with a practical application focus.

New recommendation no. 47

1. Ensure rotation of employees performing tax control, and an automated random distribution of audits and other cases among staff. Where feasible, implement the ‘four eyes’ principle in exercising powers at risk of corruption.
2. Regulate the procedure and implement regular checks of employee access to information systems and databases available to tax service staff.
3. Implement a centralised system for consulting taxpayers in writing and by telephone, to ensure prompt availability, quality and unification of tax consultations across the country. Provide in the law for relieving taxpayers from responsibility arising in connection with incorrect consultations given by tax service employees. Staff ‘call-centre’ with a sufficient number of skilled personnel, modernize centre’s operations in accordance with the best practice on quality management of replies, and strengthen its IT support.
4. Ensure publication of the updated information about the tax system, including information about tax arrears, penalties charged and paid, taxes paid (for legal entities), and tax benefits; publish the said information on the STC website in a machine-readable data format.
5. Conduct regular taxpayer surveys initiated by the STC with a view to determine the levels of trust and perceived corruption in the tax service, as well as satisfaction level with the services provided. Ensure broad public consultations for development and adoption of draft Tax Code and any other measures for reforming the tax area.
6. Promote and popularise filing of tax returns in electronic form by individual entrepreneurs paying taxes, targeting to achieve not less than 50% for such filings.
7. Clearly regulate in detail all types of control measures (audit, desk control, monitoring, other), rights and obligations of the tax service officials and taxpayers, procedures for control actions. Principal regulation should be incorporated in the Tax Code as a directly applicable act, when necessary, detailing specific procedures in bylaws, with their mandatory publication.
8. Apply in practice a system for selecting taxpayers for audits and other control measures based on risk analysis in accordance with a procedure clearly regulated in regulatory acts, and with the use of IT tools.
9. Put in place an efficient and effective system for addressing tax disputes that will enjoy taxpayer and public trust. Ensure efficient functioning of an independent institution outside the STC structure and granting it with powers for a pre-trial settlement of tax disputes, including the right to cancel, endorse or amend STC tax assessment decisions.
10. Systemise and continue to shorten the list of tax privileges that should be introduced and regulated by law.

Introduction

The Istanbul Anti-Corruption Action Plan (IAP) was endorsed in 2003. It is the main sub-regional initiative in the framework of the OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN). The Istanbul Action Plan covers Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Uzbekistan and Ukraine; the other ACN countries participate in its implementation. The implementation of the Istanbul Action Plan includes systematic and regular peer review of the legal and institutional framework for fighting corruption in the covered countries.

Uzbekistan joined the Istanbul Action Plan in 2010. The initial review of the legal and institutional framework for combating corruption in the Republic of Uzbekistan and relevant recommendations were adopted in 2010. The joint first and second rounds monitoring report was adopted in 2012. The report on the results of the Third Round of Monitoring of Uzbekistan was approved in October 2015. The monitoring reports contained compliance ratings of Uzbekistan's implementation of the initial recommendations, as well as new recommendations.

In between monitoring rounds, at the IAP plenary meetings of the Uzbekistan had submitted progress reports informing about measures taken to implement the recommendations. Uzbekistan was also an active participant in other activities of the OECD Anti-Corruption Network for Eastern Europe and Central Asia. All monitoring reports and progress reports are available here: www.oecd.org/corruption/acn/istanbulactionplancountryreports.htm.

The IAP Fourth Round of Monitoring was launched in 2016 on the basis of the methodology approved by ACN the member countries. In November 2018, the Government of the Republic of Uzbekistan provided answers to the country-specific questionnaire of the Fourth Round of Monitoring, as well as answers to additional questions.

The on-site visit in Tashkent took place on 17-21 December 2018 and included 13 thematic sessions with representatives of the public authorities including: Parliament, General Prosecutor's Office, Supreme Court, Supreme Judicial Council, Ministry of Economy, Ministry of Internal Affairs, Ministry of Justice, Ministry of Finance, State Tax Committee, Academy of Public Administration and other government agencies and institutions.

Together with UNDP and the OSCE Project Coordinator office in Uzbekistan, the OECD Secretariat organised special panels with representatives of the civil society, business sector and international organisations. UNDP also provided financial support to the visit of the monitoring team into the country and that of the official delegation to the ACN plenary session.

National Coordinator of Uzbekistan is the General Prosecutor's Office; the co-ordination and support of the monitoring process was ensured by the General Prosecutor's Office staff: Mr. Latif Zhalov, Deputy Head of Directorate of the General Prosecutor's Office, Director of the Expert Group of the Republican Anti-Corruption Interagency Commission and Ms Nodira Zikrilaeva, Secretary of the RIC, Prosecutor of Directorate of the General Prosecutor's Office.

The monitoring group for the Fourth Round of Monitoring of Uzbekistan included:

- **Jolita Vasiliauskaite**, Advisor, Secretariat of the National Security and Defence Committee of the Seimas of Lithuania (chapter 1, chapter 2.6);
- **Mariana Kalugin**, Association of Participatory Democracy, Expert, Moldova (chapters 2.1, 2.2);
- **Robert Sivers**, USAID Project “Support of Anti-Corruption Champion Institutions in Ukraine”, Sector Lead, Ukraine (chapter 3);
- **Evgeny Smirnov**, Deputy Director, Procurement Policy Advisor, Procurement Policy Department, European Bank for Reconstruction and Development (chapter 2.5.);
- **Irina Tsakadze**, Head of the Legislative Drafting Division, Ministry of Justice of Georgia (chapter 2.3);
- **Gita Plaude**, Head of Unit of the Internal Security Department, State Revenue Service of Latvia (chapter 4);
- **Modestas Kaseliauskas**, TaxLink, Partner; former Head of the State Tax Inspectorate under the Ministry of Finance of Lithuania (chapter 4);
- **Tetyana Khavanska**, ACN Secretariat, OECD Consultant (chapter 1, chapters 2.1-2.2, 2.4, 2.6, chapter 4)
- **Dmytro Kotlyar**, ACN Secretariat, OECD Consultant, Team Leader (chapters 2.3 and 2.5., chapter 3 and chapter 4).

The monitoring group would like to thank the public authorities of Uzbekistan for excellent co-operation during the Fourth Round of Monitoring and, in particular, to thank representatives of the General Prosecutor’s Office. The monitoring group is also grateful to the representatives of the authorities and non-governmental organisations of Uzbekistan for the open and constructive discussion that took place during the on-site visit.

The monitoring group would like to thank UNDP for co-financing and assistance in organising and conducting the on-site visit of the monitoring group. The monitoring group is also grateful to the OSCE Project Coordinator’s office in Uzbekistan for assistance in organising and carrying out the monitoring visit, and to the NGO Regional Dialogue (Slovenia) for the responses to the questionnaire.

The present report was prepared on the basis of responses to the questionnaire and conclusions of the visit, additional information provided by the Government of Uzbekistan and NGOs, the monitoring group's own research, and relevant information received during the plenary meeting.

The present report was adopted at the IAP Plenary Meeting on 21 March 2019 in Paris at the OECD headquarters. It contains the following compliance ratings for the Third Round of Monitoring recommendations: **out of 23 previous recommendations Uzbekistan is partially compliant with 10 recommendations, largely compliant with 8 recommendations and fully compliant with 3 recommendations**. There are no recommendations with the status of “Not compliant”. Two recommendations of the previous round were not evaluated since the Fourth Round of Monitoring did not cover the corresponding topics (state financial control and audit, political corruption). **As a result of**

the Fourth Round of Monitoring, 45 new recommendations were given to Uzbekistan and 2 previous recommendations have been recognized as remaining in force.

The report will be made public after the meeting, including at www.oecd.org/corruption/acn. The authorities of the Republic of Uzbekistan are requested to ensure the widest possible dissemination of the present report.

In order to present and facilitate the implementation of the results of the Fourth Round of Monitoring, the ACN Secretariat will organize a follow-up visit to Uzbekistan, which will include meetings with representatives of state authorities, civil society, business community and international organizations.

The Government of the Republic of Uzbekistan will be invited to regularly inform at the IAP plenary meetings of the measures taken to implement the recommendations.

The Fourth Round of Monitoring under the Istanbul Action Plan of the OECD Anti-Corruption Network is implemented according to the ACN Work Programme for 2016-2019, which is financially supported by Latvia, Lithuania, Liechtenstein, Slovakia, Sweden, Switzerland, United States of America.

The Fourth Round of Monitoring of Uzbekistan within the framework of the Istanbul Action Plan of the OECD Anti-Corruption Network is carried out with the financial support of the US Department of State's Bureau of International Narcotics and Law Enforcement Affairs provided to the project supporting anti-corruption efforts through law enforcement tools in Uzbekistan, and with the financial backing of the UN Development Programme.

Chapter 1. Anti-corruption policy

1.1. Key anti-corruption reforms and corruption trends

Over the past three years Uzbekistan has undertaken a number of key anti-corruption reforms. The Law “On Combating Corruption” was adopted, which for the first time defined a clear legal framework for activities in this area. The Law also defines the mechanisms of implementation of anti-corruption measures, including the system of bodies responsible for these tasks. Implementation of the Law was supported by the national and departmental action plans, which were updated on a regular basis.

In general, the legal framework has been significantly improved and a number of key laws have been adopted to ensure transparency and accountability of public authorities. The adopted laws on public and parliamentary control strengthened and formalized the role of these institutions in the processes of control over the implementation of anti-corruption policy. Reforms have been carried out in the field of public procurement; radical reform of administrative procedures, including licensing, permissive, registration and other procedures related to the provision of public services.

Public awareness in the sphere of anti-corruption is also rising and the level of requirements and expectations from the state on the part of society will be increasing along with it. Representatives of the NGO sector and international community stressed that the activities of state bodies have undoubtedly become more open to the public, even a minor public servants’ misconduct is widely publicized in the media and various groups in social networks. The President’s public offices established in provinces and Tashkent city, as well as in every district and city, and the President’s Virtual office also demonstrated a significant result.

The opportunity to receive public services in electronic form is an undeniable step forward in the context of combating corruption. Databases of state bodies and other organizations are in the process of being integrated into a single system of interagency electronic interaction and according to the Government of Uzbekistan from 1 April 2018 the Agency of Public Services through a Single Portal of Interactive Public Services has already provided more than 60 services to business entities and citizens of 160 planned until 2020 and more than half a million users were registered.

Nevertheless, the level of openness and transparency of the executive authorities still needs to be improved further, and so do mechanisms of public and parliamentary control. The bodies responsible for developing and implementing anti-corruption strategies and measures to prevent corruption need institutional development and significant additional resources. The low level of social and material protection of civil servants, the lack of uniform principles of creation of the wage fund and social welfare cause conditions for the outflow of qualified personnel and corruption. The formation of a professional public service and the introduction of effective mechanisms to combat corruption in the system of public authorities are more topical than ever.

According to surveys of public opinion by the Centre “Ijtimoiy Fikr” from 2016 to 2018, the level of corruption and bribery in some spheres has increased several times. For

example, according to the citizens in the sphere of healthcare and medicine, corruption has doubled in 3 years (in 2016 - 26.1%, in 2017 - 37.6%, in 2018 - 43.7%). In education, 34.3% of citizens who presumed corruption in 2016 changed their opinions to 39.4% in 2018, similarly in the tax sphere there was an increase from 7% to 12.2%.

According to the results of the public opinion poll “Fight against Corruption in the Mirror of Public Opinion” conducted by the same centre, in 2018 the healthcare system, recruitment process, system of higher and public education were defined as the most corrupt spheres in Uzbekistan, followed by the courts, prosecutor bodies, Ministry of Internal Affairs, tax authorities and bodies of sanitary and epidemiological supervision and control.

Table 2. Spheres of the state and society life, which according to citizens are most prone to corruption and bribery (in % of the number of respondents)

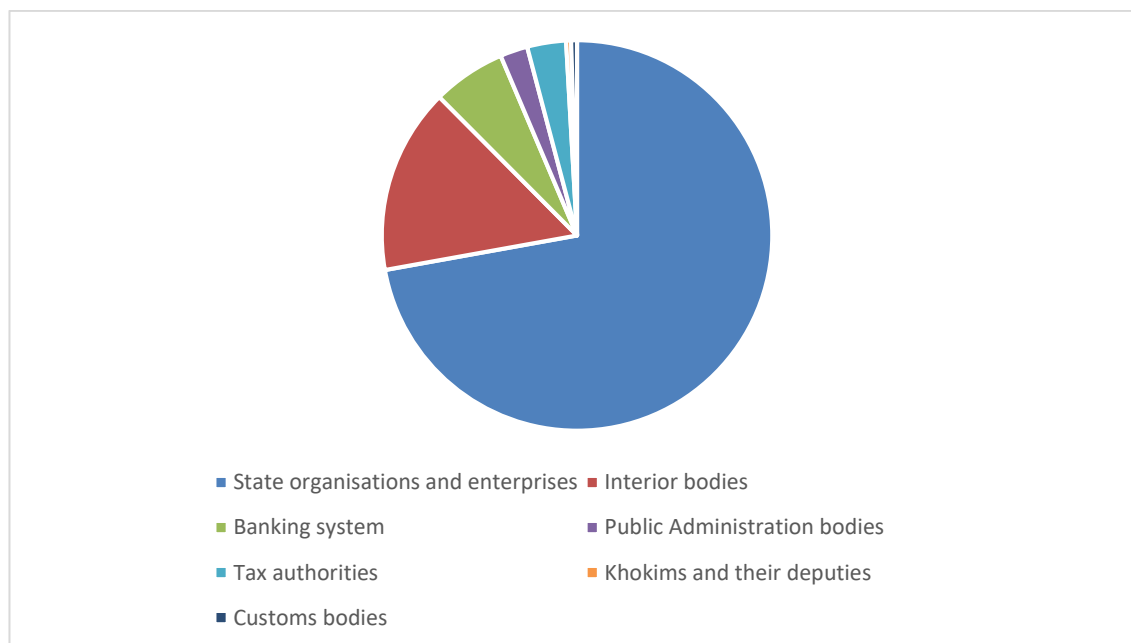
| Spheres of the state and society life | Widely spread | Spread in some places | Not spread | Difficult to answer |
|---|---------------|-----------------------|------------|---------------------|
| In the bodies of local government - makhallas | 5,3 | 23,5 | 63,2 | 8,0 |
| In welfare and pensions bodies | 6,5 | 31,4 | 47,1 | 15,0 |
| In notary bodies | 7,1 | 36,3 | 31,0 | 25,6 |
| In customs institutions | 8,1 | 29,7 | 29,7 | 32,5 |
| In services and departments of khokimiyats | 8,1 | 42,4 | 28,6 | 20,9 |
| In public utilities | 8,5 | 44,4 | 40,9 | 6,2 |
| In bodies of sanitary and epidemiological supervision and control | 11,3 | 37,5 | 30,0 | 21,2 |
| In tax service bodies | 11,9 | 39,0 | 28,0 | 21,1 |
| In the Ministry of Internal Affairs | 12,1 | 36,9 | 25,3 | 25,7 |
| In the prosecutor bodies | 13,5 | 32,7 | 25,7 | 28,1 |
| In institutions of the banking system | 13,5 | 36,3 | 28,8 | 21,4 |
| In the judiciary | 13,9 | 31,0 | 28,0 | 27,1 |
| In the institutions of public education | 21,2 | 51,7 | 18,1 | 9,0 |
| In institutions of higher education | 29,0 | 46,5 | 13,0 | 11,5 |
| In recruitment | 32,1 | 49,4 | 10,9 | 7,6 |
| In health care institutions | 34,3 | 48,9 | 11,8 | 5,0 |

Source: Information and analytical report on the results of the public opinion poll “Fight against corruption in the mirror of public opinion”, available here: http://ijtimoiy-fikr.uz/ru/issledovaniya/borba_s_korrupciy_v_zerkale_obshestvennogo_mneniya.

At the same time, according to the information provided by the Government of Uzbekistan, there is a tendency to reduce crimes by officials including corruption. For example, according to the statistics committing corruption offences by officials decreased by 43% from 2013 to 2017, in particular, from 2015 to 2017 prosecutors initiated 8,572 criminal cases for various corruption offences (in 2015 -3,778, 2016 - 2,860, 2017 -1,934) against 14,171 persons (2015 - 6,853, 2016 - 4,524, 2017 - 2,794).

On the basis of the provided statistics, it can be concluded that the revealed corruption offences indicate that the state's most corrupt spheres are state-owned enterprises and institutions (possibly including the sphere of education and medical services), internal affairs agencies and banks. Consequently, most of these areas coincide with those defined by the citizens.

Figure 1. Officials prosecuted for corruption offences in 2017 in Uzbekistan (breakdown by authorities)



Source: Data provided by the Government of Uzbekistan in response to the questionnaire.

Finally, corruption offences were recorded mainly at the local level. Thus, according to the statistical data for the period 2015-2017 of the total number of persons prosecuted, 91% are officials holding specific senior positions in districts-cities, 8% are employees of public bodies in provinces and less than 1% are officials of the national level. According to the authorities of the Republic of Uzbekistan, this demonstrates a successful work of the Republican Interagency Commission on prevention and combating corruption, but also indicates the lack of results of anti-corruption measures on the local level.

It should be noted that many of the reforms described above have just started, and if they are carried on and properly implemented, tangible results will be achieved by Uzbekistan only in the long term. Moreover, due to the greater openness of the public bodies activities and the greater availability of information both on the identified corruption schemes and on the actions of the state to suppress this situation, the perception of the level of corruption in the country can rise. Therefore, new trends in national surveys and international indices will be more clearly visible only over time.

Uzbekistan's performance in the international rankings is gradually improving, although both the government and the citizens are expecting a faster impact of reforms on international ratings.

Thus, in the Corruption Perceptions Index of the Transparency International organization Uzbekistan has improved its index every year since 2015 and in 2018 took the 158th place out of 180, gaining 23 points, compared to 19 points in 2015. For a more detailed understanding of trends, it is worth paying attention to the table prepared by the Transparency International in 2018, which summarizes statistically important changes for 6 years (from 2012 to 2018). This list includes 30 countries showing both significant positive (16 countries) and significant negative changes (14 countries). Uzbekistan is among the 16 countries that have shown a long-term positive trend.

Table 3. Corruption perception index 2018: statistically significant changes

| Country | Corruption perception index 2018 | Corruption perception index 2012 | Change in points |
|-------------------|----------------------------------|----------------------------------|------------------|
| Great Britain | 80 | 74 | 6 |
| Australia | 77 | 85 | -8 |
| Austria | 76 | 69 | 7 |
| Estonia | 73 | 64 | 9 |
| Chile | 67 | 72 | -5 |
| Czech Republic | 59 | 49 | 10 |
| Latvia | 58 | 49 | 9 |
| Italy | 52 | 42 | 10 |
| Hungary | 46 | 55 | -9 |
| Greece | 45 | 36 | 9 |
| Senegal | 45 | 36 | 9 |
| Belarus | 44 | 31 | 13 |
| Turkey | 41 | 49 | -8 |
| Guyana | 37 | 28 | 9 |
| Bahrain | 36 | 51 | -15 |
| Pakistan | 33 | 27 | 6 |
| Liberia | 32 | 41 | -9 |
| Ukraine | 32 | 26 | 6 |
| Myanmar | 29 | 15 | 14 |
| Mexico | 28 | 34 | -6 |
| Nicaragua | 25 | 29 | -4 |
| Mozambique | 23 | 31 | -8 |
| Uzbekistan | 23 | 17 | 6 |
| Congo | 19 | 26 | -7 |
| Afghanistan | 16 | 8 | 8 |
| Guinea Bissau | 16 | 25 | -9 |

| | | | |
|-------|----|----|-----|
| Yemen | 14 | 23 | -9 |
| Syria | 13 | 26 | -13 |

Source: Corruption Perceptions Index 2018: Statistically significant changes <https://www.transparency.org/cpi2018>

According to the Barometer of Global Corruption of the Transparency International for 2016, only 18% of respondents in Uzbekistan reported that they had paid bribes and only 23% of respondents included corruption among the three most serious problems in the country. Personal experience of respondents who admitted that they had, or know about the direct experience of bribery, in the context of institutions showed that the most corrupt is the traffic police (17% of respondents admitted that they were given bribes) and employees of education and medicine (16% of respondents gave them bribes). When asked what prevented respondents from reporting corruption 39% said they did not know the answer to this question, the next most common response, which scored 17%, was “for fear of negative consequences”¹. Uzbekistan had not previously been covered by the study, so it would be possible to compare data and measure progress only in the future – possibly in the next round of monitoring.

According to the reports of the “Freedom House” organization dedicated to the countries with economies in transition, which measure the susceptibility to corruption, the business interests of senior state officials, investigate the laws on disclosure of information on financial assets of public servants and conflict of interest, as well as the efficiency of mechanisms for combating corruption - in Uzbekistan significant changes have not been identified over recent years. So, the situation in Uzbekistan over the past year showed that the correction of the total score was only 0.07, from 6.96 in 2017 it became 6.89 in 2018².

Indicators of public administration performance collected annually by the World Bank indicate though insignificant but increase in terms of the prevention of corruption and management efficiency from 2015 to 2017, while the indicator of the rule of law though for a small fraction but declined.

Table 4. Public Administration Performance Indicators - Prevention of Corruption and the Rule of law

| Indicator | Percentile grade* | | |
|-----------------------------------|-------------------|-------|-------|
| | 2015 | 2016 | 2017 |
| Prevention Corruption | 8.65 | 11.06 | 12.02 |
| Rule of Law | 11.54 | 11.54 | 11.06 |
| Public Administration Performance | 27.4 | 31.25 | 32.69 |

*Note: Percentile grade indicates the percentage of countries whose rating lower than the rating of specific country, so that a higher index value indicates the better public administration performance.

Source: “Public administration performance indicators along countries of the world”, World Bank, see website <http://info.worldbank.org/governance/wgi/index.aspx> (Worldwide Governance Indicators, World Bank).

¹ People and Corruption: Europe and Central Asia 2016, TI. Available at www.transparency.org/whatwedo/publication/people_and_corruption_europe_and_central_asia_2016.

² Freedom House, *Nations in Transit 2018*, available at <https://freedomhouse.org/report/nations-transit/2018/uzbekistan>.

Uzbekistan looks much better in the ratings that assess the business climate. Thus, in 2019 Uzbekistan took 76th place in the research “Conditions for Doing Business”, which is conducted by the World Bank in 190 countries. For comparison, in 2016 Uzbekistan took 87th place, and in 2013 – 154th place. The highest score for Uzbekistan in this research is the place it took on the “ease of starting a business” indicator; Uzbekistan ranked 12th on this criterion³.

The monitoring groups also makes a positive note of the fact that international organisations have become actively involved in offering their support to Uzbekistan efforts to promote anti-corruption reforms, hopeful that this trend will be sustained going forward. Uzbekistan is encouraged to continue drawing from international experience and relying on the support of the international community in fighting corruption.

1.2. Anti-corruption policy implementation impact

Recommendation No. 1 Report on the Third Round of Monitoring of Uzbekistan:

1. *Determine the basics of anti-corruption policies in Uzbekistan, including its objectives and guidelines, as well as the implementation mechanism, clearly reflecting the results of studies and reports involving key government agencies, the civil society and academia, and to update them regularly.*
2. *Develop and adopt on a regular basis national plans to prevent and combat corruption in state authorities and institutions, make them public and provide their active implementation.*
3. *Encourage the development and implementation of effective anti-corruption measures at the level of local state authorities and institutions, especially at those with the highest risk of corruption.*
4. *Monitor the implementation of anti-corruption measures and their impact.*
5. *Ensure public availability of regular reports on anti-corruption activities in Uzbekistan and their results*

Anti-corruption policy documents

Since the Third Round of Monitoring the most significant step taken by Uzbekistan in the context of anti-corruption policy is the entry into force of the Law “On Combating Corruption” on January 4, 2017. The monitoring group noted that this Law was the first legislative act initiated by the President of the country, which possibly gives it even higher importance.

The Law consists of 6 chapters and 34 articles, it sets out the basic principles and directions of the state policy on combating corruption, provides a system of authorized bodies, defines the mechanisms and reveals the issues of participation of self-government of citizens, institutions of civil society, the media and citizens, as well as international cooperation in this field. Consequently, the foundations of the country's anti-corruption policy were defined and assigned in the legislative form.

The Law defines three main directions of the state’s anti-corruption activities:

³ Doing Business 2019: Country Tables, World Bank, 2019, available at www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB19-Chapters/DB19-Country-Tables.pdf.

Measures to improve the legal culture and legal awareness in the field of combating corruption, which cover the citizens, employees of public authorities and young people.

Measures to prevent corruption, which cover public administration, business and public services provided to the citizens, also include prevention and resolution of conflict of interest, prevention of corruption in administrative procedures and public procurement, and anti-corruption expertise.

Measures to identify and suppress corruption offences, which include performance of public authorities in this area, obligation of civil servants to report corruption offences, the right to protection of whistle-blowers, etc.

The monitoring group noted that the Law covered a very wide range of measures, but it had a framework format which required further tools for its implementation. Nevertheless, this Law is a solid foundation for further development of the policy and strategic vision of the country in the context of future anti-corruption measures.

It also contains important tools for the development and implementation of anti-corruption instruments - namely, it emphasizes the need for a systematic review of the status, level and trends of corruption in the country through research, surveys and reports, with participation of key government agencies, civil society and academia, as required by the Recommendation of the Third Round of Monitoring. The Law also regulates the need for broad access to information on anti-corruption measures being implemented. Now Uzbekistan faces a difficult task of its effective implementation.

The monitoring group also welcomes the fact that Uzbekistan has carried on the comprehensive work initiated during the Third Round of Monitoring on implementation of anti-corruption measures, and in accordance with Recommendation 1.2 it has exercised to the present day the development and adopting of regular national plans for prevention and fight against corruption.

So on January 16, 2016 the Government approved the Comprehensive Action Plan for the Implementation of Anti-Corruption Measures in 2016-2017 (hereinafter - Comprehensive Plan).

In February 2017 the following document was adopted, which was still in effect at the time of the monitoring group on-site visit in December 2018. Namely, Resolution of the President of the Republic of Uzbekistan No. IIII-2752 as of 2 February 2017 approved the State Anti-Corruption Programme for 2017-2018 (hereinafter - State Programme).

The State Programme included measures set up in five areas: three sections corresponded to the three major areas defined in the Law “On Combating Corruption”, as well as the section on improvement of legislation and the section containing organizational measures, research and international cooperation. The State Programme envisaged 51 measures, defined terms of realization and those responsible for performance of each measure.

Finally, at the moment Uzbekistan is developing a new document that is more long-term in its action and, accordingly, has the potential to be more strategic. This entails the draft State Anti-Corruption Programme for the period 2019-2021 prepared by the Expert Group of the Republican Interagency Commission⁴.

⁴ See <http://lex.uz/docs/3105127>

The latest version of this document provided to the monitoring group in January 2019 includes a number of undeniably ambitious, effective and innovative measures. However, the document like the State Programme for 2017-2018 does not seem to be of a strategic character and as before it looks like an action plan adopted to continue the ones implemented during previous years.

Given the timeframe of the new document of three years, strategic planning could form its basis. In addition to the measures already envisaged, in this document Uzbekistan could define a perspective in 3 years in the context of corruption and the fight against it, setting up priorities and results expected from all the proposed measures. It would also be useful to review all the measures already taken in terms of specific changes they have caused in the context of corruption in the country, in order to determine the necessary adjustments and possibly to cancel some measures.

The monitoring group recognizes that Uzbekistan has done a great deal of work, especially in the field of raising public awareness, preventive measures, adopted a number of important laws and established institutional mechanisms for the implementation of anti-corruption policies, all these measures being comprehensive. However, it will be possibly more effective in the next three years focusing on the most vulnerable conditions of corruption.

Also, since the Third Round of Monitoring, Uzbekistan has been actively engaged in the development of anti-corruption measures at the level of government agencies, ministries and local authorities.

In 2016 more than 40 ministries and government agencies developed and approved departmental anti-corruption plans. The departmental plans reflect such anti-corruption measures as improvement of helplines and websites of departments, opening virtual offices, ensuring transparency of public services, recruitment, identifying the most vulnerable spheres to abuse and neutralizing the identified risks, introduction of ethical standards of employees conduct, improving legal literacy and awareness in the prevention of corruption and others.

In 2018, 65 ministries, government agencies and organizations adopted their departmental plans or comprehensive sets of anti-corruption actions.

In addition, new anti-corruption action plans have been developed for specific economic sectors or public administration. In particular, Paragraph 34 of the State Anti-Corruption Programme for 2017-2018 provides for the development and implementation of a comprehensive set of departmental anti-corruption actions for 2017-2018 aimed at ensuring fair conditions and equal opportunities for citizens in the sphere of education, health, social welfare, public utilities and other areas of socio-economic development, prevention of corruption offences. The Republican Interagency Commission together with the Cabinet of Ministers ensured the adoption of comprehensive plans by all departments of the Cabinet in charge of relevant sectors.

Uzbekistan gave a number of other examples of action plans in certain sectors of the economy, as well as examples of adoption of certain anti-corruption plans in the most corrupt areas, such as the tax service, higher and secondary special education, land-use, public procurement, activities of state-owned enterprises “Uzavtosanoat”,

“Uzpakhtasanoat” and “Uzdonmahsulot”. However, the monitoring group could not make it clear how these areas had been determined to be the most corrupt.

According to the data provided by the Government of Uzbekistan, all the above-mentioned anti-corruption documents (starting with nation-wide programmes and action plans and ending with comprehensive sets of anti-corruption actions at the departmental level) were developed, first, on the basis of the review of corruption risks using the results of research, public opinion polls and other reports; secondly, with an active involvement of representatives of NGOs and business sector as well as representatives of academia; third, with the involvement of all key government agencies.

For example, the authorities of the Republic of Uzbekistan reported that the Comprehensive Plan was based on the results of studies and reports involving 43 key government agencies (the General Prosecutor's office, Ministry of Justice, Supreme Court, Ministry of Internal Affairs, Ministry of Finance, Ministry of Higher Education, Ministry of National Education and others), civil society (National Association of NGOs of Uzbekistan, Chamber of Commerce and Industry (CCI), Independent Institute for Monitoring of the Civil Society (IIMCS), Association of Banks, Centre for Public Opinion Studies “Ijtimoiy Fikr”, National Association of Electronic Media and the media) and academia (Tashkent State Law University, University of the World Economy and Diplomacy, Academy of Public Administration, Higher Education Course under the Prosecutor General’s Office, Academy of the Ministry of Internal Affairs, etc.). While the process of development and adoption of the State Programme involved representatives of the civil society: “Mahalla” Foundation, “Nuroni” Foundation, the Central Council of the Union of Youth of Uzbekistan, Women's Committee of Uzbekistan, Creative Union of Journalists of Uzbekistan, National Television and Radio Company of Uzbekistan, National Association of NGOs of Uzbekistan, Chamber of Commerce and Industry (CCI), Independent Institute for Monitoring of the Civil Society (IIMCS), Association of Banks, Centre for Public Opinion Studies (CPOS) “Ijtimoiy Fikr”, National Association of Electronic Media, Chamber of Advocates of the Republic of Uzbekistan.

Uzbekistan also provided specific examples of processing of NGOs and academia recommendations and inclusion of the proposals received from such representatives in the programme documents. Also the authorities of the Republic of Uzbekistan reported that with making the draft laws and other state documents public, various new channels of public participation in their development have appeared, including various platforms of the social networks, besides, the citizens’ interest and activity to their use is increasing. The monitoring group cannot fully assess the level of involvement of non-governmental sector stakeholders, but with increasing opportunities for such participation, the bodies responsible for the development of policy documents will need to work out mechanisms for processing all kinds of comments and proposals.

Anti-corruption documents are published. They can be found in the National Database of Legislation, on the websites of relevant authorities, as well as in the press. Ministries and government agencies publish their departmental plans on their official websites in special sections “Combating Corruption”.

Monitoring the implementation of anti-corruption actions

The General Prosecutor's Office, as a working body of the Republican Interagency Commission, regularly monitors the implementation of the Comprehensive Plan, the State Programme and anti-corruption actions at the level of government agencies, ministries and local executive authorities.

The monitoring should determine the effectiveness of anti-corruption measures and appraise a rating of the effectiveness of anti-corruption activities of public bodies. Initially, a review and cumulative rating were carried out on the basis of the “Methodology for Monitoring Effectiveness of Measures to Prevent Corruption in Public Administration Activities” approved by the General Prosecutor's Office on 30 October 2015.

The Methodology was improved and on June 30, 2017 the Republican Interagency Commission approved the updated “Methodology for Monitoring Implementation of Anti-Corruption Measures, Assessing Effectiveness of Organizational, Practical and Legal Mechanisms in this Area.” This Methodology includes a questionnaire, indicators, anti-corruption monitoring procedure, rating system of evaluation of public authorities based on the results of anti-corruption monitoring, procedures for preparing a report on the monitoring results, use of the monitoring results.

Based on the results of monitoring, the General Prosecutor's Office conducts a comprehensive study on causes and conditions giving a boost to official offences and other violations of the law in the sectors and areas most exposed to the risks of corruption.

The ministries and government agencies that received the lowest rating are subject to enhanced monitoring. As a result of the monitoring recommendations and proposals to improve the effectiveness of anti-corruption measures are developed.

Initially the monitoring was carried out quarterly, and in 2017-2018 – twice a year.

The Expert Group in the framework of anti-corruption monitoring aggregates and review the data about the status of implementation of anti-corruption measures by public bodies and organizations, and also of organizational and practical and legal mechanisms in this area.

The aggregation of the data on the public authorities' activities in the sphere of combating corruption is carried out with the participation of departmental coordinators. Departmental coordinators are assigned by the public authorities and are responsible for coordinating the organizational and analytical work of the public authority on combating corruption. Public associations and other organizations implementing certain measures of the State Programme also assign a coordinator in charge of providing reports aimed at monitoring the implementation of the State Programme and other actions on combating corruption.

General control over anti-corruption monitoring is carried out by the Republican Commission.

The monitoring of anti-corruption activities carried out by the Expert Group in 2016 covered 42 public authorities, in 2017 – 49 government agencies, in 2018 – 60 public authorities and institutions.

A separate review of the measures taken to implement the IAP Recommendations by public authorities and civil society institutions was carried out.

The authorities of the Republic of Uzbekistan affirm that in general the monitoring of anti-corruption measures has demonstrated that all public authorities covered by the monitoring

have adopted and realize departmental plans to implement anti-corruption measures, based on a systematic review of their activities, identifying areas and spheres exposed to corruption risks and taking effective measures to prevent corruption offences.

The monitoring group has studied the methodology, indicators and questionnaires and considers them to be very detailed and well thought out. However, monitors encourage the authorities to focus more on the result than on the process. For example, the availability of certain anti-corruption tools, such as ethics sections on websites, is important, but even more important is whether they are efficient, used and in demand, or whether they were created only to implement the plan item and gain a higher rating. Assessing efficiency is a very difficult task for many countries and it is important that the methodology be constantly improved and takes into account the lessons learned.

The highest rating in 2017 was received by the State Committee on Statistics, the Ministry of Finance, the State Customs Committee, Uzarchive, the Ministry of Internal Affairs, the Ministry of Justice, the Supreme Attestation Commission, the State Tax Committee, the Ministry for Development of Information and Communication Technologies, the Agency for Science and Technology, the Central Bank.

The monitoring group welcomes the fact that since the Third Round of Monitoring regular reports on anti-corruption activities in Uzbekistan and their results have been publicly available. The results of the RIC meetings are published in the electronic media and on the official website of the General Prosecutor's Office. The monitoring results of the implementation of the State Programme by government agencies are also published in paper in the form of Information and Analytical Reports "Implementation of the State Anti-Corruption Programme for the First Half of 2017", "Implementation of the State Anti-Corruption Programme for 2017".

Conclusions

As is evident from the information above since the approval of the results of the Third Round of Monitoring in 2015, Uzbekistan has carried out a significant work in the sphere of anti-corruption policy.

A great progress is the anti-corruption will constantly expressed at the highest level of the Government. This has had a positive impact on the development of the country's anti-corruption policy and legal frame, the openness and transparency of the activities of public bodies and local executive authorities and development of a dialogue with the NGO representatives.

The monitoring group welcomes these reforms and efforts, but notes that anti-corruption policy and efforts without a systematic priority-based and results-based approach can become declarative, implemented "tick-by-tick" or for gaining a higher anti-corruption rating, while losing the main meaning of anti-corruption measures - to ensure transparency and efficiency of public administration.

Efforts to involve all government agencies and local executive authorities in the prevention of corruption are positive. But at the same time, introducing mandatory anti-corruption programmes or other measures to prevent corruption based on a formal requirement rather than based on the risks of corruption and necessity, there is a risk of establishing an anti-corruption bureaucracy in the negative sense of the word.

It is also necessary to pay more attention to the quality of anti-corruption measures, the development of specialized knowledge and skills of responsible professionals to prevent corruption at the national level, in the provinces and certain government agencies.

For an effective anti-corruption policy, it is highly important to develop a strategy and priorities on the basis of a detailed review of the context, to provide a frame for implementation and monitoring the implementation, evaluation of the strategy effect.

According to the information and materials provided, the anti-corruption policy of Uzbekistan is currently more focused on a short-term approach and the implementation of practical anti-corruption actions.

The monitoring group has doubts about the detailed study of the context and related risks in the country or certain sectors in the process of development of anti-corruption policy documents, of other measures to prevent corruption, evaluation of the effect of anti-corruption measures taken; use of research data on corruption for development of national and sectoral (departmental) anti-corruption policy documents (for more details, see Section Anti-Corruption Research).

As for implementation of Recommendation 1.1, Uzbekistan has partially defined the foundations and areas of anti-corruption policy in the Law “On Combating Corruption”. The State Programme and Action Plan have comprised a wide range of anti-corruption measures, but they do not identify objectives that could be regularly updated. Also, there is no direct reference to reports and studies in the texts, and it is not always clear how the choice in favour of certain measures has been made. Key government agencies, representatives of civil society and academia were involved in the development, implementation and monitoring of anti-corruption policy in the country.

With regard to Recommendation 1.2 the National Plans to Prevent and Combat Corruption have been regularly developed, approved and published. A framework has also been established to encourage their active implementation, although in some cases it may have been more formal.

According to Recommendation 1.3 the anti-corruption measures at the level of government agencies, ministries and public authorities were encouraged, however statistics and conclusions of the authorities demonstrate that the effectiveness of these measures on the ground is low. Also, the selection of agencies with the highest risk of corruption was made by unknown criteria.

In relation to Recommendation 1.4, monitoring the implementation of the anti-corruption measures is being actively carried out, but their real impact on the level of corruption is not being assessed.

Regarding Recommendation 1.5 reports on the anti-corruption measures are on a regular basis and publicly available.

Therefore, Uzbekistan is largely compliant with Recommendation No. 1 of the Report on the Third Round of Monitoring.

New Recommendation No. 1

1. *Develop and adopt a new anti-corruption policy document identifying priorities and expected results of its impact on the corruption level in the country.*
2. *Review on a regular basis and update anti-corruption policy documents, taking into account changes in the situation, objectives and needs.*
3. *Continue development and implementation of action plans at the national, departmental and local levels based on risks and needs. Ensure the high quality of documents, including effective implementation measures and evaluation indicators of their impact on the level of corruption within their scope of application.*
4. *Continue improving the monitoring system and involving a wide range of stakeholders from civil society, academia, international partners and donors, business community and general public.*

Anti-corruption research

Recommendation No. 2 Report on the Third Round of Monitoring of Uzbekistan:

1. *Regularly conduct public opinion surveys, sociological and scientific research studies on the extent and patterns of corruption.*
2. *Ensure publication, including on the Internet, of the results of public opinion surveys, as well as the sociological and scientific research studies that assess levels and trends in corruption.*

Uzbekistan carries on scientific and sociological research and opinion polls on corruption. Moreover, since the Third Round of Monitoring this activity has increased significantly, has become regular and has been systematized to some extent.

It is definitely noteworthy that a political will to support and promote research in the area of combating corruption was approved on the legislative level (Article 30 of the Law “On Combating Corruption”, Paragraph 44 and Paragraph 48 of the State Anti-Corruption Programme for 2017-2018). Hereby the need to examine the status of corruption, its disposition, level, dynamics and trends is defined, as well as the effectiveness of implementation of the state policy in the area of combating corruption through sociological, special, scientific and other types of research.

According to the Law “On Combating Corruption” scientific research should include research on the challenges of combating corruption, development of scientific methods and recommendations, their rational introduction into practice, forecasting and scientific analysis of the effectiveness of forms and methods to combat corruption. In order to implement these tasks in 2015 the Supreme Attestation Commission together with the leading scientific institutions developed and had approved a Schedule of Research for the Causes and Conditions of Corruption. It included 31 research works on various aspects of the fight against corruption, 27 of them scientific studies (including the preparation of 12 doctoral dissertations).

For example, the Higher Education Courses of the General Prosecutor's Office conducted 9 scientific and applied studies in the field of combating corruption on the following topics:

- “Organizational and legal mechanisms of combating corruption in the Republic of Uzbekistan”;

- “Organizational and legal basis of public control over the activities of state bodies”;
- “Legal basis of capital construction: existing problems and future development”;
- “Abuse in the sphere of acceptance, storage, dispatch, processing and sale of cotton and grain products: issues of their prevention, problems and solutions”;
- “Public procurement and legal improvement issues: problems and solutions”;
- “Issues of improving the legal basis of the public service”;
- “Issues of improving the legal basis of liability of legal entities for corruption related offences”;
- “Land legislation: problems and prospects of development”;
- “Issues of further improvement of the organizational and legal basis of work with appeals of individuals and legal entities”.
- The Higher Education Courses of the General Prosecutor's Office have been transformed into the Academy of the General Prosecutor's Office, one of the tasks of which is to conduct research on the expansion of corruption.

The Law “On Combating Corruption” also provides for the conduct of sociological research including a systematic study of public opinion through sociological surveys and the use of other methods to identify sectors and areas most prone to corruption, the causes and conditions of its occurrence, as well as the establishment of social groups involved in this activity. Finally, the Law provides for special studies, which include regular systematic analysis of the results of the activities of law enforcement and regulatory bodies to combat corruption, the status of the corruption criminality, statistics on corruption indicators, the study of the nature and extent, dynamics and trends of corruption in all spheres of life of the state and society.

In pursuance of this Law and the above-mentioned paragraphs of the State Programme in December 2017 the RIC third meeting approved a Plan for Conducting Sociological, Special, Scientific and Other Research in the Sphere of Combating Corruption, providing for carrying out research at the national, provincial and sectoral levels on the state of corruption, its nature, extent, dynamics and trends, as well as the effectiveness of implementation of the state policy in the field of combating corruption for 2017-2018.

This Plan provides for 27 sociological, special, scientific and other studies in the field of combating corruption by more than 20 public authorities, as well as conducting sociological surveys by ministries and government agencies to determine the attitude of individuals and legal entities to the activities of public authorities.

According to the data provided by Uzbekistan, such surveys are already conducted by both public bodies and non-public institutions, as well as a number of similar surveys and sociological studies carried out “under the state order”.

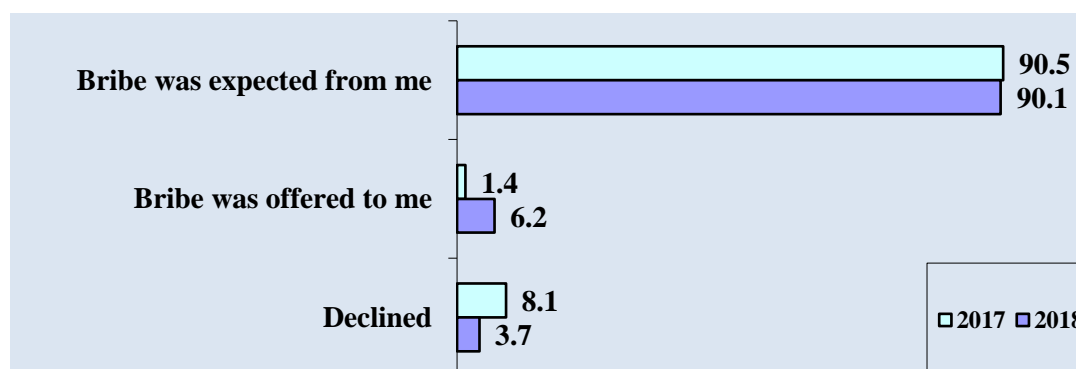
So, from 2016 annually the Ijtimoiy Fikr Centre for Public Opinion Surveys has been conducting a nation-wide public opinion poll on the theme “Fighting Corruption in the Mirror of Public Opinion”. The purpose of this survey is to study public opinion on the effectiveness of anti-corruption measures, to identify the attitude of citizens to the phenomenon of corruption, fight against corruption offences carried out by state bodies, organizations and institutions of the civil society.

The monitoring group reviewed the information and analytical reports on the results of these surveys, conducted in 2016, 2017 and 2018, and found that the survey covered a very wide range of questions. Including such general questions as “Is corruption widespread in

society?” and “What is the nature of the problem of corruption?”, and more specific questions of determining the spheres most susceptible to bribery. The survey covers perceptions of corruption, personal experiences with corruption and bribery (for example, see Figure below), as well as an assessment of the fight against corruption by the state, opinions on the role of public organizations and individuals in this fight and on the effectiveness of some anti-corruption measures.

Figure 2. Results of poll to the Question “Have corruption actions been related to bribe expected from you or offered to you?”

(in % from the number of respondents, who personally faced the similar situations)

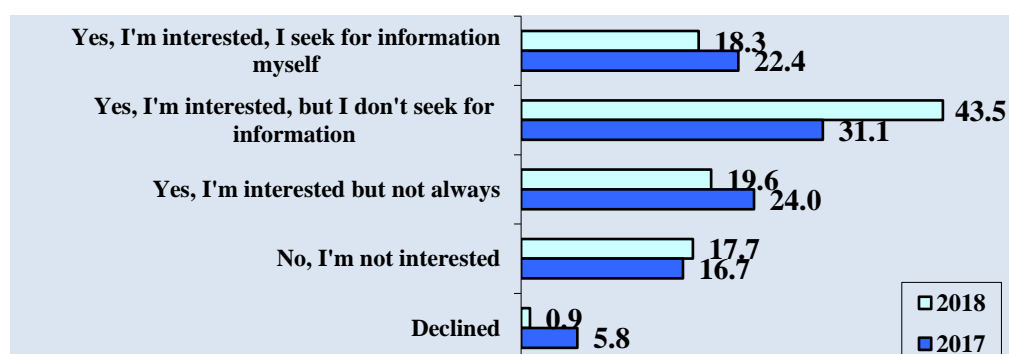


Source: Information and Analytical Report on the Results of the Public Opinion Poll “Fighting Corruption in the Mirror of Public Opinion”, available here: http://ijtimoiy-fikr.uz/ru/issledovaniya/borba_s_korruptsiy_v_zerkale_obshestvennogo_mneniya.

The survey also includes questions to determine the level of public interest in anti-corruption issues (see Figure below) and the sources from which respondents draw their information about corruption and the fight against it and many others. The results of the surveys can be found on the official web-site of the Ijtimoiy Fikr Centre for Public Opinion Surveys.

Figure 3. Results of the poll question “Are you interested in the fight against corruption, bribery and extortion in our country?”

(in % out of respondents)



Source: Op.cit

In addition, the Independent Institute for Monitoring the Formation of the Civil Society NGO (NIMFOGO) conducts 4 major sectoral studies. In particular, two researches are

carried out to monitor the level of public satisfaction with public services provided by relevant organizations and institutions and the presence of corruption facts in the system, as well as the implementation of public control over the activities of state bodies in the field of combating corruption.

At the national level the interaction of state bodies and civil society institutions in the field of combating corruption is being studied, including through surveys based on innovative approaches.

Every year NIMFOGO conducts a specialized study, in particular monitoring the websites of state bodies on the topic: "Openness of the activities of local authorities." In the framework of this study, the effectiveness of channels for obtaining information about corruption, the availability of information about the activities of the state body provided to the citizens, etc. Results of these studies are published on the Internet.

In addition, the Chamber of Commerce and Industry within the framework of interaction between the state and business jointly with the General Prosecutor's Office conducted a sociological survey among 5,581 business entities (an average of 400 entrepreneurs in each province) during 2016. The goal was to identify the main factors hampering the implementation of entrepreneurial activities, the existing bureaucratic barriers and obstacles, including the extent of corruption in the business sphere. In June 2017 the Chamber of Commerce and Industry prepared and submitted to the Republican Anti-Corruption Interagency Commission an analytical report on the results of the survey.

According to the data provided by Uzbekistan, the state bodies also conduct sociological, special and other studies in the field of anti-corruption. Uzbekistan cited many examples.

For instance, in 2017 the State Customs Committee conducted sociological research in the customs bodies of the Republic of Karakalpakstan, the provinces and Tashkent city. In the course of this study 1,743 citizens and businesses were interviewed.

The Ministry of Health conducted a public opinion survey and sociological research on corruption at the national level, in particular in the Republic of Karakalpakstan, Tashkent city and in the provinces, covering 5-6 institutions in each province.

In 2018 the Ministry of Finance conducted a survey in social media on the Treasury execution of the State Budget, including questions on the presence of the signs of corruption. A total of 2,346 respondents took part in the survey.

Based on the results of specialized surveys, public opinion polls and sociological studies on corruption and received appeals, analytical materials are prepared for the consideration of the Anti-Corruption Commission of the Ministry of Finance, aimed at further improvement of the public procurement system and adoption of appropriate measures by the Commission.

Conclusions

Uzbekistan has demonstrated consistency in carrying on the previously planned research on causes and conditions of corruption, as well as public opinion polls and sociological research, including by civil society institutions.

The monitoring group notes the growing interest in the study of corruption in Uzbekistan. In recent years a number of different studies have been carried out at the national level and in sectors. Based on the information reviewed it can be concluded that they rely on the study of public opinion and try to reconcile this opinion with more objective criteria, for example, with personal or connected persons' experience and involvement in corruption.

They also study the reasons for participation and refusal to participate in corrupt transactions, the sources of opinions about the level of corruption, etc.

In the view of the monitoring group Uzbekistan can further expand its positive experience and regularly conduct a representative sociological study on the basis of a comparable methodology, covering the perception and corruption practice in all state and local authorities and administration, state regulated sectors, as well as, if necessary, in the institutions of the non-public sector (for example, media, religious organizations, NGOs). The results of such a survey could be a real tool for evaluation the effectiveness of anti-corruption policies and activities.

Despite all the positive achievements, the monitoring group still has doubts about the use of corruption research data in the development of anti-corruption policy and evaluation of the effectiveness of the policy implementation. Although the responses to the monitoring questionnaire mentioned several times that the research results are used in the development of anti-corruption documents, identification of the riskiest sectors, evaluation of the effectiveness of anti-corruption measures and activities. In absence of specific detailed examples, it is difficult to judge the effective application of corruption research data.

With regard to the implementation of Recommendation 2.1 Uzbekistan regularly conducted public opinion polls, sociological and scientific research on the expansion of corruption. The results of sociological research and surveys are made public and disseminated through publication, including on the Internet, as well as on departmental websites, as directed by Recommendation 2.2.

Therefore, Uzbekistan is fully compliant with Recommendation No. 2 of the Report on the Third Round of Monitoring.

New Recommendation No. 2

1. *Continue and expand regular research on corruption with the view to evaluate the level of corruption, perception of and personal experience with corruption, as well as the level of trust in public institutions and the impact of anti-corruption measures.*
2. *Use the results of anti-corruption studies in the development of anti-corruption policy, its monitoring and evaluation of the impact of anti-corruption measures.*

1.3. Anti-corruption education and awareness raising, public participation

Recommendation No. 3 Report on the Third Round of Monitoring of Uzbekistan

1. *Conduct measures on anti-corruption education and training, including through the set of measures on legal awareness and legal education provided in the Comprehensive Plan.*
2. *Develop and implement in institutions of secondary, secondary specialized, professional and higher education training programmes on anti-corruption topics, provide a common methodological support in the development of such programmes and financial support for their implementation.*
3. *The awareness building and legal education activities should reflect the issues of rights of citizens, especially young people, in their relations with public authorities; provide for a more extensive discussion of the laws and communicate the essence of the laws to the citizens.*
4. *More active involvement of the civil society in the collaboration with public authorities in the prevention of corruption.*

Measures on anti-corruption education and training

Since the Third Round of Monitoring Uzbekistan has carried out a large number of public awareness and anti-corruption education activities. At the time of adoption of the Report on the Third Round of Monitoring anti-corruption training and education was a part of the Comprehensive Action Plan for the Implementation of Anti-Corruption Measures for 2016-2017 as well as of the Comprehensive Plan of Measures for bringing to the general public the essence and significance of legislative acts, as well as measures taken by state authorities in the anti-corruption sphere for 2016-2017.

In recent years, however, Uzbekistan has developed a number of new policy documents in this sphere.

With the adoption of the Law “On Combating Corruption” in 2017 the implementation of measures for anti-corruption education and training was legislatively stipulated in Articles 16-18 of the law.

Pursuant to the provisions of the Law Part 2 of the State Programme (Paras. 11-19) was devoted to the implementation of these measures and provided for an increase in the legal awareness and legal culture of the citizens, formation of an intolerant attitude to corruption in society. In particular, the State Programme provided for almost all the measures mentioned in this Recommendation.

In pursuance of the above paragraphs the Republican Interagency Commission developed and approved relevant plans, comprehensive measures and other programmes for 2017-2018.

In March 2017 the “Plan of Measures to Improve the Legal Consciousness and Legal Culture of the Citizens Aimed at Forming an Intolerant Attitude to Corruption in the Society for 2017-2018” (Para. 11 of the State Programme) was adopted. At the same time according to Paragraphs 13-16 of the State Programme a number of different measures are provided. The Republican Interagency Commission approved 2 plans, a comprehensive set of measures, and a network schedule.

In accordance with the Comprehensive Action Plan for the Implementation of Anti-Corruption Measures for 2016-2017, the relevant anti-corruption education and training activities were carried out by each ministry and government agency within the framework of the departmental anti-corruption plans adopted, with the involvement of representatives of the General Prosecutor's Office and the Ministry of Justice as consultants.

Uzbekistan provided a large number of examples and the Monitoring group had the opportunity to review in person some of the material produced under these actions.

The judicial authorities of the Republic alone held 1,813 events to prevent corruption among the population, including young people, representatives of civil society and the media, during which the rights of citizens, especially young people in relations with public authorities were explained. These events were attended by more than 65 thousand people, 37,000 of them were young people.

Civil society was actively involved in promotion of public authorities to prevent corruption, agreements (memoranda) between the public authorities and civil society institutions were concluded and plans were adopted to conduct joint anti-corruption measures.

For example, within the framework of social partnership, the General Prosecutor's Office, the Ministry of Higher Education, the Ministry of Culture and Sports, Tashkent State Law

University in conjunction with the Kamolot Youth Movement and the OSCE Project Coordinator's Office in 2016 staged a Republican Contest of Creative Works on Prevention of Corruption among students of colleges (lyceums) and higher educational institutions of the Republic.

In 2017, the events were held within the framework of the implementation of the Law "On Combating Corruption" and the State Programme and on the basis of the "Plan of Measures to Increase the Legal Consciousness and Legal Culture of the Population Aimed at Creating an Intolerant Attitude towards Corruption for 2017-2018".

Emphasis was placed on the coverage of the results of activities in the field of combating corruption on television, radio, print and electronic media, including through regular organization of thematic programmes, interviews, debates, press conferences and other events. Information materials, including thematic videos, printed materials (posters, brochures, booklets) aimed at explaining the essence and significance of anti-corruption legislation were prepared and widely distributed.

According to the Resolution of the President of the Republic of Uzbekistan No. IIII-2833⁵, weekly every Thursday is defined as the "Day of Offences Prevention". During the "Days of Offences Prevention" anti-corruption education and training are conducted.

During 2017 the prosecutor bodies held 34,249 events for the general public, including 4,605 events to improve the legal consciousness and legal culture of the population, aimed at forming an intolerant attitude towards corruption in the society.

The prosecutor bodies conducted more than 13,000 activities to improve legal knowledge for 200,000 entrepreneurs and farmers, public officials of state bodies providing services to entrepreneurs.

The Women's Committee of Uzbekistan has organized and carried out 859 events to prevent offences and crime among women.

In 2017 events involving the local authorities were conducted by the Ministry of Justice – 2,130 events, the Ministry of Internal Affairs jointly with the Mahallia Charitable Foundation, the Nuroniy Fund - 12,561 various meetings and 67 round tables, the State Customs Committee – 810 advanced seminars and round tables.

The Republican Interagency Commission and the General Prosecutor's Office prepared information materials, including thematic videos and printed materials (posters, brochures, booklets) aimed at explaining the essence and significance of anti-corruption legislation. All these materials were widely disseminated.

Annually, international organisations participate and contribute to the Open Doors Days to commemorate the International Anti-Corruption Day and to showcase the results achieved by Uzbekistan's reforms in this area for the attention of representatives of government and non-government sectors and international community. In 2017, the Open Doors Day hosted the Media Forum of the International Press Club to discuss the topic of Anti-Corruption reforms in Uzbekistan in 2017: progress and priorities. The event was attended by representatives of international organisations (OSCE, UNODC, UNDP, World Bank, GIZ,

⁵ Resolution of the President of Uzbekistan «On measures for further improvement of the system of crime prevention and combating crime» No. IIII-2833 as of March 14, 2017.

US Department of State), 15 republican ministries and 24 agencies, 11 institutions of civil society, 4 political parties and over 30 mass media, including electronic mass media.

The Government of the Republic of Uzbekistan has also intensified its cooperation with the mass media. For example, social videos on the prevention of corruption in higher education and public service are regularly shown on the central TV channels. In addition, 107 cycle television broadcasts on the prevention of corruption were produced and broadcasted, covering a wide TV audience and radio listeners.

In order to bring to the public and the international community the events and reforms in the political and legal life of the country, at the Decree of the Presidential of the Republic of Uzbekistan in November 2017 the Information and Analytical Multimedia Centre under the General Prosecutor's Office of the Republic of Uzbekistan was established.

Measures in educational institutions

Uzbekistan has developed and implemented educational programmes on anti-corruption issues in institutions:

– Secondary education. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 187 dated 6 March 2017 “On Approval of State Educational Standards of Secondary and Secondary Special, Vocational Education” was adopted.

Pursuant to Paragraph 17 of the State Programme, in particular, alterations and amendments to the state educational standards were made, which envisaged to develop special training programmes on legal training in the field of combating corruption and further strengthening of anti-corruption topics in the curricula of educational institutions of general secondary, secondary special, vocational education.

Since September 2016 the curriculum of the course “Constitutional Foundations for Building a Civil Society and a Democratic State Based on the Rule of Law” for schoolchildren and students of colleges and lyceums has included a theme which deals with issues of combating corruption.

– Secondary special and higher education. Special courses were introduced for students of colleges and lyceums of the Republic on the basis of a model programme approved for the subject “Theory of Building a Democratic Society in Uzbekistan” and during April-May 2016 classes (4-hours) with a work programme developed on its basis were held on schedule.

Over three years more than 500 corruption prevention activities were conducted in the tertiary education system, specifically over 160 in 2016, over 180 in 2017 and over 200 in 2018.

– Vocational education. Special courses on combating corruption among civil servants were introduced for the professional development training. Since January 2016, the relevant centres have prepared training programmes and materials and incorporated them in the educational process. For example, in the Centre for Professional Development Training of Lawyers a special course covers 62 groups of 1,300 students, including more than 120 candidates for judges. A special course on prevention of corruption has been developed for judges.

The training centre of the Ministry of Finance introduced a special course on preventing and combating corruption. In 2016, as part of professional qualifications, the training was extended to 1,921 employees of the Ministry of Finance and financial and auditing units across ministries and agencies. In 2017, the special course on Anti-Corruption Legal

Mechanisms involved 3,344 attendees from financial, treasury, audit and pensions departments and finance and audit workers at government organisations (ministries and agencies), whereas during the 9 months of 2018 training sessions and seminars were held for 615 employees of financial agencies, the Treasury, Pension Fund and the Government Financial Control services.

During 2017 training courses for employees of law enforcement bodies and courts, as well as for newcomers (judges, recent graduates, etc.) were introduced including practical and theoretical training sessions (modules) on anti-corruption topics on the basis of the Higher Education Courses of the General Prosecutor's Office, Academy of the Ministry of Internal Affairs, Higher Military Customs Institute under the State Customs Committee, Tax Service Academy under the State Tax Committee, Centre for Professional Development Training of Lawyers of the Ministry of Justice and other educational institutions of ministries and government agencies.

Sessions include such themes as “International Legal Framework and National Legislation in the Sphere of Anti-Corruption”, “Legal Anti-Corruption Expertise of Draft Normative and Legal Documents in the Process of Their Adoption”, “Timely Detection of Corruption Offences, Analysis, Elimination of Causes and Conditions Contributing to Their Commission”. For the students of the Faculty of Primary Training, Retraining and Advanced Training of the Higher Military Customs Institute of the State Customs Committee a special training programme “Fight against Corruption” for 2017-2018 was developed.

For example, in June 2017 a special training course on the topic “Issues of Combating Crime and Corruption in the Customs Bodies” was held, with the participation of representatives of the Higher School of Forecasting and Strategic Analysis, Institute of the National Security Service, Centre for Professional Development Training of Lawyers under the Ministry of Justice and heads of the Directorate of Internal Security of the State Customs Committee of the Republic of Uzbekistan.

Since January 2017 the Training Centre under the Ministry of Finance continues to offer training at the special course on “Legal Mechanisms for Counteracting Corruption”, and has approved training and thematic plans.

In September 2016 the institutions of retraining and professional development training for public education employees included in their curriculum training modules of anti-corruption themes “Legal Matters”, “Effective Use of the Director's Fund in Secondary Schools”, “Economic Matters”.

Similar special courses were introduced in other government agencies and during 2018 were conducted on a regular basis.

Discussion of laws and communication of laws to citizens

Law No. 3PY-459 of 9 January 2018 introduced amendments to Articles 14 and 15 of the Law “On Regulation of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan”, which provide for mandatory participation of representatives of the civil society institutions and research institutions in the discussion of draft laws in the committees of the Legislative Chamber.

It should be noted that in accordance with the decisions of the Legislative Chamber this system was tested in practice. For example, draft Laws “On the Ombudsman under the President of the Republic of Uzbekistan for Protection of the Rights and Legitimate

Interests of Business Entities”, “On Dissemination of Legal Information and Ensuring Access To It” and “On Protection of Children from Information Harmful to Their Health” after the first reading were posted on the official website of the Legislative Chamber (parliament.gov.uz) for discussion. Additionally:

The draft Law “On the Ombudsman under the President of the Republic of Uzbekistan for Protection of the Rights and Legitimate Interests of Business Entities” from August 1 to 10, 2017 was posted on websites uzlidep.uz, yoshlarittifoqi.uz, chamber.uz and social network facebook.com, where users of these networks posted overall 1,385 proposals.

The draft Law “On Dissemination of Legal Information and Ensuring Access to It” was also posted on the social network Facebook.com from August 1 to 10, 2017 where users of the network posted totally 94 proposals.

All proposals received from the Internet users and public were carefully studied and reviewed by the responsible committees to prepare the bills for consideration by the Legislative Chamber in the second reading.

Uzbekistan also reported that the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan has developed the Media Plan to bring to the general public the essence and significance of the Law of the Republic of Uzbekistan “On Combating Corruption”.

According to the monitoring results, the number of media coverage amounted to more than 100 appearances. In addition, the deputies highlight the priority provisions of the Law on the pages of the Facebook social network on a regular basis.

The essence and significance of the Law “On Combating Corruption” are also explained through television. In particular, live broadcasts are organized with the participation of deputies on talk show “Munosabat”, “Mening Owosim: Khalk Bilan Muloqot”. Further, the TV programmes “Studiamiz Mehmooni”, “Davr Mavzusi”, “Taphsilot”, “Telemushokhada”, “Mening Fikrim” covered the topic in the form of discussion with a deputy.

Provisions of the Law “On Combating Corruption” and bringing the essence to the general public did not remain without attention of posts in social networks, in particular, the deputies’ opinions were posted on the websites: www.parliament.gov.uz, www.uza.uz, www.xs.uz, www.sharh.uz, www.kun.uz, www.daryo.uz, www.gazeta.uz, www.12news.uz, www.uzreport.uz.

In order to timely communicate to the responsible party and the public the essence and significance of the adopted regulatory legal acts and their amendments and additions, each document is immediately published in print and electronic media.

The Ministry of Justice created its own page on Facebook, which together with the official website is regularly updated and supplemented with new information. The web page of the National Database of Legislation of the Republic of Uzbekistan (Lex.uz) is also opened here.

Currently the Lex.uz page is also placed on the “Telegram” messenger, which is widely used by the general public. It involves a special channel for the automatic delivery of new regulations.

A group “Adliya Bilan Mulokot” was created on Facebook. This group provides clarifications on regulatory legal acts, experts of the Ministry of Justice answer questions on the subject.

At the same time in order to explain the essence and significance of adopted regulatory legal acts, analytical talk-shows, broadcasting programmes are held through the media, in which independent experts, specialists and ordinary citizens share their views, and work is underway to introduce other innovative forms of broad discussion of application regulatory legal acts and related rights.

Civil society involvement

The above sections have already partially covered the issue of the involvement of the civil society in the implementation of anti-corruption measures. The monitoring group also notes that in some points of the State Programme the civil society institutions act as responsible parties. For example, Paragraphs 6, 12, 35 of the State Programme on Combating Corruption for 2017-2018 provide for the implementation of a number of measures aimed at improving the efficiency of interaction between the public bodies and civil society institutions in the field of combating corruption.

Representatives of the civil society also take part in monitoring and evaluation of the implementation of the State Anti-Corruption Programme. In particular, representatives of the Chamber of Commerce and Industry and the Tashkent State Law University are included in the Expert Group of the Republican Interagency Commission and participate in the evaluation of the implementation of anti-corruption measures and the State Programme by responsible parties and public bodies. However, the monitoring group has no information as to how these NGOs have been selected for inclusion in the Expert Group and whether there are objective selection criteria or a possibility of any periodical reshuffles in the group, by bringing in new or other NGOs, etc.

As mentioned earlier, in order to involve the civil society more actively in promotion of the public authorities to prevent corruption, agreements (memoranda) between the public bodies and the civil society institutions are concluded and plans to conduct joint actions to prevent corruption are adopted. Numerous examples of projects implemented within the framework of such memoranda were given earlier in this section, a large number of other examples were also provided by Uzbekistan in the framework of the responses to the questionnaire and during the on-site visit.

The civil society institutions are also involved by the Republican Interagency Commission and the General Prosecutor's Office to prepare information materials including thematic videos, aimed at explaining the essence and significance of anti-corruption legislation.

The authorities of the Republic of Uzbekistan are aware of the need to improve the efficiency and broaden the range of the civil society organizations involved in the creation and implementation of anti-corruption policy.

Judging by responses given by the authorities to the questionnaire, the Republican Interagency Commission has identified the following issues that create obstacles and constraints in improving the effectiveness of social partnership in the field of prevention and combating corruption:

“Memoranda concluded between the public bodies and civil society institutions do not provide for norms defining the tasks, obligations and responsibilities of both parties, specific mechanisms of cooperation.

There is no one single department (employee) at ministries and government agencies to maintain cooperation with NGOs, nor the regulations of the ministries and government

agencies provide for norms obliging to establish interaction and social partnership between public bodies and NGOs, including in the implementation of anti-corruption measures.

Low awareness of public bodies, i.e. lack of full information about the possibilities of NGOs and the benefits of interaction with them, information support of public bodies and limited opportunities for electronic interaction between them and NGOs, including in implementation of anti-corruption measures.

Lack of a procedure and mechanisms of financing of interaction and social partnership, except for the mechanisms provided by the Law “On Social Partnership”.

Articles of the Law “On Social Partnership” provide for funding through the Public Fund to support NGOs and other civil society institutions under the Oliy Majlis of the Republic of Uzbekistan through the allocation of state subsidies, social mandate, public grant. However, there is no extensive communication on bringing to public bodies and NGOs the mechanisms to avail of these funds from the Public Fund, and the subject of prevention and combating corruption is not envisaged by public grants.

No other mechanisms of availing of budgetary and extra-budgetary funds of public bodies for the implementation of joint projects and programmes with NGOs are provided for by legislation.”

The authorities of the Republic of Uzbekistan assured the monitoring group that they were working with the representatives of the civil society on removing the above-mentioned obstacles and negative factors.

Conclusions

According to the information provided by the country, in recent years Uzbekistan has carried out a huge array of various activities on anti-corruption education and training, done both by public bodies on their own or in cooperation with the representatives of the civil society and the business sector, or else with their support.

It is obvious that an interest in discussing the problem of corruption and possible methods of its control has emerged in the country, and the monitoring team welcomes this development.

The monitoring group also positively assessed that initiatives by provinces and sectors for anti-corruption education are encouraged, and efforts are being made to involve representatives of society in these initiatives.

However, moving forward, and given that the implementation of high-quality anti-corruption education activities entails significant financial and resource costs, it is necessary to ensure the focus of this activity.

Equally important, such education initiatives should be seriously planned and implemented within the framework of an appropriate strategy. Such a strategy should be based on a review of the risk of corruption and offences, with particular attention to categories of the citizens with limited abilities to protect their rights. Special attention should be paid to the rights (also of civil servants and persons equated to them) and possible methods to protect the violated rights, new tools for access to information and participation in the legislative process, and provision of public services, etc.

Also, special attention should be paid to the provinces of the country and develop special knowledge and skills to prevent corruption of responsible professionals.

For such a strategy to be efficient, measures must be evaluated and adjustments made, as appropriate.

According to the monitoring group, for further development of the anti-corruption awareness and education policy, the emphasis should be placed not on the negative aspect, nor only on negative – corruption, control of corruption and the harm of corruption, but rather on the positive side of the issue - integrity, mutual trust and respect between the civil servants and representatives of the public, private sector and ordinary citizens. This approach is particularly important in the development of educational programmes.

Given the costs and limited audience of the round tables, which are quite popular in educational activities, it is necessary to search for and implement other forms of anti-corruption and legal education in parallel so that to reach a wider audience. Such forms should provide accessible information on the rights and obligations of citizens or contacts, where such information or more detailed comments can be obtained by all interested persons, and such platforms should provide opportunities, for example, to report violations of rights, etc. In this context, the monitoring group notes positively the steps taken by Uzbekistan in the search for various solutions using information technology – and hopes that Uzbekistan will continue this practice.

In recent years in Uzbekistan the state authorities have certainly begun to actively develop dialogue and cooperation with the non-public sector, and this is welcomed by the monitoring group.

Representatives of the civil society are included in various commissions including the ones on anti-corruption. Public councils are established under the public authorities. Considerable efforts were made to develop a system of public coordination of draft regulatory legal acts (see also Section “Access to Information”) and to involve representatives of the civil society in the development and implementation of the State Anti-Corruption Programme.

The monitoring group also noted positively the implementation of a number of anti-corruption activities by the civil society organizations, often at the initiative of public bodies or in cooperation with government agencies.

However, during the on-site visit the monitoring group learned that there was no single procedure for the selection of representatives of the society in the state or public commissions, other bodies of collective decisions. The relevant methodological recommendations are also absent, which leaves these issues to the individual decision of each public body or local government.

Without disputing the decisions already taken, it should be noted that it is very important that, in practice, representatives of the non-public sector are elected to the advisory and other subsidiary bodies of public authorities. It is desirable that candidates are assigned on the initiative of the non-public sector. At the same time it is important to ensure equality of representatives of different non-public sectors, taking into account their resources and skills of cooperation with public or local authorities, the representativeness of the non-public sector, periodic rotation, and real influence in decision-making. The purpose of the body in which the representatives of society etc. are involved must also be taken into account.

It is still difficult to assess how effective and efficient the public-private sector cooperation and the civil society participation are, since more proactive efforts in this area have just been initiated. Cooperation with the non-public sector should continue, with particular

emphasis on quality and effectiveness, without allowing for the formality and declarative nature of the process.

Effective cooperation between the state structures and the non-public sector should be a voluntary dialogue in which both sides act as independent trusting actors.

At this point, the Government of the Republic of Uzbekistan should continue to make efforts to create attractive conditions for public participation and control, and to raise the non-public sector awareness of these opportunities, paying special attention to the provinces of the country. The monitoring group particularly welcomes the critical assessment and efforts to overcome the difficulties in establishing an effective dialogue with the non-governmental sector.

Finally, in the course of the on-site visit at a meeting with the representatives of the non-public sector the monitoring group learned that the feedback of the process of public harmonization of regulatory legal acts was imperfect. Therefore, the state should pay more attention to the expediency and effectiveness of involving representatives of the non-public sector in public decision-making, providing a quality feedback.

Consequently, trust in government agencies and, accordingly, initiatives of cooperation on the part of the non-public sector will rise. A high-quality effective cooperation over time will help to attract more qualified stakeholders to participate in the process of public decision-making.

As for the implementation of Recommendation 3.1 Uzbekistan has carried out a large number of activities on anti-corruption education and training both within the framework of the Comprehensive Plan and in the framework of subsequent plans.

Uzbekistan has also been able to develop and implement educational programmes providing them with general methodological support, as required in Recommendation 3.2.

The issues of the rights of citizens, especially young people, in relations with the state were to some extent covered in educational anti-corruption activities. Work with young people was carried out, although it is difficult to assess the effectiveness of these measures. Also in the context of Recommendation 3.3 - mechanisms have been developed for wider discussion of laws, but feedback in these processes needs to be further improved.

Pursuant to Recommendation 3.4 Uzbekistan more actively involves the civil society in anti-corruption activities, but the mechanisms of such involvement require further development and improvement.

In view of this Uzbekistan is fully compliant with Recommendation No. 3 of the Report on the Third Round of Monitoring.

New Recommendation No. 3

- 1. Organize well-planned and well-targeted public awareness and education campaigns. Ensure an integrated and strategic approach to the development of such measures, based on a review of the risk of corruption and paying special attention to the rights, methods of protection of violated rights, innovative solutions resulting from the reforms carried out in the country.**
- 2. Assess the results and impact of anti-corruption education and training activities. Based on such assessment make the necessary adjustments and apply the results of such assessment in preparation and implementation of follow-up measures.**
- 3. Improve involvement of the civil society in the process of development and**

implementation of anti-corruption measures, providing a quality feedback and clearly defining the mechanisms for their involvement in the activities of public bodies, based on transparent and objective criteria. Ensure equality of representatives of different non-public sectors, taking into account their resources and skills, the representativeness of the non-public sector, periodic rotation, meaningful effect in decision-making.

1.4. Specialized anti-corruption policy and corruption prevention institutions

Recommendation No. 4

Report of the Third Round of Monitoring of Uzbekistan:

1. *Ensure regular and efficient work of the interagency working group on promoting the improvement of organizational, practical and regulatory frameworks for countering corruption and report on its performance and the performance of its working bodies in the area of national anti-corruption policy.*
2. *Clearly establish the functions of the bodies responsible for the development and coordination of the national anti-corruption policy and for the prevention of corruption, and provide them with adequate resources.*

A number of changes have taken place in Uzbekistan with regard to the institutional mechanism for coordination of anti-corruption policies and prevention of corruption since the adoption of the Report on the Third Round of Monitoring.

Established in the summer of 2015 the Interagency Working Group on Combating Corruption existed until February 2017. In February 2016 its members were replaced on the basis of represented candidates of ministries and government agencies heads (their deputies). In addition, in order to optimize the work coordinators at the expert level were identified from 45 ministries and government agencies, with the assignment of responsibilities for consolidation and coordination of the sectoral activities in the framework of monitoring.

The Law “On Combating Corruption” (Article 8), which came into force in January 2017, provided for the establishment of the Republican Anti-Corruption Interagency Commission (RIC, or Republican Commission hereinafter) which was established in February 2017 with the decree of the President of the Republic of Uzbekistan “On Combatting Corruption” (No. IIII-2752 of 2 February 2017).

It consists of 43 members along with heads and experts of state bodies, representatives of civil society institutions and academia. The Law defines the RIC tasks, the main of which are:

- organization of development and implementation of state and other anti-corruption programmes;
- coordination of activities and ensuring interaction of bodies and organizations engaged in and involved in anti-corruption activities;
- organization of development and implementation of measures to improve the legal consciousness and legal culture of the population, the formation of the society intolerant attitude towards corruption;

- ensuring more effective measures for the prevention, identification, suppression of corruption offences, elimination of their consequences, as well as the causes and conditions contributing to corruption;
- collection and review of information on the status and trends of corruption;
- monitoring the implementation of anti-corruption measures, assessing the effectiveness of existing organizational, practical and legal mechanisms in this sphere;
- preparation of proposals for improvement of anti-corruption legislation and improvement of activities in this sphere;
- coordination of the activities of territorial interagency anti-corruption commissions.

The functions of the working body of the Republican Commission are assigned to the General Prosecutor's office.

On March 30, 2017 at the RIC meeting the territorial interagency anti-corruption commissions were set up, which were headed by the prosecutors of the Republic of Karakalpakstan, provinces and the city of Tashkent.

An Expert Group of 13 people was also created under the RIC. The experts in this group also perform other functions at their place of work. The purpose of the Expert Group is to compile and analyse the information on the implementation of anti-corruption measures by all public authorities and bodies of state administration, public associations and other organizations, as well as organizational, practical and legal mechanisms in this field.

Departmental coordinators were identified at the expert level from 64 ministries and departments, with the assignment of duties on consolidating and coordinating sectoral work within the monitoring framework.

The Law “On Combating Corruption” establishes the functions of the bodies responsible for developing and coordinating national anti-corruption policies and for preventing corruption, as well as the delimitation of their powers.

In particular, Article 7 defines bodies responsible for the development and implementation of specific measures to prevent corruption: General Prosecutor's Office, Ministry of Internal Affairs, National Security Service, Ministry of Justice, Department at the General Prosecutor's Office and other public authorities in accordance with the law. The Law describes the powers of these public authorities.

The General Prosecutor's Office, as a working body of the Republican Interagency Commission, regularly monitors implementation of the Comprehensive Plan for 2016-2017 and the State Programme, determines the effectiveness of anti-corruption measures and puts up a rating of the effectiveness of anti-corruption activities of public bodies.

The Minister of Justice of the Republic of Uzbekistan as Deputy Chairman of the Republican Interagency Commission coordinates the work to improve legal literacy and activities in the field of anti-corruption propaganda.

Status and powers of the RIC

In accordance with article 8 of the Law “On Combating Corruption” the RIC is a body coordinating the activities of authorities and organizations involved in anti-corruption activities.

Decisions taken by the Republican Commission are binding on all state authorities and public administration, public associations and other organizations. The members of the Republican Commission are approved by the President. The Republican Commission carries out its activities on a regular basis and meets as necessary, but at least once a quarter. Decisions of the Republican Commission shall be made by a simple majority of votes of the Republican Commission members present at the meeting. In case of equality of votes, the vote of the Chairman of the Commission is decisive.

According to the “Regulations on the Republican Interagency Anti-Corruption Commission” approved by the Decree of the President of the Republic of Uzbekistan No. IIII-2752⁶, as of 2 February 2017 the Commission has the right:

- to make decisions aimed at improving the efficiency of the activities of authorities and organizations engaged in and involved in anti-corruption activities, territorial interagency anti-corruption commissions;
- request and receive in accordance with the established procedure from the ministries, state committees and government agencies, local authorities, other public bodies, self-government bodies of citizens, non-governmental non-profit organizations information related to the competence of the Republican Commission;
- make proposals to the relevant public authorities on improving the legislation and law enforcement practice in the field of combating corruption;
- to hear reports and memoranda of heads of state authorities engaged in anti-corruption activities;
- to establish working commissions and (or) expert groups to study and prepare proposals on the most important issues of the Republican Commission's activities, as well as to involve specialists in the work of these commissions and groups.

The Republican Commission is also obliged to control and monitor the timely implementation of decisions taken by the Republican Commission.

The measures taken at the meeting of the Republican Commission are sent for realization and implementation to all public bodies and other organizations with setting up specific deadlines. For certain activities the Republican Commission shall determine the mechanism of a task. The completed actions are sent by the government agencies to the working body (General Prosecutor's Office), after which the Expert Group verifies the accuracy and quality of the work performed.

Coordination of activities and ensuring interaction of authorities and organizations engaged in and involved in anti-corruption activities is the responsibility of the RIC. The RIC also organizes, controls and coordinates monitoring. The Expert Group collects the submitted

⁶ <http://lex.uz/docs/3105127>

documents, summarizes, analyses, evaluates and determines the rating, as well as prepares interim and final reports and provides the Republican Commission with them.

Quarterly information is heard on the results of monitoring on the implementation by ministries and departments of the Comprehensive Plan and the State Programme, and every six months ratings are set on the effectiveness of anti-corruption activities carried out by ministries and departments.

Working body of the RIC

The functions of the working body of the Republican Commission are performed by the General Prosecutor's Office, which carries out:

- organizational and technical support of the Republican Commission;
- development of the work plan of the Republican Commission, monitoring its implementation, as well as organization of the current work of the Republican Commission in accordance with the approved plan;
- carrying out together with ministries, state committees and departments, local authorities, self-government bodies of citizens, public associations and other organizations control and monitoring the implementation of the Republican Commission's decisions, making relevant information and proposals to the Chairman of the Republican Commission;
- review of incoming correspondence and preparation of decisions on matters within the competence of the Republican Commission;
- preparation and submission to the President of the Republic of Uzbekistan and to the Cabinet of Ministers of the Republic of Uzbekistan of proposals to improve measures to combat corruption.

Employees designated by the prosecutor offices for organizational and technical support of the Republican Commission carry out their activities in conjunction with the main functional duties.

Initially, these tasks were assigned to the Directorate for Combating Organized Crime and Corruption. In February 2018, the Decree of the President of the Republic of Uzbekistan amended the range of activities of the Directorate for Combating Organized Crime and Corruption, aimed at strengthening the investigative activities of the Directorate, and divesting the Directorate of irrelevant tasks.

By the Decree of the President of the Republic of Uzbekistan No. VII -5343 as of 15 February 2018 the Directorate for Methodological Support of Investigation was established in the structure of the General Prosecutor's Office.

The main tasks of the newly established Directorate for Methodological Support of Investigation were defined as follows:

ensuring strict implementation of regulatory legal acts, state and other programmes in the fight against corruption, control, coordination, methodological and practical support for the activities of subordinate prosecutors in this field;

- monitoring the implementation of anti-corruption measures, assessing the effectiveness of existing organizational, practical and legal mechanisms in this field;

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- supervision of pre-investigation inspections and investigative actions carried out by supervised investigative units of the prosecutor office in strict accordance with the criminal procedure legislation;
 - organizational support for the Republican Anti-Corruption Interagency Commission;
 - monitoring the implementation of anti-corruption measures, assessing the effectiveness of existing organizational, practical and legal mechanisms in this field;
 - ensuring the implementation of tasks within the framework of implementation of international obligations in the field of combating corruption;
 - development and introduction of proposals to improve legislation and law enforcement practice in this field and others.

The Directorate for Methodological Support of Investigation of the General Prosecutor's Office designate a prosecutor as the RIC Secretary to be engaged in developing the work plan of the Republican Commission, monitoring its implementation, as well as organizing the current work of the Republican Commission in accordance with the approved plan.

His\her responsibilities also include conducting jointly with the ministries, state committees and departments, local public authorities, self-government bodies of citizens, public associations and other organizations of control and monitoring implementation of decisions of the Republican Commission and entering the appropriate information and proposals to the Chairman of the Republican Commission. He\she is also responsible for reviewing incoming correspondence and preparing decisions on matters within the competence of the Republican Commission; organization of preparation and submission to the President of the Republic of Uzbekistan and to the Cabinet of Ministers of the Republic of Uzbekistan of proposals on improvement of measures promoting anti-corruption.

According to the monitors, taking into account the above-mentioned range of its tasks, as well as the priority of the fight against corruption and the strategic importance of the RIC's activities, such a personnel situation does not seem adequate.

Activities of the RIC

Since its establishment the RIC has demonstrated quite high activity and shown significant results. Information on the results of the RIC activities and its working bodies is available on the official website of the General Prosecutor's Office.

The first RIC meeting on 30 March 2017 set up territorial interagency anti-corruption commissions, headed by prosecutors of the Republic of Karakalpakstan, provinces and the city of Tashkent, and their model provisions were approved. Also established was an Expert Group, and a report was presented on the implementation of the Comprehensive Action Plan for Implementation of Anti-Corruption Activities for 2016 by ministries and government agencies and on ratings on the effectiveness of anti-corruption activities carried out by ministries and government agencies in 2016.

The RIC meeting reviewed and approved the following measures for countering corruption:

- a plan of measures to improve the legal consciousness and legal culture of the population, aimed at the formation of the society intolerant attitude towards corruption;

- the action plan to cover the results of activities in the field of combating corruption on television, radio, print and electronic media, including through the regular organization of thematic programmes, interviews, debates, press conferences and other events;
- a schedule of training seminars, conferences, round tables and other anti-corruption activities involving employees of public bodies, business entities and other target groups;
- a series of measures to improve legal literacy and legal knowledge of officials and employees of public bodies and organizations in the field of combating corruption;
- a series of measures to organize the effective work of public bodies directly engaged in anti-corruption activities, based on a systematic review of the status and trends of corruption, as well as effective interagency cooperation and exchange of information;
- a work plan of the Republican Interagency Commission for 2017-2018 on the implementation of measures provided for by the State Programme;
- regulations on the Expert Group of the Republican Anti-Corruption Interagency Commission;
- a logo of the Republican Anti-Corruption Interagency Commission.

The second RIC meeting in June 2017 discussed the progress of public bodies and other organizations in the implementation of measures outlined in the Law of the Republic of Uzbekistan “On Combating Corruption”, the Decree of the President of the Republic of Uzbekistan “On Measures to Implement the Provisions of the Law of the Republic of Uzbekistan “On Combating Corruption””, the State Anti-Corruption Programme for 2017 - 2018, as well as the activities of public bodies in the field of combating corruption in the first half of 2017.

At this meeting the RIC reviewed and approved the following measures to combat corruption:

- a plan of measures to explain the norms and requirements of the rules of ethical conduct among employees of public bodies, including through trainings, seminars, round tables;
- anti-corruption measures in the field of transparency of the process of formation and expenditure of budget funds, as well as the availability of information on their allocation;
- measures to improve the efficiency of interaction between the public bodies and civil society institutions in the field of combating corruption;
- methods of monitoring the implementation of anti-corruption measures, evaluation of the effectiveness of organizational, practical and legal mechanisms in this field.

At the third RIC meeting in December 2017 the Plan of Sociological, Special, Scientific and Other Research in the Field of Combating Corruption was approved, which provided for conducting research on the status of corruption, its nature, range, dynamics and trends, as well as the effectiveness of the state policy implementation in the field of combating corruption for 2017-2018.

The decisions on the record point out to the shortcomings and omissions in the course of implementation of the tasks and activities in the field of combating corruption identified to

the responsible heads of ministries and government agencies, as well as the need for timely and full implementation of the State Anti-Corruption Programme for 2017-2018.

- At its fourth meeting RIC discussed the work carried out in the framework of the implementation of the measures provided for by the State Anti-Corruption Programme for 2017-2018, as well as the shortcomings and forthcoming tasks in this area were discussed. This meeting approved:
- Schedule of events on “Corruption-a Threat to National Security” theme;
- Methodology of monitoring compliance with the rules of ethical conduct of the public bodies’ employees;
- New membership of the RIC Expert Group.

Information on the results of the RIC activities on promoting the improvement of the organizational, practical and legal framework for combating corruption is carried out with the help of the media. Information on the work carried out is published on the official websites of the General Prosecutor's Office (prokuratura.uz), Academy under the General Prosecutor's Office (proacademy.uz), on the departmental publication “HUQUQ” and its website (huquq.uz), and broadcast communication prepared by the Media Centre of the General Prosecutor’s Office to the Central TV channels (“Uzbekistan”, “Uzbekistan-24”, etc.).

In addition, the above-mentioned information is made available to the public in the course of ongoing activities, including conferences, seminars, round tables, etc.

At the moment, as mentioned above, the RIC together with interested government agencies, with the involvement of the academia, civil society and international organizations, is developing a draft State Anti-Corruption Programme for 2019-2021. Also, the RIC created the Telegram bot - t.me/anticorruptionuz bot for the citizens. With the help of which the citizens can submit their opinions and proposals on anti-corruption measures for inclusion in the draft new State Programme.

Conclusions

The monitoring group welcomes the approach chosen by Uzbekistan for the development of the institutional system of prevention of corruption through the establishment of interagency commissions at the national level and in provinces, and considers it effective, given the size of the country and the number of bodies covered by the anti-corruption policy.

This system makes it possible to involve the largest possible number of public authorities and administration in corruption prevention measures, as well as in provinces, using their different approaches, skills and knowledge of sectors. It also makes it possible to share responsibility, while at the same time through effective coordination the RIC does not let the perception of the overall picture of anti-corruption efforts and progress necessary for the development of national anti-corruption policy slip by.

A positive development was the creation of the RIC Expert Group involving specialists from different government bodies. Although, given the fact that the RIC activities are an additional function of these specialists, their ability to make a significant contribution to the work of the Expert Group remains questionable.

It should also be noted that human and financial resources in the form of the RIC Secretariat and territorial interagency commissions are not sufficient for the effective performance of

their functions. The effective provision of these secretariats, their training and professional development should be in line with the importance of the tasks entrusted to the RIC and the priority given to the fight against corruption by the top leadership of the country.

It is positive that government agencies have appointed coordinators in charge of anti-corruption activities, but more attention should be paid to the development of specialized knowledge and skills of specialists in charge of the prevention of corruption at the national level, in the provinces and specific government agencies.

Without disputing the country's decision to entrust the development and monitoring of the implementation of anti-corruption policy to the bodies of the General Prosecutor's Office, the monitoring group calls for ensuring not only sufficient human resources, but also providing for the prevention of corruption is carried out by appropriately trained specialists, clearly delineating the functions of criminal investigation, prosecution and prevention of corruption.

Regarding the context of implementation of Recommendation 4.1, the Report on the Third Round of Monitoring called on Uzbekistan to ensure regular and effective work of the Interagency Working Group on promoting the improvement of organizational, practical and regulatory frameworks for combating corruption and to make public the results of work related to the national anti-corruption policy. In light of institutional changes, and, in fact, with the transfer of the Working Group's functions to the RIC, it was the RIC that was considered in the report in the context of implementation of this Recommendation. Its regular work has been ensured, although the issue of staffing the Secretariat of this body needs to be addressed, which will further enhance its effectiveness. The results of its activities as well as of its bodies are publicly available and efforts are being made to disseminate them widely.

According to Recommendation 4.2 the functions of the bodies responsible for the development and coordination of national anti-corruption policies and for prevention of corruption have been established, but the question of providing them with adequate resources has not been resolved.

Therefore, Uzbekistan is largely compliant with Recommendation No. 4 of the Report on the Third Round of Monitoring.

New Recommendation No. 4

- 1. Provide the bodies in charge of co-ordinating and monitoring anti-corruption policies with the human and financial resources necessary for efficient and independent activities.**
- 2. Provide for a permanent special Secretariat for the Republican Interagency Commission with staff specializing among other issues in the prevention of corruption, clearly delineating the functions of criminal investigation, prosecution and prevention of corruption.**
- 3. Ensure the development of specialized knowledge and skills of professionals in charge of the prevention of corruption at the national level, in the regions and in specific government agencies.**

Chapter 2. Prevention of corruption

2.1. Integrity in the civil service

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

1. *Adopt legislation, which will introduce a system of transparent, merit-based competitive recruitment, appointment and promotion in the civil service. Provide definitions of professional and political officials.*
2. *Introduce a transparent salaries scheme in public service, rules and criteria for the allocation of variable component of salaries.*
3. *Introduce regulation on prevention of conflict of interests and ensure it is properly enforced in practice.*
4. *Put in place a system for public officials to submit asset declarations; regulate the procedure of declaring personal assets of public officials and consider checking these declarations and making them public.*
5. *Provide general guidelines for codes of conduct for public institutions officials. Introduce an order that provides for mandatory adoption of codes of conduct for public officials. Define sanctions for non-compliance with ethical standards.*
6. *Introduce regulations on accepting gifts by public officials and consider the possibility of imposing restrictions on post-office employment for public servants.*
7. *Adopt regulations on the protection of “whistle-blowers”.*

Recommendation No. 15 Report on the Third Round of Monitoring of Uzbekistan:

1. *Develop the concept and draft unified law on public service.*
2. *Purposeful implementation in practice of the norms on integrity in public service, through their dissemination, availability of training and effective institutional mechanism in ministries and departments, by including these issues in departmental anti-corruption plans and engaging educational institutions in the professional development of civil servants.*
3. *Include issues of ethics corruption prevention in the four-month refresher course for the managerial staff at the Academy of Public Administration and introduce short-term courses on anti-corruption.*

Professional civil service

Recommendation No. 15 Report on the Third Round of Monitoring of Uzbekistan:

1. *Develop the concept and draft unified law on public service.*

To date there is no uniform law in Uzbekistan in the field of public or civil service. Labour relations in state bodies, the status, rights and obligations of persons working in public institutions of Uzbekistan, as in the previous three rounds of monitoring, continue to be regulated by the Labour Code of the Republic of Uzbekistan and a number of sector-specific laws - in particular, the laws “On Courts”, “On the General Prosecutor's Office”, “On Advocacy”, “On Notaries”, “On Customs Service”, “On Tax Service” and other laws. The status of elected officials, namely deputies of the Legislative Chamber of the

Parliament and the Senate, the President and members of the Cabinet of Ministers, is also regulated by the relevant legislation.

The public service reform is still under discussion.

Back at the time of the on-site visit to Uzbekistan in 2015 as part of the Third Round of Monitoring it was already reported that the Concept of the Law “On Public Service” was developed, as well as the draft Law “On Public Service” (based on the model of Germany). Moreover, the Report on the First and Second Rounds of Monitoring in 2012 also noted that the Law “On Public Service” was included in the list of regulatory legal acts that Uzbekistan intended to develop in the framework of its State Anti-Corruption Programme.

The same situation was observed in late 2018 and early 2019. For example, Paragraph 2 of the State Anti-Corruption Programme for 2017-2018 provided for the development of a draft Law “On Public Service” until October 2017, regulating the basic principles of organization and functioning of the civil service system, requirements for building up the civil service personnel, admission to the civil service, carrying it out and termination.

According to the data provided by Uzbekistan in the responses to the questionnaire, the Concept of the Law of the Republic of Uzbekistan “On Public Service” was developed by the Ministry of Employment and Labour Relations in December 2017 and simultaneously with the draft of the relevant law was submitted to the Cabinet of Ministers of the Republic of Uzbekistan. In 2018 the Concept and the draft Law were finalized by the Ministry of Justice and were submitted to the Administration of the President of the Republic of Uzbekistan in the prescribed manner. It was also reported that the Concept and draft Law are currently being considered by the Administration of the President of the Republic of Uzbekistan and will be submitted to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan. During the on-site visit to the country in December 2018 the monitoring group was able to verify that the draft Law on civil service was widely discussed again in Uzbekistan, but no one could specify the exact dates for the next steps to promote this issue.

Although formally Recommendation 15.1 requires Uzbekistan to develop a Concept and a draft Law on a uniform public service, which has already been done, the monitoring group regrets the situation and recommends that Uzbekistan take a decision on this issue as soon as possible. This will allow not only to fulfil the tasks set by the State Anti-Corruption Programme for 2017-2018, but will also be a specific step towards building a professional and efficient civil service in Uzbekistan.

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

1. Adopt legislation, which will introduce a system of transparent, merit-based competitive recruitment, appointment and promotion in the civil service. Provide definitions of professional and political officials.

The monitoring group believes that the professionalism of the civil service cannot be adequately ensured as long as the status of the civil servant remains uncertain and there is no clear legal distinction between the career and political public servants.

Political will on these reforms was expressed at the highest level of the country's leadership. The Concept of Administrative Reform approved by the Decree of the President No. VII - 5185 as of 8 September 2017 identified as one of the six areas of the public administration reform namely “formation of an effective system of professional public service, introduction of effective mechanisms to combat corruption in the system of government bodies”.

During the on-site visit, the monitoring group was able to verify that the draft Law on civil service is widely discussed in Uzbekistan. The purpose of the draft law is to regulate relations in the field of public service by:

- ensuring the unity of the organizational and legal framework of the civil service and the status of a civil servant;
- building gradually the career foundations for civil servants;
- establishing guarantees of fair selection and merit-based promotion;
- regulation of procedures for admission, carrying out and termination of public service;
- creation of conditions for the development of professionalism and competence of civil servants, establishment of the spirit of serving the interests of the people and high ethical standards in the public service.

Undoubtedly, it is important that according to Article 6 of the draft professionalism and competence are one of the basic principles of public service. These provisions are explicated in Article 13 of the draft, which provides that the public service will be carried out by professional staff. Civil servants in public positions of the political group will have to meet the basic competence requirements of the legislation. The proposed norms cited recognize that the state is responsible to society for the professional level of civil servants, and the civil servant, in turn, is obliged to take charge of his\her competence. The draft stipulates that the assignment of state class ranks, qualification ranks and titles should be conditioned by the acquisition of relevant professional competencies.

The draft Law also specifies the qualification classes and ranks of the civil service. Thus, according to Article 28 of the draft, the civil service system of the Republic of Uzbekistan will provide the following qualification classes: political (P); senior (SR); regular (R); support (S).

It is proposed to correlate with the political qualification class the following civil servants holding public positions in a political group: heads and deputy heads of public bodies; advisers to the heads of state bodies.

The draft Law also contains some important provisions intended to ensure:

- political neutrality of career civil servants (Article 12);
- equal access to public service on the basis of merit (meritocracy) (Article 17);
- a unified approach to the procedure of competition for public office (Articles 49-52);
- monitoring and evaluation of the efficiency of the civil servant (Chapter 8);
- stability and independence of a professional civil servant, which may be possible if the provisions concerning reasonable restriction of official discretion and official discipline (Articles 15 and 23) are applied, as well as the rules relating to social and legal protection of civil servants (Articles 18 and 20), including provisions designed to ensure uniform and transparent conditions of remuneration (Chapter 11).

The adoption of the draft Law will affect the efficiency of the public service and during the on-site visit the monitoring group had the opportunity to make sure that Uzbekistan is aware of these possibilities. After all, it can solve the current problems associated with the lack of:

- uniform state policy;
- a single mechanism of administration of the civil service affairs;
- a unified approach to assessing the efficiency of the public service;
- integrated safeguards and requirements that apply to public servants, including the requirements of pursuing the prevention of corruption.

The uncertainty of the status of civil servants results in a low level of accountability and, as a result, the manifestation of corruption risks. In this regard, the monitoring group again recommends the adoption of the draft law as soon as possible.

It should be especially noted that one of the expected effects of the adoption of the draft Law “On Public Service”, through the application of the provisions of Article 35, will be the establishment of an authorized body for the civil service affairs, which, among other things, will maintain statistics of the public service and prepare reference and analytical reports on the public service.

Uzbekistan faces certain problems in the processing (generalization) of disparate statistical data as is evident from both the answers to the questionnaire and from the observations during the discussions in the course of the on-site visit.

Besides, it is because of the lack of statistical data or the lack of summary data on many aspects of monitoring that the monitoring group find it difficult to clearly conclude the application of standards, especially to assess the efficiency in this regard.

Recruitment and promotion in civil service

Uzbekistan has declared its intention to ensure the formation of a public service based on the assessment of personal merits and qualities, and this intention is clearly reflected in the legislative activities of recent years.

In particular, the Concept of Administrative Reforms approved by the Decree of the President “On Approval of the Concept of Administrative Reform in the Republic of Uzbekistan” (No. VII -5185 as of 8 September 2017), provides for the development of draft regulatory legal acts regulating the organization of civil service, including transparent mechanisms for entering the service (on a competitive basis), formation of a personnel reserve, carrying out a service which are aiming at building a professional corps of civil servants. The “Road Map” for the effective implementation of the Concept of Administrative Reform also provides for the development of such draft regulatory legal acts.

Articles 48-49 of the draft Law “On Public Service” provide for admission and appointment to public service on a competitive basis. Articles 50-53 contain rules concerning the procedures for holding a competition and taking office on the basis of a competitive selection.

Also, in 2017 the Ministry of Employment and Labour Relations developed the draft Resolution of the Cabinet of Ministers “On Measures to Further Improve the System of Providing Highly Qualified Personnel to Public Administration and Local Executive Authorities”, including:

- Standard Regulation on Procedure of Holding a Competition for Vacant Positions in Public Administration and Local Executive Authorities;
- Regulation on Formation of the Personnel Reserve of Civil Servants of the Republic of Uzbekistan;

- Procedure for Rotation of Civil Servants;
- Regulation on Procedure for Retraining and Advanced Professional Training of Employees of Public Administration and Local Executive Authorities;
- Standard Regulation on Human Resources Service of a Public Authority.

Currently the draft Resolution is being finalized in the Administration of the President of the Republic of Uzbekistan with due regard for the provisions of the draft Law of the Republic of Uzbekistan “On Public Service”.

In practice, internal competitions are regulated by the internal regulations of the relevant state bodies and each state body publishes vacancy data on its website. Also vacancy announcements can be found on the website ish.mehnat.uz.

Uzbekistan has also taken a number of targeted initiatives. For example, in accordance with the Decree of the President of the Republic of Uzbekistan No. IIII-3755 as of May 30, 2018 “On Measures to Establish a Modern System of Selection of High Potential Executive Staff on a Competitive Basis” the Republican competition “Tarakkiet” for the selection of high potential executive staff was organized.

The winners of the Competition are appointed to executive (senior) positions in the system of public and economic administration, local executive authorities and they are paid a one-time fee in the amount of 50 minimum wages, and the remaining finalists included into the pool of the executive staff – 25 minimum wages.

Certain bodies and agencies are taking measures in regard thereto with these measures applied only to the specified institutions.

For example, the Ministry of Finance issued Order No. 108 as of 14 June 2018, which approved:

“Regulation on Procedure of a Competitive Selection (Recruitment) of Employees of the Ministry of Finance of the Republic of Uzbekistan”;

“Regulation on Formation of the Personnel Reserve and Staff Development of the Ministry of Finance of the Republic of Uzbekistan”.

In order to establish clear criteria for the evaluation of candidates, ensure competitive selection and increased transparency, the State Customs Committee approved the “Regulation on Carrying Out a Service in the Bodies of the State Customs Service of the Republic of Uzbekistan” in accordance with Annex No. 9 to the Decree of the President of the Republic of Uzbekistan “On Organization of Activities of the State Customs Service of the Republic of Uzbekistan” (No. IIII-3665 as of 12 April 2018), which provides for the above requirements.

These initiatives are certainly welcome, but for the qualitative implementation of Recommendation 14.1 the monitoring group calls for a systematic review of all regulations governing the admission and promotion of personnel, paying special attention to the level of transparency and impartiality of the competitions. To introduce a common system of requirements and again to adopt a uniform law on public service.

Remuneration

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

2. Introduce a transparent salaries scheme in public service, rules and criteria for the allocation of variable component of salaries.

At the moment, remuneration of civil servants (government and local executive authorities) in Uzbekistan is carried out on the basis of a Uniform Tariff Scale (UTS), consisting of 22 categories. Certain categories of civil servants are paid on the basis of basic salaries. Remuneration of civil servants consists of tariff rates corresponding to UTS (basic salaries), increment and surcharges provided by the legislation and local regulations.

In addition to the tariff rate (basic salary) from the state budget are paid: bonuses in the amount of two – months payroll budget per year, increment for high quality performance (in accordance with the Order of the Minister of Finance of the Republic of Uzbekistan No. 64 as of 7 July 2015 the amount is not limited), pecuniary aid in the amount of the monthly payroll budget, increment at the incentive rate (20-40% of the tariff rate), as well as the increment for time-in-service in some public administration bodies.

The public administration and executive authorities pay additional increment and remuneration to employees from non-budgetary funds depending on the results of performance and the quality of work performed.

On the basis of appraisal the ratio of the tariff and extra tariff parts of wages in public administration is proportionate to 60 (tariff part) and 40 (surcharges and increment). The fixed wage includes: salary consisting of the UTS category and the tariff multiplier, the incentive rate in the amount of 40%. The variable salary includes – increment for special working conditions, time-in-service, surcharges for titles, increment for a diplomatic rank, a bonus in the amount of 2 salaries, pecuniary aid in the amount of 1 salary. In accordance with the Decree of the President of the Republic of Uzbekistan No. VII -5349 as of 19 February 2018 the amount of a monthly increment to employees of state bodies and other budgetary organizations responsible for deployment and development of innovative information technologies and communications is also set at a rate of minimum 100 percent of the employee salary.

The appraisal systems for employees of public bodies and state-owned enterprises are different and are determined depending on the characteristics of the organization of work. To date more than 50 public bodies and state-owned enterprises carry out their activities on the basis of the appraisal system of the quality of employees' performance. The appraisal period is from 1 month to 1 year.

The general appraisal system includes evaluation of the efficiency of labour (performance) discipline and compliance with ethical rules of conduct.

Such appraisal is normally carried out by assigning appropriate points for a certain achievement by summing up the total according to the approved methodology.

Uzbekistan informed that wages are not tied to such appraisal. Achieving high results of such appraisal assumes the application of incentive measures to the employee (payment of increment, promotion in grade or rank, in office, etc.).

Local acts of the ministries and agencies adopted criteria for payment of additional remuneration. At the same time Uzbekistan affirms that, as a rule, a significant part of the additional remuneration is carried out on the basis of an individual appraisal of the

employee's performance according to the Key performance indicators. Certain payments such as increment for time-in-service are made on the basis of a "scale" established in the public administration or other strict criteria.

Due to the reform of public authorities and administration the conditions and amount of wages of employees of the Cabinet of Ministers, tax service bodies, the Ministry of Foreign Affairs, the Committee on Religious Affairs under the Cabinet of Ministers, the Oliy Majlis, the Ombudsman, the Constitutional Court, the prosecutor offices and the courts have been changed.

In accordance with the roadmap adopted in response to the recommendations of the International Monetary Fund mission, a strategy for the formation of a remuneration system for all sectors of the public sector for the next three years is being developed with the involvement of international experts.

Again, the draft Law "On Public Service" and the Decree of the President of the Republic of Uzbekistan "On Measures to Further Improve the System of Material Incentives and Social Welfare of Employees of State Bodies" provide for the reforms in this context, namely:

- creation of an up-to-date system of remuneration and social welfare of civil servants, which helps to increase the attractiveness of the civil service, minimize the risks of corruption and abuse of office;
- setting up the level of remuneration in accordance with professional qualifications;
- creating an effective, flexible and efficient system of employee incentives;
- all-round stimulation for attracting of highly qualified and potential specialists to public administration and local executive authorities, realization of measures on social welfare and improvement of a standard of living of civil servants and members of their families;
- gradually achieving of parity in the remuneration of employees of state administration bodies and local executive authorities with managerial employees of leading business entities and public servants of foreign countries.

The monitoring group welcomes the steps that have been taken towards reforms to implement Recommendation 14.2 and calls to accelerate their implementation by providing an up-to-date system of remuneration and social welfare of civil servants, contributing to the attractiveness of the civil service, minimizing the risks of corruption and abuse of office.

Conflict of interest and other restrictions

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

"3. Introduce regulation on prevention of conflict of interest and ensure it is properly enforced in practice."

"6. Introduce regulations on accepting gifts by public officials and consider the possibility of imposing restrictions on post-office employment for public servants."

The basic provisions of Article 21 of the Law "On Combating Corruption" are fundamental. According to these provisions employees of public bodies holding the office or carrying official duties should not allow private interest, which leads or may lead to a conflict of interest. The conflict of interest (Article 3) implies a situation where the private interest (direct or indirect) affects or may affect the proper performance by a person of official

duties or function and in which there arises or may arise a contradiction between the private interest and the rights and legitimate interests of citizens, organizations, society or state.

In the event of a conflict of interest employees of public bodies must immediately inform their direct supervisor. The supervisor who has received information about the occurrence of a conflict of interest is obliged to take timely measures to prevent or resolve it. Special units or ethics commissions of public bodies should monitor compliance with the rules of resolution of conflict of interest. Employees of public bodies, as well as their supervisors who have violated the requirements of prevention or settlement of conflict of interest must be held liable in accordance with the law. However, these rules are too general to be effective.

Certain provisions are contained in the “Model Rules for Ethical Conduct of Employees of Public Administration and Local Executive Authorities” No. 62 as of 2 March 2016 approved by the Cabinet of Ministers of the Republic of Uzbekistan.

According to Paragraph 14 of the Rules civil servants should not allow private interest in the performance of their duties, which leads or may lead to a conflict of interest. A conflict of interest arises in a situation where public servants have a private interest that affects or may affect the objective and impartial performance of their duties. Private interest includes obtaining any benefit or advantage for them personally or for their close relatives, as well as other persons with whom they are connected or have a business relationship. In the event of a conflict of interest, civil servants must immediately inform their supervisor. The supervisor who has received information about the occurrence of a conflict of interest is obliged to take timely measures to resolve it.

In accordance with Paragraph 15 public servants are prohibited from engaging in entrepreneurial activities. Public servants should not carry out activities, as well as hold positions that are conflicting with the proper performance of their duties or harm them. Under any circumstances a public servant may not derive from his or her official position any personal benefit that is not due to him\her. Public servants are obliged to notify their supervisor of participation in the authorized capital of commercial organizations in order to take measures to prevent conflict of interest.

According to the provisions of Paragraph 16 when being appointed and during carrying out his\her official duties a public servant is obliged to declare the existence or possibility of personal interest, which affects or may affect the proper performance of his\her official duties.

For violation of the rules on conflict of interest sanctions are provided. Thus, based on the results of investigation by a special unit or Ethics Committee of the fact of the Ethics Rules violation, a conclusion is made on the occurrence of a disciplinary or other violation.

At the same time a proposal of a liability for the civil servant’s misconduct shall be passed for consideration to the head of the state body. In view of the nature of the violation the Commission may confine itself to a warning to a public servant against the violation of the Ethics Rules.

For violations of the Ethics Rules including for failure to report on the occurrence or possibility of his\her personal interest, which affects or may affect the proper performance of his\her duties (conflict of interest) the following disciplinary sanctions may be applied to a public servant: reprimand; deprivation of bonuses and other incentive payments; fine or withholding of wages up to 30%; demotion; dismissal from office.

According to Uzbekistan, at the moment there are no statistics on imposition of sanctions for violation of the rules on conflict of interest. In the absence of any summary statistical data on imposition of the above norms, the monitoring group cannot conclude whether these norms are applied and, if they are applied, to what extent.

In discussions, representatives of the public authorities of Uzbekistan agreed that one of the shortcomings preventing the efficient implementation of the requirements of the Law “On Combating Corruption” regarding the prevention and settlement of conflict of interest is the lack of a relevant by-law.

The authorities of Uzbekistan assured the monitoring group that the work on improving the organizational and legal basis for resolving the conflict of interest of employees of public bodies is in progress.

One of the objectives of the draft Law “On Public Service” is to further regulate these issues. The State Anti-Corruption Programme (Paragraph 27) provides for the preparation of proposals for such improvement. In this regard, in order to introduce mechanisms to identify, prevent and resolve conflict of interest, the General Prosecutor's Office, together with the ministries and departments concerned, has developed a draft Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On Approval of a Model Provision on Procedure for Resolving Conflict of Interest of Employees of Public Administration and Local Executive Authorities”. The draft was sent to the ministries and departments for comments and reconciliation.

There are provisions relating to conflict of interest in Article 25 of the draft Law “On Public Service”. According to the proposed provisions, a conflict of interest arises in a situation in which the personal interest (direct or indirect) affects or may affect the proper performance by a person of official duties or function, and in which there arises or may arise a contradiction between the personal interest and the rights, legitimate interests of citizens, organizations, society and the state. The personal interest of public servants includes the direct possibility of obtaining any material or non-material (non-property) benefit or advantage for them personally or for their close relatives, as well as other persons with whom they are connected or have business relationship. In the event of a conflict of interest, civil servants will be required to immediately notify their supervisor or superior in writing. This requirement will also apply to candidates for admission to the public service. The head of the state body, who has received information about the occurrence of a conflict of interest, will be obliged to take timely measures to resolve it, including:

- assign to other public servant execution of official duties of the public servant in question in connection with whom a conflict of interest occurred or may occur;
- change the official duties of the civil servant in a way that the conflict of interest was excluded;
- take other measures to eliminate the conflict of interest.

As for the regulation of restrictions and incompatibilities, the draft Law is more detailed. Thus, in accordance with Article 22, a civil servant will not be entitled to:

- to hold public office which is in the direct subordination of the position held by persons who are in close relationship or alliance with him\her (parents, brothers and sisters of parents, brothers, sisters, sons, daughters, spouses, and also parents, brothers, sisters and children of spouses), except for cases envisaged by the legislation;

- engage in other paid activities, except for teaching, research and creative activities;
- to be engaged in business activity personally or through authorized persons, except for cases of implementation of such activity in the public organization in the manner stipulated by the legislation;
- to be a member of the management body of a commercial organization, with the exception of organizations with a state share;
- to acquire by himself or through own representatives shares, equities or interests in organizations under the control of a public authority where a public servant is on service or has links and interests that may lead to a violation of their independence;
- to be an attorney or representative in the affairs of third parties in the state body where he is on public service or which is directly subordinated to him or directly controlled;
- use for non-commercial purposes means of material, financial and information support, state property and official information;
- receive royalties for publications and speeches, preparation of which is a part of his\her official duties;
- receive from individuals and legal entities any remuneration related to the performance of official duties;
- accept awards, honorary and special titles of foreign states, international and foreign states, international and foreign organizations, except for scientific degrees and titles without the permission of the President of the Republic of Uzbekistan;
- participate in illegal actions (rallies, meetings, demonstrations) that impede the normal functioning of state bodies and the performance of official duties;
- to enjoy privileges or benefits not provided for by law in connection with his\her official position;
- to be a member of a political party, with the exception of civil servants in public positions of a political group.

A citizen who held the position of civil servant after the termination of public service will not be able in the period of two years to be employed in organizations that were directly subordinated to him or controlled without the written consent of the authorized body for civil service affairs.

For civil servants working or who have worked with information constituting state, official and other secrets additional restrictions may be imposed by the legislation.

Back to the provisions of the draft Law “On Conflict of Interest” it should be noted that they can become effective only if they will be extended by a special regulatory legal act. In this regard, the draft Resolution of the Cabinet of Ministers “On Approval of the Model Regulation on Procedure for Settlement of Conflict of Interest of Employees of Public Administration and Local Executive Authorities” may serve as a guide.

The draft Model Regulation contain norms providing for:

- basic principles for settlement of conflict of interest;
- rights and obligations of civil servants related to the disclosure and settlement of conflict of interest;
- a procedure for disclosure of conflict of interest;

- a procedure for verification of a declaration of conflict of interest;
- the mechanism of prevention and settlement of conflict of interest;
- liability for violation of the requirements of the Regulation.

The draft Resolution of the Cabinet of Ministers also provides for mandatory record keeping of conflict of interest cases and their results.

In addition, Uzbekistan informed that educational work is being carried out in this regard. Thus, the Centre for Professional Development Training of Lawyers published a Handbook on foreign experience focusing on the specifics of the work of separate bodies to resolve conflict of interest.

The manuals on prevention of conflict of interest are distributed among the employees of state bodies by providing access to electronic materials and a collection of lectures via the websites of educational institutions, in particular law enforcement agencies: the Academy of Public Administration under the President of the Republic of Uzbekistan, Tashkent State Law University, Higher Educational Courses under the General Prosecutor's Office of the Republic of Uzbekistan, Centre for Professional Development Training of Lawyers of the Ministry of Justice of the Republic of Uzbekistan, Academy of the Ministry of Internal Affairs, Tax Academy, Higher Military Customs Institute of the State Customs Committee of the Republic of Uzbekistan, etc.

In view of all the above, Uzbekistan is partially compliant with Recommendation 14.3. Provisions on prevention of conflict of interest have been introduced into the legislation of the Republic of Uzbekistan, but their proper application requires the adoption of a special regulatory legal act. The regulation on prevention and settlement of conflict of interest should also be expanded in the law and liability measures should not be limited to disciplinary sanctions. Administrative liability should be exposed for violation of the rules on reporting a conflict of interest and its settlement. It is also recommended to consider the introduction of criminal liability for making such decisions in a situation of conflict of interest in order to derive a benefit for oneself or a connected person.

Uzbekistan is fully compliant with Recommendation 14.6. As mentioned above, the possibility of imposing restrictions on post-office employment for public servants was considered and as a result was reflected in the draft Law “On Public Service”. Also, the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On Approval of Model Rules of Ethical Conduct of Employees of Public Administration and Local Executive Authorities” adopted on March 2, 2016 prohibits civil servants from receiving any material values or other benefits from individuals or legal entities in connection with the performance of their duties.

See a new recommendation below.

Disclosure of assets

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

4. Put in place a system for public officials to submit asset declarations; regulate the procedure of declaring personal assets of public officials and consider checking these declarations and making them public.

At the time of the monitoring, there were no rules on assets declaration whatsoever.

During the on-site visit, the monitoring group had the impression that there was a different vision for the implementation of the mechanism.

At the 4th RIC meeting the General Prosecutor's Office was instructed to draft proposals for the introduction of a system of mandatory declaration of property by public officials, including verification of the declarations and making them public.

The procedure for the declaration of property by civil servants is reflected in the proposed draft Law "On Civil Service".

According to Article 26 of the draft Law, civil servants, with the exception of those belonging to the technical group, are obliged to file annually a declaration on property, income and large expenses, as well as a declaration on property, income and large expenses of their family members (parents, spouse, children, including adopted children), in the manner prescribed by the legislation.

For certain categories of civil servants, the list of which will be determined by the President of the Republic of Uzbekistan, additional requirements may be established for disclosure of property, income and large expenses, including an expanded range of family members listed in the declaration.

Candidates for admission to the civil service and members of their families of the first degree of kinship are obliged to file a declaration on property, income and large expenses at the time of admission to the civil service.

Information on filing the declaration will be checked by the authorized body for the civil service affairs before the decision on enrolment of the candidate for civil service.

Verification of reliability and completeness of the data on the property, income and large expenses presented by public servants and members of their families will be carried out by the authorized body for the civil service affairs in the order established by the legislation.

Failure by a public servant to file or filing of incomplete or inaccurate information about the property, income and large expenses, or failure to file or filing knowingly incomplete or inaccurate information about the property, income and large expenses of family members of the public servant in case filing of such information is mandatory, will serve as a basis for termination of public service.

In view of the above, Uzbekistan is not compliant with Recommendation 14.4 and the monitoring group recommends its implementation as soon as possible. Uzbekistan should decide how to ensure the effective implementation of the Recommendation, in particular, to define an approach to regulation – a single mechanism for disclosure of the assets and interests of employees of different categories (not only civil servants, but also political servants, judges, prosecutors, and so on) or the creation of several systems within the framework of sectoral regulation.

According to the monitoring group, a more effective approach is to create a single common system of disclosure of property and interests by all public servants. Such a system should be created using information technology and provide for completing and filing the declarations electronically through the online form. With this in mind, the regulation of such a disclosure system should be introduced in a separate law or the Law "On Combating Corruption" significantly amended. Furthermore, it is recommended that the main components of the disclosure system (subjects, types of declarations, the procedure of their filing, the main content of declarations, the procedure of control over the filing and

verification of declarations, their publication) are regulated by the law, and more detailed procedural aspects and the form of the declaration – at the by-law level.

It is recommended that the new system is extended to all public servants, including senior officials (the President, members of the Cabinet of Ministers, members of Parliament, heads of executive bodies), judges, prosecutors, law enforcement officials, heads and employees of independent bodies and regulators (e.g., the Central Bank, the Accounts Chamber), as well as other employees of state bodies and institutions, and heads of state-owned enterprises and other similar entities. The introduction of a new electronic disclosure system can be initiated step-by-step, starting with senior officials.

In determining the content of the declaration, it is recommended to take into account the need to cover the declaration of property, income, liabilities and expenses of employees and their families, as well as their interests. Thus, the disclosure system will achieve several goals and will serve as a tool to prevent illegal enrichment of employees, as well as to prevent conflict of interest. To fully reflect the property status, it is necessary to establish the obligation to disclose all movable and immovable assets, securities, intangible assets, income that is owned, used or controlled (including through third parties) by the declarant and his family members. For certain types of assets (for example, valuable movable property), a value threshold for declaration should be established.

It is recommended that the procedure for mandatory verification of filed declarations be provided, with an emphasis on the verification of declarations of employees who hold positions with high corruption risk, and declarations in which risks are identified. A body should be identified to carry out such a review and such a body should be ensured an appropriate level of independence, resources and authority.

An important element of an effective disclosure system is the online publication of a statement of declarations. It is recommended that such statements be automatically published online, with the exception of a narrow list of statements clearly defined in the law (for example, the exact address of residence and location of real estate, date of birth, identification number). Such statements should be made available to the public free of charge on a single website with access to machine-readable data.

The disclosure system should include a set of efficient and proportionate sanctions for failure or late filing of the declaration, for filing a distorted (including incomplete) declaration.

See also a new recommendation below.

Codes of conduct

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

5. Provide general guidelines for codes of conduct for public institutions officials. Introduce an order that provides for mandatory adoption of codes of conduct for public officials. Define sanctions for non-compliance with ethical standards.

With regard to ethical codes, the above-mentioned “Model Rules of Ethical Conduct of Employees of Public Administration and Local Executive Authorities” are fundamental, on the basis of which departmental rules are developed and approved, as well as rules for employees of local executive authorities.

The model rules contain norms on the basic principles and rules of conduct for civil servants, conflict of interest and liability for violation of the provisions.

Monitoring of compliance with ethical rules by employees of state bodies is carried out by the Republican Interagency Commission, namely by the Working Group, at the conditions prescribed by the Methodology, which was approved on 7 June 2018. In addition to general rules, the Methodology contains provisions that regulate: the procedure for monitoring ethical rules; evaluation criteria; preparation of a report on the results of monitoring.

The heads of public institutions are responsible for the implementation of common standards and rules in relation to civil servants and for strengthening the integrity, efficiency and professionalism of the civil service. The heads are also responsible for failure to take measures to prevent actions (inaction) of subordinated employees who violate the principles and rules of official conduct.

According to the data provided by Uzbekistan, as a result of quarterly monitoring of the availability of ethical norms and their compliance by employees of public institutions, the adoption of ethical codes in almost all public bodies and state-owned enterprises is ensured.

In future according to Article 24 of the draft Law “On Public Service” the authorized body for the civil service affairs will have to approve the Rules of Ethical Conduct of Civil Servants in order to ensure the spiritual and moral unity and cohesion of the civil service, to establish common standards of integrity and integrity of civil servants, to strengthen and maintain the public image of the civil service, preventing corruption and other abuses in the public service, they will have to provide for the following::

- devotion to serving the interests of the people, commitment to the ideas, values and principles of the Constitution, strategic priorities of state policy, defined by the leadership of the country;
- respect for the law, human dignity, human rights and freedoms;
- utmost strengthening and protection of public confidence in the civil service, the state and its institutions, concern for strengthening the image of the state power, prevention of actions in their behaviour that can discredit the public service;
- respect for state symbols;
- perfection in terms of generally accepted moral and ethical standards and other rules necessary for the implementation of the requirements and norms of the law.

Violation of ethical rules by the public servant will be the grounds for imposition of disciplinary sanctions in accordance with the legislation.

Monitoring and control of compliance with ethical rules by civil servants will be carried out by the authorized body for the civil service affairs, as well as by special units and ethics commissions of public institutions. In public institutions and organizations, the commissions on the issues of ethical conduct of public servants are established in order to resolve issues related to compliance with ethical rules. The activities of ethics commissions established in public bodies will be regulated by a Regulation approved by the authorized body for the civil service affairs. The National Commission for Civil Service Affairs under the authorized body for the civil service affairs will be the higher instance for resolving disputes concerning the norms and provisions of the ethical rules.

Thus, some progress in this respect is possible with the adoption of the Law “On Civil Service”.

As for ethical codes, the monitoring group believes it wrong that ethical rules for certain categories of persons are classified (with limited access). As the monitoring group sees it, transparency of such regulations, regardless of the category of persons covered by them, is

possible and important. Apart from anything else, it safeguards the right of effective appeal against actions of civil servants.

Uzbekistan is fully compliant with Recommendation 14.5.

Reporting of corruption and protection of whistle-blowers

Recommendation No. 14 Report on the Third Round of Monitoring of Uzbekistan:

7. Adopt regulations on the protection of “whistle-blowers”.

The Law “On Combating Corruption” in Article 26 provides for the obligation of employees of public institutions to notify about the facts of corruption offences. Thus, public officials are required to notify their supervisor or law enforcement bodies about all cases of appeal to them by any person in order to induce them to commit corruption offences and any cases of such offences committed by other public officials. Failure to do so shall entail liability in accordance with the legislation.

The cited Law “On Combating Corruption” in Article 28 contains provisions providing for the protection of persons reporting on corruption offences. According to the existing norms, persons reporting on corruption offences are protected by the state, except in cases established by law. Prosecution of persons reporting on corruption offences is punishable in accordance with the law. These rules do not apply to persons who have reported knowingly a distorted information about corruption offences, who shall be liable in accordance with the law.

In the absence of any generalized statistical data the monitoring group cannot conclude whether these norms are indeed applied in practice.

Formally Uzbekistan is fully compliant with Recommendation 14.7 with the adoption of the Law “On Combating Corruption”. However, the monitoring group believes that the norms may be developed further to become efficient, whereas the guaranteed protection measures are insufficient.

Anti-corruption education

Recommendation No. 15 Report on the Third Round of Monitoring of Uzbekistan:

2. Purposeful implementation in practice of the norms on integrity in public service, through their dissemination, availability of training and effective institutional mechanism in ministries and departments, by including these issues in departmental anti-corruption plans and engaging educational institutions in the professional development of civil servants.

3. Include issues of ethics corruption prevention in the four-months refresher course for the managerial staff at the Academy of Public Administration and introduce short-term courses on anti-corrupt

Among the employees of ministries and departments an extensive explanatory work is being carried out to disseminate the content of the Standard and departmental rules of ethical behaviour, with the participation of representatives of the General Prosecutor's Office of the Republic of Uzbekistan and the Ministry of Labour of the Republic of Uzbekistan.

Civil servants, in particular judges and law enforcement officials, are trained every three years as part of their annual training and in-service professional development training to develop practical skills in the application of anti-corruption legislation. In addition, judges

and law enforcement officers must undergo a refresher course every three years at the relevant ministerial or other educational establishments.

Trainings, Seminars, Round Tables

Every year the Republican Interagency Commission approves the schedule of trainings on prevention and combating corruption, with an emphasis on the practical application of legislation, including ethical standards.

Since August 2018 the Anti-Corruption and Crime Prevention Centre under the Academy of the General Prosecutor's Office has held about 10 trainings on awareness raising and training on anti-corruption restrictions.

The standard training programme provides for study of the issues: International obligations of the Republic of Uzbekistan in the sphere of combating corruption, the requirements of the law on combating corruption, ethics of anti-corruption conduct, international standards and foreign experience in preventing conflict of interest, Requirements for preventing conflict of interest for civil servants of the Republic of Uzbekistan.

Trainings are planned to be held on a regular basis through the introduction of distance learning module for civil servants.

The trainings were financed from the budget.

Table 5. Information on awareness-raising measures and training on ethical conduct for civil servants (with except of senior staff)

| Year | Number of training events | Who conducted the training | | | Number of employees who attended training | Duration of Training | | | | |
|---------------|---------------------------|----------------------------|-------------------|----------------|---|----------------------|------------------|-------------------|--------------------|-------|
| | | Lecturers of the agency | Visiting Lecturer | Foreign Expert | | 1 day | From 1 to 7 days | From 7 to 10 days | From 10 to 30 days | Other |
| 2016 | 856 | 787 | 43 | | 4833 | 16 | 30 | 64 | 14 | 11 |
| 2017 | 1139 | 980 | 153 | | 23150 | 32 | 223 | 60 | 24 | 18 |
| 9 months 2018 | 869 | 627 | 45 | 3 | 24587 | 65 | 8 | 34 | 84 | 20 |

Table 6. Information on awareness-raising measures and training on ethical conduct for public servants for heads of institutions

| Year | Number of training events | Who conducted the training | | | Number of employees who attended training | Duration of Training | | | | |
|---------------|---------------------------|----------------------------|-------------------|----------------|---|----------------------|------------------|-------------------|--------------------|-------|
| | | Lecturers of the agency | Visiting Lecturer | Foreign Expert | | 1 day | From 1 to 7 days | From 7 to 10 days | From 10 to 30 days | Other |
| 2016 | 96 | 63 | 66 | | 778 | 7 | | | 20 | 3 |
| 2017 | 332 | 180 | 144 | | 3524 | 17 | 175 | | 9 | 18 |
| 9 months 2018 | 335 | 115 | 65 | 3 | 4202 | 20 | | | 62 | 20 |

The Republican Interagency Commission approved the “Action Plan to Raise Awareness of Employees of State Bodies about the Norms and Requirements of the Rules of Ethical Behavior, Including through Training, Seminars, Round Tables”, dated 30 June 2017, in pursuance of paragraph 25 of the State Programme.

On the basis of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 745 as of 19 September 2017 the Academy of Public Administration carries out retraining of senior executives providing courses of 576 hours (4 months).

The “Civil Service” educational subject is included in the curriculum of the four-month courses for retraining of senior executives in the Academy of Public Administration.

The “Ethics of the Civil Service” theme is envisaged in the curriculum of this subject, which deals with such issues as: ethics of civil servants, issues of conflict of interest, modelling of competencies of civil servants, conflict resolution in the civil service, etc.

Classes are held in the form of lectures, discussions, trainings, work in small groups, case studies.

The monitoring group welcomes the integrated approach to the organization of anti-corruption training and hopes that this activity will continue to develop in the same way. It also notes positively that ethics issues have been included in the curriculum of the Academy of Public Administration. Therefore, Uzbekistan is fully compliant with Recommendations 15.2 and 15.3.

Conclusions

Formally Recommendation 15.1 requires Uzbekistan to develop a Concept and a draft law on a uniform civil service, which has already been done by Uzbekistan. However, the monitoring group states with regret that the draft law still has not approved, and recommends that Uzbekistan should take a decision on this issue as soon as possible. This will allow not only to fulfill the tasks set by the State Anti-Corruption Programme for 2017-2018, but will also be a specific step towards the establishment of a professional and efficient civil service in Uzbekistan.

The uncertainty of the status of civil servants leads to the low level of accountability and, as a result, to the manifestation of corruption risks. In this regard, the monitoring group again recommends the adoption of the draft Law “On Public Service” as soon as possible.

It should be especially noted that one of the expected effects of the adoption of the draft Law “On Public Service was the establishment of an authorized body for civil service affairs, which, among other things, is to maintain statistics of the civil service and prepare reference and analytical reports on civil service.

The monitoring group calls for a systematic review of all regulations governing the admission and promotion of personnel so that to ensure the qualitative implementation of Recommendation 14.1, paying special attention to the level of transparency and impartiality of the competitions.

The monitoring group welcomes the steps that have been taken towards reforms to implement Recommendation 14.2 and calls to accelerate their implementation by providing an up-to-date system of remuneration and social welfare of civil servants, contributing to the attractiveness of the public service, minimizing the risks of corruption and abuse of office.

Regarding the provisions of the draft Law “On Public Service” on conflict of interest, they can become effective only if they have a further development by a special regulatory legal act.

In view of all the above, Uzbekistan is partially compliant with Recommendation 14.3. Provisions on the prevention of conflict of interest have been introduced into the legislation

of the Republic of Uzbekistan, but their proper application requires the adoption of a special regulatory legal act.

Uzbekistan is fully compliant with Recommendation 14.6. As mentioned above, the possibility of imposing restrictions on post-office employment of civil servants was considered and as a result was reflected in the draft Law “On Public Service”. Also, the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On Approval of Standard Rules of Ethical Conduct of Employees of Public Administration and Local Executive Authorities” adopted on March 2, 2016 prohibits civil servants to receive any material values or other benefits from individuals or legal entities pursuant to the performance of their duties.

Uzbekistan is not compliant with Recommendation 14.4, and the monitoring group recommends its implementation as soon as possible. See above for detailed Recommendations on the introduction of a system of disclosure of assets and interests of public officials.

Uzbekistan is fully compliant with Recommendation 14.5.

Formally, Recommendation 14.7 was implemented with the adoption of the Law “On Combating Corruption”, however the monitoring group believes that these rules could be developed further to become efficient, whereas guaranteed measures of protection are insufficient.

The monitoring group welcomes the integrated approach to the organization of anti-corruption training and hopes that this activity will continue to develop in the same way. It also notes positively that ethics issues have been included in the curriculum of the Academy of Public Administration. Therefore, Uzbekistan is fully compliant with Recommendations 15.2 and 15.3.

Overall, **Uzbekistan is partially compliant with Recommendation No. 14 and largely compliant with Recommendation 15 of the Report on the Third Round of Monitoring of Uzbekistan.**

New Recommendation No. 5

1. *Adopt and ensure effective implementation of the uniform law on civil service.*
2. *Enact legislation providing for the introduction of a transparent system of a competition-based selection of personnel for the civil service, as well as their appointment and promotion on the basis of their personal and professional merits. Introduce definition of professional officials and political officials.*
3. *Introduce a transparent system of remuneration of the civil service employees, and define a procedure and criteria for the payment of the variable part of the wages.*
4. *Define, in law, the basic provisions on preventing and resolving conflicts of interest and ensure the proper application in practice of the relevant provisions of the law. Establish an administrative responsibility for violation of the rules on reporting and resolving of the conflict of interest. Consider introducing a criminal liability for decision-making by an official in a situation of conflict of interest in order to obtain benefits for himself or a connected person.*
5. *Introduce by law a uniform system of mandatory disclosure of assets, income, obligations, expenditures and interests by public officials (including political officials, judges, prosecutors), providing for online filing and publication of declarations (with the exemption*

from publication of narrowly defined in the law exceptions), mandatory risk-based verification of declarations, a system of effective sanctions for non-submission or filing false statements. Designate (or establish) a body responsible for the collection, verification and publication of declarations of officials, providing such a body with an appropriate level of independence, resources and authority.

- 6. Improve codes of conduct and monitor their effective implementation.*
- 7. Enhance reporting of the facts of corruption and protection of whistle-blowers through monitoring the reports from civil servants, providing training, improving information channels, allowing consideration of anonymous reports. Continue development of legislation on whistle-blowers, provide practical training, designate a responsible state body, collect statistical data.*
- 8. Assess the impact of integrity policies in civil service.*

Risk-based integrity policy

The key legislative act intended to ensure integrity in the civil service is the Law of the Republic of Uzbekistan, No.PY-419 of 3 January 2017, “On Combating Corruption”.

Law: assigns the basic principles and concepts of the state anti-corruption policy; specifies the system of authorized bodies; defines measures to prevent corruption.

According to Article 6 of the Law, the state anti-corruption policy is implemented on the basis of state and other programmes.

Until recently, the fundamental policy document was the State Anti-Corruption Programme for 2017-2018, and all agencies and bodies have developed their own action plans or series of anti-corruption measures.

The Law “On Combating Corruption” does not contain any provisions that would allow the monitoring group to conclude with confidence that the assessment of corruption risks in Uzbekistan is of a systematic nature and is considered as a meaningful anti-corruption tool, such as an anti-corruption expertise of regulatory legal acts and their drafts (Article 24 of the Law).

Some risk assessment was carried out as part of development of the departmental plans. Paragraph 23 of the State Anti-Corruption Programme for 2017-2018 provided for the implementation of measures by state bodies to prevent corruption, based on a systematic analysis of their activities, identifying policies and areas subject to corruption risks, taking effective measures to prevent corruption offences. According to the report of the Republican Interagency Commission on the implementation of the State Programme for 2017, departmental anti-corruption plans of 64 ministries and departments were developed and presented.

Also, according to the same source, a certain role in the risk assessment was assigned to the General Prosecutor's Office in the framework of the prosecutor's supervision, as well as within the monitoring the implementation of the State Anti-Corruption Programme for 2017-2018. According to Uzbekistan, based on the results of monitoring the General Prosecutor's Office conducts a comprehensive study of the causes and conditions conducive to crimes of officials and other violations of the law in the sectors and areas most exposed to the risks of corruption. Based on the analysis of existing corruption threats and risks, the spheres covered were: public education, health, taxation, higher and secondary special

education, public procurement, the companies “Uzpakhtasanoat”, “Uzdonmahsulot” and others.

Recognizing the importance of the efforts undertaken by Uzbekistan, the monitoring group recommends that the corruption risk assessment process be more thorough and systematic. This will increase the effectiveness of anti-corruption policy regardless of the level of implementation (national/provincial/local; sectoral/departmental). In this regard it is necessary to develop and adopt a clear and, if possible, a uniform methodology. As far as the monitoring group understood from the discussions in the course of the on-site visit, Uzbekistan intends to do so during 2019, which is to be welcomed.

New Recommendation No. 6

Ensure the development of integrity policies based on corruption risk assessment at the national, regional, local, sectoral and departmental levels. Develop and adopt a uniform methodology for such assessment.

2.2. Integrity of political officials

Recommendation No. 21 Report on the Third Round of Monitoring of Uzbekistan:

... 3. Continue to develop the principles and rules for prevention of corruption and conflicts of interests of political officials and ensure their effective implementation.

For the purposes of the present report the monitoring group based on the discussions in the course of the on-site visit by “political civil servants” means “elected persons holding any position in a representative or executive authority”.

In accordance with the Constitution and the electoral legislation of the Republic of Uzbekistan these are: the President - the head of the state; members of the Parliament (the Oliy Majlis - consists of two chambers (the Legislative chamber and the Senate)); the Prime Minister - the head of the executive authorities; local elected officials.

In this section the monitoring group, based on the discussions in the course of the on-site visit as well as on the above lack of distinction between political and professional civil servants in Uzbekistan, will consider in more detail the extent to which the integrity of the members of the Parliament is ensured. Regarding employees of the executive branch see the relevant paragraphs of Section 2.1 of the Report.

Standards of ethics

In accordance with Article 11 of the Law No. 704-II as of 2 December 2004 “On the Status of a Deputy of the Legislative Chamber and a Member of the Senate of the Oliy Majlis of the Republic of Uzbekistan” a deputy\senator must strictly comply with ethical norms. It is unacceptable for a deputy\senator to use his\her status to the detriment of the legitimate interests of citizens, society and the state. In case of violation of ethics, the deputy\senator’s misconduct may be considered by the relevant chamber or on its behalf by the body of the Chamber.

The Rules of the Parliamentary Ethics of Deputies of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan were approved by the Resolution of the lower house of the Parliament No. 122-III as of 30 April 2015.

The Rules contain provisions relating to the parliamentary ethics: at meetings of the Legislative Chamber, factions, groups of MPs, committees and commissions; in relations with other deputies and voters; in public speeches; in off-duty time.

The Rules also contain special provisions concerning: restrictions and incompatibilities; prohibition of abuse of the deputy's status; non-disclosure of information received by a deputy in connection with the exercise of parliamentary powers by members of the Parliament.

The Ethics Commission of the Legislative Chamber of the Oliy Majlis, established and operating in accordance with the Regulation approved by the Resolution of the Kengash of the Legislative Chamber of the Oliy Majlis No. 122/1-III as of 22 April 2015, monitors compliance of the deputies of the Parliament with the Rules of the deputies' ethics.

The Commission is established for the term of office of the Legislative Chamber by its resolution from among the deputies consisting of the Chairman and members of the Commission numbering not less than seven people. The Commission includes deputies from each faction of the political parties and the deputies group of the Environmental movement of Uzbekistan, which has a considerable experience of the parliamentary activity and has authority with the deputies.

The Regulation contains rules concerning: powers of the Commissions; organization of the Commission activities; the proceeding of issues related to violation of the Rules of the deputies' ethics.

In case of finding the fact of violation of the Rules of the deputies' ethics by a deputy, the Commission has the right to make a decision: to take a disciplinary action towards a deputy in the form of a warning; to make a proposal to the Legislative Chamber on early termination of the deputy's powers and recall of the deputy.

As for the members of the Senate, similar provisions are contained in the Rules of Ethics, which are approved by the Senate of the Oliy Majlis of the Republic of Uzbekistan in Resolution No. IIC-154-III as of 28 March 2017. Control over compliance with the ethical rules is assigned to the Commission of the Senate of Oliy Majlis of the Republic of Uzbekistan on regulations and ethics, which is created and operates in accordance with the Resolution of the Senate Kengash No. IIK-215-II as of 9 August 2017.

The basis for the recall of a deputy\senator is committing by a deputy\senator of actions and acts that grossly violate the generally accepted norms of morality, a deputy ethics, discrediting the title of a deputy\senator, and damaging the prestige of the representative bodies of the state power.

The decision on the need to recall a deputy\senator is made in accordance with the Law of the Republic of Uzbekistan No. 708-II as of 2 December 2004 "On Recall of a Deputy of the Local Kengash of People's Deputies, a Deputy of the Legislative Chamber and a Member of the Senate of the Oliy Majlis of the Republic of Uzbekistan".

Materials on violations of the law by a deputy\senator are transmitted to the regional, district, city Kengash of people's deputies, the Legislative Chamber or the Senate (Kengash of the Senate) to the provincial, district, city prosecutor or the General Prosecutor of the Republic of Uzbekistan respectively, for preliminary consideration and submission of an opinion on this issue to the Committee (Commission) on the deputies' ethics of the Kengash of people's deputies, the Legislative Chamber or the Senate.

The provincial, district, city Kengash of people's deputies, the Legislative Chamber or the Senate (Kengash of the Senate), on the basis of hearing the opinion of the Committee (Commission) on parliamentary ethics and the prosecutor, makes a decision about the validity or invalidity of a deputy\senator recall issue.

A deputy\senator in question of recall and the prosecutor, who made the study and preparation of materials on the issue, may be heard at the meeting of the provincial, district, city Kengash of people's deputies, the Legislative Chamber or the Senate (Kengash of the Senate).

In case the proposal to recall is recognized valid the relevant decision of the representative body of the state power is sent to the Central Election Commission of the Republic of Uzbekistan (hereinafter — the Central Election Commission) to organize a vote on the recall of the deputy\senator.

For the period mentioned violations in the chambers of the Oliy Majlis have not been identified.

Conflict of interest

The issues of prevention and settlement of conflict of interest are defined by the Law “On Combating Corruption”, the monitoring group has already expressed concerns earlier (see Section 2.1 above).

According to the data provided by Uzbekistan, there were no violations of the conflict of interest rules for the period from 2016 to 2018.

Gifts

As for regulation of gifts, the relevant rules are assigned in the Instruction on the Fund for the Expenses on Gifts of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, which was approved by the Order of the Chief of Staff of the Legislative Chamber No. 508 as of 14 December 2018.

The Instruction contains the provisions regulating: proceeding of allocation of supplies and their writing-off; posting, accounting and storage of gifts received from organizations and officials of foreign States.

The monitoring group does not have data on the existence of similar regulations that would apply to senators.

Disclosure of assets

Similarly to integrity in the public service, it should be noted that it is not possible to ensure integrity in politics to the extent necessary without requiring political civil servants to declare assets, income and interests.

A special mechanism for deputies to receive advice and recommendations on conflicts of interest, anti-corruption restrictions, declaration of property, compliance with ethical rules is not regulated.

See the general Recommendation on declaration in Section 2.1 above.

According to the authorities, no corruption-related violations or violations of ethical rules by MPs were identified. According to the data of the social poll held in 2017 by the Ijtimoiy Fikr Centre, the deputies of the Legislative Chamber do not appear on the list of the most corrupt officials.

Conclusions

Uzbekistan has taken some steps to further develop principles and rules to prevent corruption and conflict of interest among deputies. For example, the Rules of Ethics for senators were adopted after the Third Round of Monitoring, the adoption of the Law “On Combating Corruption”, the anti-corruption provisions of which apply to deputies as well, is also considered as a positive development. However, the lack of enforcement of sanctions related to ethical violations may also indicate that its standards are not being actively implemented.

The monitoring group would like to emphasize that, in order to successfully combat corruption, the Parliaments as the highest political authority and supervisory authority of the country should, inter alia, where possible:

- to ensure the transparency and accountability of state institutions, including parliaments themselves, so that they can confront corruption or seek to expose it quickly;
- to instil in the parliaments themselves the notion that parliamentarians should not only obey the letter of the law, but also give the whole society an example of integrity, observing their own codes of conduct and ensuring their implementation;
- to introduce an annual system of establishing property income of parliamentarians and their connected relatives;
- to take special measures to protect the position and career promotion of “whistle-blowers”, i.e. employees who expose the facts of corruption and report them;
- introduce codes of conduct for civil servants and government officials where this has not yet been done.

Uzbekistan is partially compliant with Recommendation 21.3 of the Report on the Third Round of Monitoring of Uzbekistan.

New Recommendation No. 7

1. *Ensure that provisions on the prevention of conflict of interest in the activities of political officials are properly enforced in practice.*
2. *Improve codes of conduct and provide for monitoring of their effective implementation.*

2.3. Integrity in the judiciary and public prosecution service

Judiciary

Recommendation No. 22 of the Third Round of Monitoring Report on Uzbekistan:

1. *Review the procedures for selection and appointment of judges ensuring objectivity and transparency, in particular, by providing clear criteria for selecting and appointment of judges and their reappointment for a new term. Provide for a procedure for reasoning and appeal of decisions of the relevant bodies related to the career of judges. Limit the influence of political bodies on the appointment and dismissal of judges, to the maximum extent possible. Exclude the possibility of appointing judges without undergoing relevant procedures.*

2. *Bring the membership of the body responsible for selecting the judges (Higher Qualification Commission) in compliance with international standards, in particular, ensuring that it consists of the majority of judges representing different levels of the judicial system and elected by other judges.*
3. *Consider the possibility of appointing judges for an unlimited term. Alternatively adopt the procedures ensuring objective and transparent assessment and appointment of judges after expiration of initial five-year term.*
4. *Adopt clear grounds for disciplinary liability of judges. Abolish the powers of the Chairperson of Courts to initiate disciplinary cases. Ensure publication of decisions on disciplinary proceedings.*
5. *Introduce legislative automated system of random distribution of cases and ensure its implementation in practice.*
6. *Provide access to court decisions by making appropriate amendments to the legislation.*
7. *Adopt legal and practical measures ensuring financial independence of the judiciary.*

Judicial System and Legislative Regulation

The judicial system of the Republic of Uzbekistan comprises the following agencies:

- Constitutional Court of the Republic of Uzbekistan ;
- Supreme Court of the Republic of Uzbekistan ;
- military courts;
- Civil Court of the Republic of Karakalpakstan, regional civil courts and Tashkent City Civil Court;
- Criminal Court of the Republic of Karakalpakstan, regional criminal courts and Tashkent City Criminal Court;
- economic courts of the Republic of Karakalpakstan, regions and City of Tashkent;
- administrative courts of the Republic of Karakalpakstan, regions and City of Tashkent;
- interdistrict, district (town) civil courts;
- district (town) criminal courts;
- interdistrict, district (town) economic courts;
- district (town) administrative courts.

Table 7. Number of courts (as of October 2018)

| Types of courts | Courts of the Republic of Karakalpakstan, regions and City of Tashkent | Interdistrict, district (town) civil courts |
|-----------------------|--|---|
| Criminal courts | 14 | 199 |
| Civil courts | 14 | 75 |
| Economic courts | 14 | 71 |
| Administrative courts | 14 | 199 |
| Military courts | 1 | 5 |
| Total | 57 | 549 |

As at 23 Oct 2018, the total number of judges was 1,038 including 909 men (87.6 %) and 129 women (12.4 %).

Table 8. Number of judges (as of October 2018)

| Types of courts | Number of judges | by gender | |
|-----------------------|------------------|-----------|-------|
| | | Men | Women |
| Criminal courts | 344 | 319 | 25 |
| Civil courts | 257 | 198 | 59 |
| Economic courts | 142 | 128 | 14 |
| Administrative courts | 221 | 203 | 18 |
| Military courts | 10 | 10 | - |
| Supreme Court | 64 | 51 | 13 |

| | | | |
|-------|-------|--------------|--------------|
| Total | 1,038 | 909 (87.6 %) | 129 (12.4 %) |
|-------|-------|--------------|--------------|

The major legislative acts (available at <http://www.lex.uz>) are: Constitution of the Republic of Uzbekistan; Constitutional Law of the RUz “On the Constitutional Court of the Republic of Uzbekistan”; Law of the RUz “On Courts” (new version); Law of the RUz “On the Supreme Judicial Council of the Republic of Uzbekistan”; codes of practice (Civil Procedure Code, Criminal Procedure Code, Economic Procedure Code, Administrative Liability Code, Administrative Procedure Code).

Perceived Corruption in the Judiciary, corruption risks

The level of trust in judicial authority in the Republic of Uzbekistan was analyzed by the Supreme Judicial Council of the Republic of Uzbekistan jointly with the Association of Judges of Uzbekistan to measure public opinion about courts. Thus, from July 15 to October 1, 2018 local self-government bodies in all regions of the country carried out a survey covering 21, 116 people. Answering the question “Do you trust the courts?”, 18,108 (85.8 %) respondents said “Yes”, while 3,008 (14.2 %) replied “No”.

Studies examining public perceptions of corruption in the judicial system of Uzbekistan were performed within the framework of the annual survey “Struggle against corruption as reflected in the mirror of public opinion” conducted by the “Izhtimoyi Fikr” Public Opinion Research Centre over the period of 2016-2018. Thus, the levels of perceived corruption in the judicial system in 2016, 2017, and 2018 amounted to 10.3 %, 12.1 %, and 9 %, respectively (the figures reflect the respective percentage of the total number of survey participants).

According to the information provided by Uzbekistani authorities, the integrity risks in the judicial system are as follows:

- lack of transparency and efficiency in court operations;
- poor quality of judicial processes and inadequate access to justice;
- likelihood of red tape, bureaucracy and abuse on the part of court staff;
- low level of court automation and insufficient information about their operations;
- inefficiency of the control system for monitoring the timeliness of judicial proceedings, identifying problems and insufficiencies in court processes;
- inefficiency of court interactions with inquiry bodies, pre-trial investigation and enforcement agencies in the course of administering justice and enforcing court decisions;
- limited access to information about court activities as well as a low level of interactive services provided to the population and economic agents;
- low level of IT literacy and practical computer skills among judges and court staff.

The monitoring group welcomes the above-mentioned surveys on corruption perceptions and level of trust in judicial authority in the Republic of Uzbekistan as well as examination, identification and description of corruption risks in the judicial system of Uzbekistan. However, the monitoring group believes that the list of corruption risks compiled by the authorities is incomplete. Monitoring revealed a number of problems that definitely facilitate corruption and require the appropriate measures to minimize corruption risks. These risks include insufficient institutional and individual independence of judges; considerable influence of political authorities on judge career matters; non-transparent

procedures for the selection and promotion of judges; inadequate labour remuneration and material security of judges.

Anti-corruption measures in the judicial system, other reforms

Information provided by the authorities of Uzbekistan

Certain clauses of the State Anti-Corruption Programme for 2017-2018 provide for the implementation of practical measures concerning anti-corruption training of law enforcement officers and court staff as well as increased efficiency and openness of courts in the process of administering justice including measures to ensure universal access to court decisions, creation of databases and databanks of court judgments and their posting to the official websites of judicial institutions.

During the period of 2015-2017, integrity risks in the judiciary were identified within the framework of Comprehensive Plans for Increasing the Efficiency of Anti-Corruption Measures. As a result, the courts were relieved of such inappropriate functions as enforcement of court decisions and initiation of criminal proceedings. The necessary legal and social guarantees were strengthened to ensure independent judicial proceedings and social protection of judicial staff.

The procedure adopted since 2017 provides for the appointment or selection of judges for the initial five-year term, successive ten-year terms, and subsequent unlimited (lifetime) term of office.

Furthermore, on 30 October 2017 the Supreme Judicial Council and Supreme Court of the Republic of Uzbekistan adopted the Programme of comprehensive measures aimed to ensure proper administration of justice by courts, adherence to the judicial oath and rules of judicial ethics, zero tolerance towards malpractice, prevention and restraint of activities associated with bribery and other illegal actions, development of an open dialogue with people as well as openness and transparency of court activities. The Programme envisages identification of judicial integrity risks and measures to combat corruption in this field.

Within the framework of implementation of the measures envisaged by the Strategy of actions on five priority directions of development of the Republic of Uzbekistan in 2017-2021, the Head of State issued the Decree of 21 February 2017 “On Measures to Radically Improve the Structure and Efficiency of the Judicial System of the Republic of Uzbekistan” No. VII – 4966.

In accordance with this Decree, the Higher Qualification Commission for selection and recommendation of judges under the President of Uzbekistan was dissolved and its 21 staff positions were transferred to the newly established constitutional body, the Supreme Judicial Council of the Republic of Uzbekistan.

The Supreme Judicial Council was inherently intended to facilitate the actual realization of judicial independence. The Decree established a completely new system for the selection of candidates for judicial office and appointment of judges which includes representatives of the judiciary as well as civil society organizations. Namely, the Supreme Judicial Council is authorized to select a highly qualified judicial staff.

In the view of authorities of Uzbekistan, introduction of the above-mentioned system allows to recruit judicial staff in an open and transparent manner on the basis of competitive selection of candidates for judicial office among the most highly qualified specialists; to ensure genuine immunity of judges and interference with administration of justice; to

facilitate professional training of judicial candidates and judges, and develop a dialogue between the judiciary and society.

Thus, previously all judges at the regional, district and city levels were appointed by the President of the Republic of Uzbekistan whereas now judges are appointed and dismissed by the Supreme Judicial Council with the advice and consent of the Head of State.

The Department for Supporting Court Activities was established under the Supreme Court of the Republic of Uzbekistan.

Proposals by the Supreme Court, Supreme Judicial Council, and Judicial Association of the Republic of Uzbekistan concerning further strengthening of transparency in judicial activities, developing an open dialogue with society, and increasing the role of the public in the administration of justice were accepted and put into force by Decree of the President of Uzbekistan No. VII-5482 “On Measures to Further Improve the Judicial and Legal System and Enhance Public Confidence in the Judiciary” dated 13 July 2018. These measures include:

- stepwise implementation of the mechanisms for regular publication of court decisions on the website of the Supreme Court of the Republic of Uzbekistan;
- introduction into judicial practice of such an element as a post-announcement explanation of the essence of the court ruling to all the participants of the legal proceedings;
- quarterly briefings made by the chairpersons of regional courts and their deputies aimed to inform the public and the media about the court activities;
- publication of quarterly reviews of judicial practice of the Supreme Court Chambers exercising supervisory powers as well as of appeal and cassation practices of regional and equated courts.

The President also accepted the proposal of the Supreme Judicial Council to create in each region commissions supporting recruitment of judicial staff with a view to enhance public trust in objectivity and transparency of procedures for selection and appointment of judges.

The Presidential Decree approved the pay grades for judges, staff of the Supreme Court, lower-level courts as well as the Department for Supporting Court Activities and its territorial subdivisions in accordance with the unified wage rate scale. The changes primarily concerned the court administration and Department staff. They were moved to a higher point in the pay scale (1 to 3 salary grades above the previous level).

Safeguards of judicial independence

According to article 106 of the Constitution of the Republic of Uzbekistan, the judiciary in the Republic of Uzbekistan acts independently of the legislative and executive authorities, political parties and public associations. Furthermore, pursuant to article 112 of the Constitution, judges are independent and subject solely to the law. Any interference with administration of justice is inadmissible and entails legal liability. Judicial immunity is guaranteed by law.

Pursuant to article 67 of the Law of the RUz “On Courts” (new version), the independence of judges is ensured by: statutory procedures for their election, appointment and termination of office; their immunity; strict procedure for the administration of justice; secrecy of judge's conference before delivery of judgment and restraint of disclosure of the respective confidential information; liability for contempt of court or interfering with

judicial proceedings, or violation of judicial immunity; an adequate level of material and social security provided to judges by the State in accordance with their high social status.

In accordance with article 111 of the Constitution of the Republic of Uzbekistan, the Supreme Judicial Council is a judicial community body aimed to facilitate observance of the constitutional principle of judicial independence in the Republic of Uzbekistan.

To ensure judicial independence article 236 of the Criminal Code of the RUz envisages criminal liability for interfering with judicial proceedings by exerting illegitimate influence on judges in any form with a view to obtain a wrongful sentence, judgment, court ruling or order.

In view of NGOs, safeguards of judicial independence often have a declarative character, and, in reality, judges are not independent enough. Thus, the head of a superior court can always interfere in the process of criminal trial in lower-level courts, demand progress reports from the judge, and give instructions to the judge concerning the outcome of the trial despite the fact that the judge may hold a completely different opinion. Occasionally, higher-level investigation bodies (mainly public prosecution office) come to an agreement with chiefs of a superior court on certain category of cases and compel judges to accept their point of view. If a judge makes his own independent decision, it is highly likely that his sentence would be set aside following prosecutor's protest which has a negative effect on judge's performance. Furthermore, if a judge makes a decision (more often than not it's a judgment of acquittal) that dissatisfies the prosecutor's office, they would occasionally make a sample inquiry into his/her sentencing history with a view to protest against certain decisions and put pressure on the judge.

The problems of the judicial system noted by NGOs include:

- “telephone rule”, institutional connections, and chumminess which undermine justice and lead to biased decisions;
- lack of qualified staff;
- judges, prosecutors and investigators working together as a “roped team”, the absence of genuine competitiveness;
- dependence upon superior courts;
- influence of court chairpersons considerably exceeding the limits of their statutory mandate;
- non-transparent and multi-tiered system for the appointment of judges leading to inadequate staff selection and opening wide opportunities for external influences on the part of various executive bodies to the disadvantage of the judicial community;
- influence of prosecutor's office (party of charge) and opinion of superior courts limiting the ability of district courts to deliver judgments of acquittal and violating the principle of equality of arms.
- overburdening of first-instance courts limiting the possibilities for substantive examination of cases and encouraging a formal (“conveyor-belt”) approach to the administration of justice;⁷

⁷ For example, see A. Akmalov “Problems of Uzbek Judiciary and the Ways to Resolve Them”, 20 March 2018, available at: <http://kommersant.uz/problemny-uzbekskogo-pravosudiy>, as well as

- current procedural time limits for criminal case hearing and delivery of judgment preclude a comprehensive case examination and, thus, have a negative effect on the quality of court decisions;
- criminal court judge has to perform the functions of a public prosecutor since in most cases since in most cases the prosecutor attends trials only for a limited period of time (e.g. in a district with four courts, the prosecutor's office usually delegates one representative to handle prosecution who is physically unable to participate in all trials and often attends the trial at the very beginning (to read out the bill of indictment) and at the very end, i.e. during oral hearing);
- prosecution authorities rather than the Supreme Court or other judicial agencies serve as primary initiators of legislative reforms in the judicial and legal sphere.

Representatives of the authorities of Uzbekistan did not agree with this assessment and believed that they were unsubstantiated.

Expert comments

1. In addition to the problems mentioned by experts and NGOs, the monitoring group also notes that the legal system of Uzbekistan still retains a supervisory procedure for review of court judgments by the Supreme Court (supervisory authority over judicial activities of lower courts). Though as a result of the judicial reform such powers were retained only by the Supreme Court and excluded from the scope of competence of regional courts, the presence of such an institution poses problems and creates corruption risks. Essentially, it constitutes the third appeal instance and allows to review final binding judgments on any grounds. This undermines legal certainty and contradicts the principles of the rule of law including *res judicata*.⁸ It is also fraught with considerable corruption risks since such power opens up extra opportunities for influencing court decisions. Besides, in civil litigation, for example, the right to appeal in exercise of supervisory power belongs not only to the Chairperson of the Supreme Court and his deputy, but also to the Prosecutor General of the Ruz and his deputies (Code of Civil Procedure of RUz, article 423) which undermines the independence of the judiciary. The Prosecutor General and his deputies can appeal against a court decision even if the prosecution office has not been involved in the case at early stages (e.g. see Code of Economic Procedure of Ruz, article 307). Though the timeframe for appeal is one year following the entry of decision into legal force, this deadline can be extended “for the reasons deemed valid in a court of law” which aggravates the problem even further.

Generally speaking, the possibility to review judgment through the supervisory power should be eliminated. There are enough legal mechanisms for reviewing court decisions: namely, appellate and cassation instances as well as reopening of cases on exceptional

at <http://ced.uz/kommentarii/problemy-uzbekskogo-pravosudiya-i-puti-ih-resheniya-prodolzhaem-diskussiyyu>.

⁸ For example, see case-law of the European Court of Human Rights: *Brumarescu v. Romania*, application No. 28342/95, judgment of 28.10.1999; *Ryabykh v. Russia*, application No. 52854/99, judgment of 24.07.2003; and other judgments. Also see other international standards, e.g. “...court judgments should not be reviewed outside the appellate process, specifically upon protests of the prosecutor's office or any other government agency made beyond the term of appeal” (Venice Commission, Report on the independence of the judicial system, Part I, 2010, para 67).

grounds such as newly discovered facts, recognition of the fact that the judge applied a legal standard contrary to the Constitution, violation of international obligations in the conduct of judicial proceedings.

In their comments, Uzbekistan's authorities noted that a three-tier system of review of judgments was "similar to the judiciary oversight of the legality of acts by the executive authorities which does not undermine legal certainty or run counter to the principles of the rule of law, and is just another additional safeguard to the restoration of the violated individual rights or freedoms. Simply because it is not possible to guarantee that judges at the first, or appeal, or cassation instances will never make a mistake in adjudicating this or other case or delivering a judgment, for reasons of lack of professionalism or wrong interpretation of laws."

According to Uzbek authorities, the right given to the Prosecutor General, or his deputies, to lodge a protest does not undermine the principle of independence of the judiciary, but instead serves the purpose of more efficient remedy to the rights and legitimate interests of individuals. The participation of the prosecutor in the judicial process, even in cases where prosecutors have not been involved at earlier stages, acts as a safeguard to the rule of law and opens up a possibility for a prompt response to any case of violation of the law, or procedural rules, by any party to the process. At the same time, the fact that the prosecutor studies the case files in no way affects independence of the judiciary but acts as an additional assurance against any judicial resolution in violation of the rules of law.

The authorities believe that the need for an oversight instance is supported by the fact that in 2018 alone 16,070 judgments and court decisions have been repealed or amended in criminal, white-collar and administrative cases, of which 6,405 were repealed or amended subject to the protest lodged by the prosecutor.

The monitoring experts do not accept these arguments. Listed above are relevant international standards which unequivocally recognize that the supervisory review runs contrary to the rule of law. It is exactly the rule of law (*верховенство права*), not the "rule of laws" (*верховенство закона*), because laws can be in contravention of the rule of law, which often happens in undemocratic states.⁹ The possibility of a judicial error cannot justify the introduction of an additional instance which allows, without any restriction in time, repealing a final binding judgment; errors are to be remedied in appeal or cassation. The oversight instance is a rudiment of the Soviet legal system; Uzbekistan remains one of the few countries in the region to retain it.

2. Participation of the Prosecutor General in the "Plenum" (Plenary Assembly) of the Supreme Court pursuant to Article 15 of the Law on Courts also gives grounds for concern. It should be noted that the Prosecutor General receives draft materials on general issues for discussion along with the members of the Supreme Court Plenum. Moreover, the Prosecutor General may present issues for consideration by the Plenum (Article 21 of the Law on Courts). Despite the assurances made by representatives of the judiciary that Prosecutor General's participation does not affect judicial independence, experts regard it as a highly symbolic element confirming the excessive influence of prosecution bodies over the judiciary which exists in Uzbekistan to this day. There is no practical need in such an

⁹ For the fundamental difference between the two concepts, see: The principle of the Rule of Law, Resolution 1594 (2007), Parliamentary Assembly of the Council of Europe, 2007, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17613&lang=en>.

arrangement. If necessary, the Prosecutor General can be invited to attend a Supreme Court Plenum to take part in the discussion of specific issues.

3. Experts also draw attention to the regulation of major issues related to the organisation and functioning of the judicial system by Presidential decrees (e.g., remuneration for judges, establishment of judicial bodies). This is a constraint that limits judicial independence and increases the role of political authority. Such issues should be regulated by laws leaving only technical and procedural matters to secondary legislation.

Judging by the comments by Uzbekistan authorities, the work is currently ongoing to draft a new version of the Law on Courts, which may take into account these proposals by the monitoring group.

4. Provisions of the Law on Courts (Article 78) appear to be problematic because they stipulate that the President of the Republic of Uzbekistan approves the court structure and staff numbers by while the court staffing plans are approved by the Chairperson of the Supreme Court and the Department for Supporting Court Activities. The court structure should be determined directly in law while other issues related to the organisation of courts (including staff numbers) should be referred to the competence of a body representing the judicial community or a support agency subordinate to the judicial community body.

New recommendation No. 8

1. *To continue reforming stages in the appeal against court decisions through further step-by-step abolition of the institute of the supervisory review of judicial acts in all judicial proceedings together and of the right of prosecutors to recall and challenge court cases.*
2. *To stipulate that the Prosecutor General, other representatives of agencies outside of the judicial system may participate in the meetings of the Supreme Court's Plenary Assembly and meetings of other judicial bodies only if invited.*
3. *To regulate in laws main issues related to the functioning of courts and exclude the regulation of such matters through acts issued by bodies outside of the judicial branch. Among others, the law should determine: a list of courts, amount of salary rates and allowances for judges, procedure for appointing and terminating the office of court chairpersons, composition, method of formation, mandate, and functioning rules of the Higher Judicial Qualification Board, the body supporting court activities and other judicial bodies.*

Financial autonomy

The previous recommendation:

“To ensure financial autonomy of the judiciary in terms of legal rules and in practice.”

According to the information provided by the authorities of Uzbekistan, financial, technical, administrative and other types of court system support as well as security and maintenance of court buildings are provided using national budget resources pursuant to the Law “On Courts” of the Republic of Uzbekistan. Decree of the President of the Republic of Uzbekistan No. VII – 4966 of 21 February 2017 “On Measures to Radically Improve the Structure and Efficiency of the Judicial System of the Republic of Uzbekistan” provided for the establishment of the Department for Supporting Court Activities under the Supreme Court of the Republic of Uzbekistan as well as inclusion of courts expenses in the State budget starting from 2018.

The main goals of the Department under the Supreme Court are: organization of work in the field of logistic, technical and financial support of court operations as well as formulation of proposals on improving thereof; ensuring effective application of funds allocated for construction and maintenance of court buildings, taking action to create an appropriate environment for court activities; developing proposals for the improvement of working conditions, material and social security of judges and court administration staff.

The Department for Supporting Court Activities is subordinate to the Supreme Court and accountable to the Chairperson of the Supreme Court in the normal course of business. The Supreme Court directs activities of the Department by providing coordination and control as well as regulatory support and guidance. The Department is headed by the Director appointed and relieved of office by the Chairperson of the Supreme Court in accordance with the established procedure. The Deputy Director and heads of territorial subdivisions are appointed and relieved of office by the Director of the Department upon consultation with the Chairperson of the Supreme Court. The regulation on the Department for Supporting Court Activities, staff schedule of the Department and its territorial subdivisions, and staff pay rates according to the unified wage rate scale have been approved by the Presidential Decree.

The funds allocated to maintain the activities of courts and the Department under the Supreme Court are included in a separate line item in the State budget. The federal funds are provided as a lump-sum allocation. The right to distribute funds between separate courts and by economic classification is granted to the Supreme Court that is the main budget holder.

Table 9. Budget of the Judicial System (requested and allocated funds)

| Budget bid | Actual allocation |
|---------------------|---------------------|
| 2016 – UZS 93.2 bn | 2016 – UZS 96.2 bn |
| 2017 – UZS 103.5 bn | 2017 – UZS 129.4 bn |
| 2018 – UZS 214.5 bn | 2018 – UZS 214.5 bn |

In view of NGO representatives, there exists a strong financial dependence of the judiciary on the executive. Thus, 70% of judges' salary budget is covered by the special Fund for the Development of Judicial Agencies. Its funds come from such sources as collection of state duties and fines as well as court-ordered fees and penalties. The execution of court rulings is performed by the Compulsory Enforcement Office subordinate to the prosecution service. Teleconference meetings are held weekly to discuss the Fund replenishment matters. The responsibility for replenishment was covertly placed on chief judges of district and regional courts.

The monitoring group welcomes some steps towards strengthening financial autonomy of the judiciary. Among others, such developments include making a separate line item for budget allocation for the judiciary, establishment of the Department for Supporting Court Activities under the Supreme Court instead of the Department which previously functioned under the Ministry of Justice.

However, the activities of the Fund for the Development of Judicial Agencies give rise to concern. Firstly, part of the Fund's moneys come from payments collected on the basis of writs of execution issued by the Compulsory Enforcement Office operating within the Prosecutor General Office. That makes the courts indirectly dependent on prosecution agencies and may affect the objectivity and impartiality when handling the cases involving participation of a public prosecutor. The fact that the informal responsibility for the Fund replenishment was placed on chief judges only confirms these concerns. According to the

information provided by NGOs, judges constantly have to request the Compulsory Enforcement Office to speed up collection of certain penalties with a view to top up the Fund's account; cash inflow matters are discussed during weekly teleconference meetings with Supreme Court officials. That said, the Fund provides a fair share of the judicial system funding (around 35%, see below).

Table 10. Sources of Funding of the Judicial System

| Period | Funding provided (UZS bn) | | |
|--------|---------------------------|---|--------|
| | State budget | Fund for the Development of Judicial Agencies | Total |
| 2018 | 214.50 | 112.60 | 327.10 |
| | 65.6% | 34.4% | 100% |
| 2019 | 319.90 | 184.30 | 504.20 |
| | 63.4% | 36.6% | 100% |

Secondly, the Supervisory Board of the Fund is headed by the Chairperson of the Supreme Court. The Supervisory Board also comprises such *ex officio* members as the Chairperson of the Supreme Judicial Council of the Republic of Uzbekistan, Director of the Department for Supporting Court Activities (also appointed by the Chairperson of the Supreme Court), and Director of the Research Centre for Studying the Problems of Justice under the Supreme Judicial Council.

The Chairperson of the Supreme Court is entitled to initiate incentive payments to certain judges for special work achievements; a decision regarding the initiative is made by the Supervisory Board of the Fund which means that the Head of the Supreme Court actually considers his own proposal which constitutes a clear-cut conflict of interest. It should be also noted in this connection that the Chairperson of the Supreme Court is also given the power to appoint and dismiss the Head of the Department for Supporting Court Activities.

By and large, the role and scope of the mandate of the Chairperson of the Supreme Court covering court support and remuneration for judges is excessive and unfounded. The role of a chairperson of any court should be confined to the respective court activities. The accumulation of such powers creates corruption risks and extra opportunities for exerting influence on the judiciary.

Thirdly, in the absence of clear and transparent criteria for providing incentive payments, the existing system of “manual” distribution of rewards to judges seems highly questionable. The distribution of rewards is managed by the body acting without authority from the judicial community. Extra reward payments amounting up to 100% of official salary can be provided for a certain period of time or on a constant basis. Moreover, reward allocation can be initiated by chief judges (including the Chairperson of the Supreme Court) which limits judicial independence and contradicts the international standards. *See below for a recommendation on rewarding judges.*

New recommendation No. 9

- 1. Transfer the powers of the Supreme Court’s Chairperson related to the matters of court funding and rewarding judges, including the right to appoint and dismiss the Head of the Department for Supporting Court Activities, to the Supreme Judicial Council or other judicial community body.**
- 2. Revise the procedure for forming and using funds of the Fund for the Development of Judicial System Bodies by ensuring its transparency and accountability to the judicial community bodies as well as eliminating the dependence of its formation from actions of**

bodies outside of the judicial system. To ensure that judicial salaries are paid exclusively from the state budget funds.

The principle of the irremovability of judges

Previous recommendation:

Consider the possibility of appointment of judges for an unlimited term. Alternatively adopt the procedures ensuring objective and transparent assessment and appointment of judges after expiration of the initial five-year term.

Pursuant to article 63-1 of the Law “On Courts”, a judge during his first tenure can be reappointed as military judge, regional court judge, Tashkent City Court judge, interdistrict, district (town) court Chairperson or judge only on the basis of his own application upon recommendation of the Higher Judicial Qualification Board.

The Law №-428 of 12 April 2017 of the RUZ introduced amendments to the Law “On Courts” by adding article 63-1 providing for the appointment or selection of judges for the initial five-year term, ensuing ten-year term, and subsequent unlimited (lifetime) term of office in accordance with the established procedure.

According to article 22 of the Law “On Supreme Judicial Council”, the main criteria for the selection judges for a new term and other judicial positions are “impeccable reputation, honesty, objectivity, fairness and professional competence shown during their career. While considering a candidate for reappointment, the Council takes into account the consistency of their judgments, the presence of sufficient experience in the field of justice administration and application of the legislation as well as public opinion about his/her professional activities”.

Specifically, *the consistency of adopted court decisions* is evaluated by analysing statistical data reflecting the quality of these decisions. In other words, the percentage of reversed and changed court decisions is compared to the total number of court decisions issued by a judge.

The presence of *sufficient experience in the field of justice administration* and application of the legislation is evaluated by examining judicial performance including compliance with legal requirements in the course of court proceedings and drafting of judgments.

Public opinion about the professional activities of a judge is assessed by obtaining information regarding his/her conduct in the process of justice administration and out-of-court activities, population education efforts, quality of management of circuit court sessions, and judge's reputation in the eyes of the public.

According to articles 32-33 of the Regulation on judicial Qualification boards adopted by the Law of the Republic of Uzbekistan of 22 April 2014, judges shall submit an application and the necessary documents for reappointment or termination office directly to the Supreme Judicial Council (SJC) or the respective judicial qualification board not later than six months before the expiry of their tenure.

The judges who wish to come forward as candidates for other judicial positions shall submit an application and the necessary documents directly to the Supreme Judicial Council (SJC) or the respective judicial qualification board.

The respective judicial qualification board presents candidate assessment reports to the SJC and the two bodies jointly perform a comprehensive review of professional qualification and personal qualities of judges proposed as candidates for reappointment to a new term or

other judicial positions. The review includes examination of judges' activities, their compliance with ethical rules of conduct (special court rulings and disciplinary action against the judge), number of reversed and changed court decisions, assessment of judges' performance, behaviour in office and outside the workplace via anonymous surveys, relationships with colleagues and subordinate court administration staff as well as other institutions and agencies.

The appointment (election) issue is considered at joint meetings of the SJC and Higher Judicial Qualification Board. The joint meeting examines candidate assessment reports and, after interviews with the candidates, appropriate conclusions are adopted. According to article 35 of the Regulation, joint meetings are held when the paperwork related to yet another group of candidates for reappointment or other judicial positions has been completed.

Besides, the Supreme Judicial Council, by its Resolution of 7 August 2017, adopted the Regulation “On examining judges' activities in their last job and public opinion of judges when considering reappointment for the next term of office” providing for the appropriate examination procedure, list of information to be examined, procedure for studying public opinion, etc.

In 2017 application for reappointment for a new term of office was submitted 32 judges of which 19 candidates were turned down. In 2018, 159 judges submitted application for reappointment. Of these, 17 applications were dismissed.

The applications were dismissed on the following grounds:

- inconsistency of issued judgments as shown by a considerable proportion of decisions reversed and changed by superior courts;
- negative professional, managerial and personal characteristics;
- irregularities committed in the course of justice administration, multiple incidents leading to special court rulings and disciplinary action against the judge for violating ethical rules of judicial conduct;
- poor qualifications, lack of experience and appropriate self-improvement efforts, inexperience in applying legislation;
- negative public opinion of the judge.

On the whole, as of October 2018, there were 38 judges with lifetime term in office (mostly in the Supreme Court); 164 judges were appointed for a 10-year term while the rest of judges served a 5-year term. The total number of judges in all courts was 1,380.

According to NGOs, the information about dismissal of judges' applications for reappointment is not disclosed. Candidates to judicial office who have been turned down are not summoned to a Council meeting and offered no explanations as to why their applications were dismissed.

The monitoring group notes with regret that the provision adopted after implementation of the reform envisages that judges shall be appointed not even for one, but for two terms prior to their possible appointment for a lifetime term. Uzbekistan also failed to present materials confirming that the issue of a universal lifetime tenure for judges has been considered. Less than 3% of the total number judges have life tenure. This factor considerably limits.

The criteria to evaluate candidates for reappointment to a new term in office are also insufficiently clear and too broad. Many of these criteria can be interpreted in different ways. Furthermore, there are no clear guidelines for candidate evaluation procedures.¹⁰

New recommendation No. 10

Establish in the law that judges are appointed for life. If provisional regulations envisaging the appointment of judges for a fixed term remain temporarily effective, limit such appointment to one term only and stipulate that upon its expiration the judge may be refused confirmation in office only if he fails to meet clear criteria based on an impartial and transparent evaluation procedure.

Judicial authorities (Supreme Judicial Council, Higher Judicial Qualification Board)

Previous recommendation:

“Bring the membership of the body responsible for selecting the judges (Higher Judicial Qualification Board) in conformity with international standards, in particular, ensuring that it consists of the majority of judges representing different levels of the judicial system and elected by other judges.”

Supreme Judicial Council (SJC) was established by Decree of the President of the Republic of Uzbekistan No. VII – 4966 of 21 February 2017 “On Measures to Radically Improve the Structure and Efficiency of the Judicial System of the Republic of Uzbekistan” providing for the abolition of the Higher Qualification Commission for selection and recommendation of judges under the President of Uzbekistan and transfer of its 21 staff positions to the newly formed Council.

According to the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, the Council is a judicial community body aimed to support and facilitate the observance of the constitutional principle of judicial independence in the Republic of Uzbekistan.

Its main goals are:

- to recruit staff on the basis of competitive selection of candidates for judicial office among the most highly qualified and responsible specialists, and propose candidates for senior judicial positions;
- to take measures preventing violation of the irremovability of judges and interference with their activities in the process of justice administration;
- to organize professional training and advanced studies for judges, to perform evaluation of their performance and put forward proposals for rewarding judges; to manage communications with the media, develop a dialogue with the public, and consider complaints by individuals and organizations concerning the compliance of judges with the ethical rules of conduct; to draft proposals for further improvement of the legislation pertaining to the judicial sphere, ensure genuine judicial independence and consistent judicial practice, improve access to justice and quality of justice administration;
- to consider disciplinary action against judges and deliver opinion regarding the application of criminal or administrative liability measure to judges.

¹⁰ For example, see the arrangements for evaluating performance of judges appointed for a certain term set forth by the legislation of Georgia (e.g. in IAP monitoring reports available at: <https://www.oecd.org/corruption/acn/istanbulactionplancountryreports.htm>).

The Chairperson of the Council is appointed by the Oliy Majlis Senate upon the recommendation of the President of the RUz. Deputy Chairperson of the SJC approved by the President of the RUz also holds the position of the Director of the Research Centre for Studying the Problems of Justice under the Supreme Judicial Council. Eleven members of the Council chosen among judges are approved by the President of the RUz upon the recommendation of the SJC Chairperson. The Secretary and seven members of the Council selected from amongst representatives of law enforcement agencies, civil society institutions and highly qualified legal experts are approved by the President of the RUz.

The Chairperson, Secretary and approved eleven members of the Council chosen among judges carry out their activities on a permanent basis while other eight members including the Deputy Chairperson work pro bono.

A Council member is appointed (approved) for a five-year term. A Council member serving on a permanent basis can appointed (approved) for a period greater than two successive terms.

Decree of the President of the Republic of Uzbekistan №VII-5006 of 10 April 2017 “On Formation of the Supreme Judicial Council of the Republic of Uzbekistan” approved the composition of the Council consisting of 21 member including 11 judges appointed by the President of the Republic of Uzbekistan upon the recommendation of the SJC Chairperson.

According to the information provided by Uzbekistan, the following officials were appointed to the Council as members serving pro bono:

- Deputy State Counsellor to the President of the RUz on Political and Legal Issues;
- deputy of the Legislative Chamber of Oliy Majlis;
- First Deputy Chairperson of the Judicial Association of Uzbekistan, Chairperson of the Centre for Social Support of the Judicial System Veterans;
- Head of Chair of Tashkent State Juridical University;
- Deputy Prosecutor General of the RUz;
- Deputy Minister of Interior of the RUz, Head of the Investigation Department of the Ministry of Interior of the Republic of Uzbekistan;
- Deputy Minister of Justice, Director of the Department for the execution of judgments, logistical, technical and financial support of court activities.

In view of Uzbekistani authorities, the current procedure of the Council composition formation is in keeping with the recommendations of the previous round of OECD monitoring.

The monitoring group welcomes establishment of the Supreme Judicial Council as a separate body as well as adoption of the respective law. Creation of such a body given a broad mandate to act as an agency promoting judicial independence is a positive development and it complies, in part, with the international standards. In this respect, Uzbekistan has partly fulfilled the previous recommendation

At the same time, the composition of the SJC and its formation procedure raise a number of questions.

1. SJC composition does not conform to the standard whereby the majority of its members must be selected by judges from among judges. Political bodies (President of the RUz, Oliy Majlis Senate) play the key role in the nomination of Council

members. Even the members represented by judges are nominated by the President upon the recommendation of the SJC Chairperson rather than proposed for nomination by the judicial community. The appointment of most judges should be entrusted to a judicial community body, e.g. judiciary convention.

2. The possibility of including representatives of civil society is commendable. However, they account for a small percentage of the Council membership, and a transparent procedure for their selection and nomination is lacking. Moreover, they serve on a pro bono basis which diminishes their role and opportunities for influencing the decision making. There is only one NGO representative in the active membership of the Council and even this single member represents an association of judges.

3. The presence of law enforcement and executive body representatives (General Prosecutor Office, Interior Ministry, Ministry of Justice) among the Council members is not advisable since it may have a negative effect on Council's independence.

4. According to the Law on SJC, its structure and executive secretariat staff number are approved by the President of the RUz. These powers should be delegated to the Council itself to strengthen its independence and limit the influence of the political body on the judiciary.

In their comments, Uzbekistan authorities noted that the Council takes its decision by simple majority of attendees in an open vote. Any council member in dissention has to sign the resolution and may state his dissenting opinion in writing, which is included in the minutes of the meeting but not read out. Thus, according to the authorities, the pro bono service by members of the public in the Supreme Judicial Council does not undermine their role or possibility to influence the decision-making.

Furthermore, the experts note that the procedure for the termination of office of SJC members is not spelled out in law. The grounds for early termination of office are stipulated by Article 30 of the “Law on Supreme Judicial Council of the Republic of Uzbekistan” (letter of resignation from a member; loss of citizenship of the Republic of Uzbekistan; illness or physical impairment preventing performance of member's duties; recognition of legal incapacity or partial legal incapacity determined in accordance with the established procedure; death or declaration of death by court decision; entry of a guilty verdict into force; actions tarnishing the honour and dignity). As Uzbekistan authorities maintain, in presence of such grounds, the Supreme Judicial Council makes a substantiated report to the President of the Republic of Uzbekistan recommending early termination of the powers of such council member. However, there is no such provision in the Law on SJC, its key regulatory act. The level of regulation in the law is not enough to ensure independence of this key body in the judiciary system.

In 2018 OSCE/ODHIR experts delivered their opinion on the Law “On the Supreme Judicial Council of the Republic of Uzbekistan” listing also some other critical notes to the law, which ought to be taken into account.¹¹

¹¹ See at:

https://www.legislationline.org/download/action/download/id/8082/file/327_JUD_UZB_1Oct2018_ru.pdf.

Pursuant to the Regulation on Judicial Qualification Boards approved by the Law of the Republic of Uzbekistan №3PY-368 of 22 April 2014 “On Introduction of Amendments and Additions to the Regulation on Judicial Qualification Boards”, the Higher **Judicial Qualification Board** (HJQB) as well as judicial qualification boards are established to consider the following issues: disciplinary liability of judges; suspension or early termination of judge's mandate; ensuring irremovability of judges; assigning qualification grades; management of work related to selection and election of people's assessors; control over the observance of judicial oath and ethical rules of conduct. Judicial qualification boards support the activities of the Supreme Judicial Council contributing to the achievement of its goals.

The HJQB is elected by the Plenum of the Supreme Court of the Republic of Uzbekistan for a five-year term from among the Supreme Court judges. Lower-level judicial qualification boards are elected for a term of five years at judicial conferences of the respective level from among the judges of interdistrict, district (town) courts, territorial military courts, and the respective higher courts and consist of a chairperson, his/her deputy and qualification board members.

Staff size of judicial qualification boards is determined on the basis of their workload, but it is not supposed to exceed nine people including the board chairperson and his/her deputy.

The Higher Judicial Qualification Board pursues the following activities:

1. drafts proposals for the improvement of the mechanism for selecting judges and submits these proposals to the Supreme Judicial Council;
2. presents to the Supreme Judicial Council the appropriate opinions about the candidates (judges) nominated for reappointment or other judicial positions;
3. provides information about open judicial vacancies to judges as well to persons included in the candidate pool who are nominated for judicial positions for the first time after completing education and on-the-job training by posting it on the official website of the Supreme Court of the Republic of Uzbekistan;
4. reviews complaints and submissions, performs internal audit reviewing the activities of Supreme Court judges, Chairpersons and Deputy Chairpersons of the courts of the Republic of Karakalpakstan, other Uzbekistani regions and City of Tashkent, and Chairperson of the Military Court of the Republic of Uzbekistan;
5. considers cases involving disciplinary liability of judges and issues related to granting consent to institute administrative action against judges, takes decisions on suspension of powers of Supreme Court judges, Chairpersons and Deputy Chairpersons the courts of the Republic of Karakalpakstan, other Uzbekistani regions and City of Tashkent, and Chairperson of the Military Court of the Republic of Uzbekistan;
6. delivers opinion about early termination of office of the respective courts' judges;
7. exercises control over the observance of the judicial oath and rules of ethical conduct by judges of the respective courts;
8. assigns qualification grades to judges.

The Higher Judicial Qualification Board reviews complaints and submissions concerning the decisions made by judicial qualification boards.

Organizational and technical support of activities performed by judicial qualification boards is provided by the Chairperson of the respective court, i.e. in the Supreme Court this is a prerogative of the Supreme Court Plenum and in a regional (town) court – by Chairperson.

Organizational and technical support of judicial qualification board activities related to the receipt and registration of applications and checking of submitted documents is performed by the Secretary of a judicial qualification board appointed and dismissed by the Chairperson of the respective court.

The procedure for the HJQB formation does not fully conform to the international standards and the previous recommendation. Though the composition of the HJQB is formed by the Supreme Court Plenum, i.e. by judges, HJQB membership is open to Supreme Court Judges only. It is recommended to delegate the HJQB formation powers to the judiciary convention ensuring inclusion in its membership of judges representing courts of different levels. The issues related to the HJQB composition and activities should be spelled out in law rather than a secondary legislation. Furthermore, taking into account the size of HJQB workload, it is recommended that the Board members should perform their duties on a constant rather than a pro bono basis. The arrangements whereby organisational and technical support of activities performed by judicial qualification boards is provided by chairpersons of the courts where they have been established are also viewed unfavourably.

New recommendation No. 11

- 1. *Revise the composition of and procedure for the Supreme Judicial Council formation, in particular, by transferring powers to form its composition to the judicial convention or other judicial community body, considerably expanding civil society representation in its membership, and removing from its composition members representing law enforcement and executive bodies. Ensure transparent selection of the Supreme Judicial Council members and set out in law a procedure for early termination of office of the Council's members.***
- 2. *Regulate in law the procedure for formation and activities of the judicial qualification boards. Transfer powers to form composition of the boards to judicial community bodies and eliminate the influence of court chairpersons on the support of the boards' activities.***

Role of political authorities

Previous recommendation:

“Limit the influence of political bodies on the appointment and dismissal of judges to the maximum extent possible”

According to the information provided by Uzbekistani authorities, establishment of the Supreme Judicial Council that superseded the Higher Qualification Commission for selection and recommendation of judges under the President of Uzbekistan brought about radical changes in the system for selection and appointment of judges thereby limiting the influence of political authorities on this process.

The procedures for selection, appointment and dismissal of judges were also subject to change (see below).

The monitoring group welcomes the above and other changes aimed at limiting the role of political authorities on judicial staffing matters and functioning of the judicial system. These changes are significant and undertaken in the right direction. They should be continued to minimize the role of political bodies as was previously recommended. This

part of the recommendation was partially fulfilled. However, the President and Parliament continue to play an important role in these matters. For example, on the one hand, the President approves the appointment of candidates for judicial position of a certain level and, on the other, nominates or authorizes candidates for other judicial positions approved by the Parliament.

For detailed recommendations concerning further steps, see the text of this section.

Selection of candidates for judicial office

Previous recommendation:

“Review the procedures for selecting and appointment of judges ensuring objectivity and transparency, in particular, by providing clear criteria for selecting and appointment of judges and their reappointment for a new term. Provide for a procedure for reasoning and appeal of decisions of the relevant bodies related to the career of judges. Limit the influence of political bodies on the appointment and dismissal of judges to the maximum extent possible; Exclude possibility of appointing judges without undergoing relevant procedures.”

The procedure for selection of candidates for judicial office involves all judicial community bodies, but the main role is played by the Supreme Judicial Council and judicial qualification boards.

Eligible persons who wish to become judges submit an application to the SJC directly or through a judicial qualification board to be included in the candidates’ pool. Afterwards they take an exam administered by the SJC Examination Commission. Those who passed the exam successfully are included in the candidates’ pool.

At the next stage the candidates are selected for special training courses with subsequent internship in court. Those who successfully completed the course are granted a certificate while the ones who failed are excluded from the candidates’ pool.

The SJC Judicial Inspection delivers opinion about the candidate’s eligibility for judicial office, SJC Staffing Section compiles the list of candidates for participation in the competition, and the Secretary of the Supreme Judicial Council informs the candidates about the date of the competition.

Once a vacancy is announced, candidates can apply for the participation in a competitive selection. The selection is performed at a session of the Supreme Judicial Council during which the Council members interview candidates to assess their level of expertise.

When the interview is over, the candidate leaves the meeting hall and the members of the Supreme Judicial Council discuss his performance and vote in favour or against the candidate. The decision of the meeting is adopted by simple majority vote. Then the Chair of the meeting immediately informs the candidate for judicial office about the Council’s decision.

Afterwards the Supreme Judicial Council submits a proposal to the President of the RUZ to secure his approval. Upon approval by the President the SJC appoints the judges of district and town courts; the President appoints the chairpersons and deputy chairpersons of regional courts and Tashkent City Court; Supreme Court Judges are elected by the Senate of the Republic of Uzbekistan from among the candidates proposed by the President.

The number of occasions when the President of the RUZ refused to approve the proposed candidates for judicial positions in the last two years is given below:

- 2017: 11 candidates including 2 judges nominated for reappointment and 9 candidates standing for their first appointment;
- 2018: 5 candidates including 3 judges nominated for a new term and 2 candidates applying for judicial appointment for the first time.

According to articles 21 and 22 of the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, the main criteria for the selection of judges from among the first-time applicants for judicial positions are: impeccable reputation, honesty, competency, sufficient life experience, absence of diseases or physical defects impeding the ability to administrate justice.

The main criteria for the selection of judges for a new term in office or other judicial positions are: impeccable reputation, honesty, objectivity, fairness and competency demonstrated during the period of their judicial activities.

There are no legal provisions for appealing decisions of the Supreme Judicial Council concerning the selection and appointment of judges. However, in 2017 and 2018 the SJC received two complaints regarding this matter and responded by providing the appropriate explanations to the complainants.

According to article 24 of the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, the information about judicial vacancies is posted on the official website of the Council. The SJC website also publishes the results of examinations and the list of applicants included in the candidates' reserve.

At each stage of the selection and appointment process, relevant information is made known to the interested parties in the following way: a) the list of candidates is published on the official Council's website (www.sudyalarioliykengashi.uz); b) testing results are immediately shown to the candidate on the computer screen; c) the results of other components of the qualification exam are posted on published on the official Council's website; d) competitive selection results are made known to the candidate without delay.

The procedures for conducting all exams and interviews in the course of selecting applicants for judicial positions to be included in the candidates' pool at the SJC Examination Commission meetings as well as at HJC sessions selecting applicants for a vacant judicial job are fixed by the Law “On Supreme Judicial Council of the Republic of Uzbekistan” adopted on 6 April 2017 and the SJC Rules, adopted by the SJC Resolution of 17 May 2018.

The activities of the SJC Examination Commission related to the inclusion of successful applicants in the candidate pool are defined in the Regulation on the Examination Commission of the Supreme Judicial Council of the Republic of Uzbekistan adopted by the SJC Resolution of 22 May 2017.

At all meetings decisions concerning the selection of judges are made only by commission members on the basis of majority vote. Once the decision is adopted, it is made known to the candidate immediately.

Furthermore, according to article 4 of the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, the SJC performs its activities openly and in cooperation with state agencies, local self-government bodies, other organizations and individuals as well as the media.

Moreover, to ensure transparent and open arrangements for the selection and appointment of judges, a new procedure has been introduced whereby first-time applicants for judicial

jobs are presented to the public to obtain public opinion about the candidate whereafter the Council makes a decision concerning his nomination for judicial position¹².

As was noted by NGOs, various types of examination can be used while selecting first-time applicants for judicial jobs as well as candidates for a new term in office or other judicial jobs such as interviews, testing performed by independent experts, research papers on a given subject, and snap polls conducted in accordance with the procedure defined by the Council. However, in practice the personal characteristics of a candidate are examined not only by the SJC Judicial Inspection, but Presidential Administration, too. The latter conducts its own background checks on the candidate, and he/she is invited to sit the selection tests only upon the approval by the Presidential Administration. The procedure for admission of candidates for judicial position to examination at a SJC session is non-transparent.

Expert comments

In view of the monitoring group, open competitive selection of candidates for judicial office constitutes a big step forward. However, there is a gap at the legislative level, i.e. neither a transparent mechanism nor clear objective criteria for selection are defined by law. The same refers to the rules and detailed procedures for the evaluation of candidates on the basis of these criteria. These issues should be regulated by primary legislation rather than by-laws including SJC Resolutions.

The effective legislation offers a cumbersome procedure whereby candidates are first included into a pool (a reserve), and then, after an additional selection, they are nominated to the judicial office. The process provides for four separate examination procedures. Incorporation into the pool (after a sufficiently complex selection procedure) does not guarantee the job of a judge; to get it, the candidate must once again be exposed to a vetting and an interview. According to NGOs, while the pool selection requires significant resources, only a small number of candidates out of the pool become judges.

The recommendation is to find out whether the existing procedure is conducive to retaining the best qualified and motivated human resources in the judicial profession and make a general assessment of its efficiency. A more straightforward and effective way to build the judicial corps could be to announce vacancies subject to a competitive selection process appointing the winning candidates as judges based on their rating. It is also possible to provide for a mandatory training after a successful clearing of the selection process.

A decision to reject a candidate for judicial office must be well-grounded and presented to the candidate in a written form. A mechanism should be established for appealing the refusal of appointment to judicial office, at least, in case of procedural violations negatively affecting the final decision, e.g. when:

- a member of the decision-making body was not impartial while performing the selection of candidates;
- a decision or actions were discriminatory;
- a member of the decision-making body exceeded his powers which led to a violation of the candidate's rights or compromised judicial independence;

¹² <http://sudyalaroliykengashi.uz/uz/lists/category?id=24>.

- the information that served as a basis for the decision made was unreliable and the candidate provided sufficient evidence to prove the fact;
- a competition was conducted contrary to the procedure established by the legislation of Uzbekistan and this deviation had a substantial effect on its results.

Political bodies (President, Chambers of Parliament) should be excluded from the judicial selection process. Where the right to appoint judges is retained by political authorities (e.g. the President), it should be minimised and confined to formal approval. Main judicial selection and appointment decisions should be made by the Supreme Judicial Council (if its composition is adjusted in accordance with the standards); the President can reject a proposed candidate only once in case of procedural violations or evident failure of a candidate to meet statutory eligibility requirements; however, if the same candidate is proposed for the second time (i.e. upon securing approval of 2/3 of the Council members), the President is obliged to confirm the appointment.

In this connection, the monitoring group welcomes the fact that in his State of the Nation Address to the Oliy Majlis of 28 December 2018 the President of the Republic of Uzbekistan pointed out that the Supreme Judicial Council should independently exercise its powers to select and appoint judges of regional, district and town courts without securing Presidential approval. According to the information provided by the authorities of Uzbekistan, work is underway to draft a law providing for the appointment of military court judges, judges of regional courts and Tashkent City Court, chairpersons and judges of interdistrict, district and town courts without approval by the President of the Republic of Uzbekistan. The monitoring group recommends extending the procedure for appointing judges without consulting with the President to all categories of judicial positions as well as to take into account other recommendations.

Furthermore, experts noted that, according to the available information, judges of local courts are usually selected from among the residents of the respective district or region. At the mandatory preliminary stage of the selection process (before a proposal is submitted to the President for approval), a nominee for judicial office is discussed at the community level. These discussions involve representatives of community self-government bodies, local deputies and civil organizations. In experts' opinion, such arrangements may contribute to parochialism and nepotism, and foster corrupt connections compromising judicial independence. It is recommended to avoid binding a judge's workplace to his/her home grounds. It would be expedient to introduce a procedure whereby a nominee for judicial office has an opportunity to choose a job from the list of available vacancies in accordance with his/her examination ranking (priority is given to candidates with highest rankings).

Uzbek authorities argued that such a procedure did not affect negatively independence of a judge, but instead ensured transparency and openness of the selection and appointment of judges. Public opinion is optional and is considered by the Supreme Judicial Council together with other references and opinions about the candidate. This procedure is regulated by the Resolution of the SJC of 11 September 2017.

According to the information provided by NGOs, it is not uncommon for candidates wishing to work in a court of certain jurisdiction to be appointed to a different court against their will just because of a need to fill vacancies. The experts regard it as an extremely negative practice that should be avoided.

In the opinion of Uzbekistan's authorities, this allegation is not valid since, under Article 24 of the Law "On Supreme Judicial Council of the Republic of Uzbekistan", the procedure

for the selection for and appointment to the office of a judge is entirely voluntary. There have been no instances whereby a candidate, willing to become a judge in a certain jurisdiction, would be forced to accept a job in a different jurisdiction just for the need to fill a vacancy.

New recommendation No. 12

1. *Consider removing political bodies (Parliament, President) from participation in the process of appointing judges of all levels while assigning the respective powers to the Supreme Judicial Council whose composition would be aligned with international standards. Where such role is retained (e.g. with the President), it should be confined to a formal confirmation of the candidates submitted by the Council with a limited possibility for their rejection in the manner and on the grounds set forth clearly by law as well a possibility to override the rejection by Council's decision.*
2. *Provide in law clear objective criteria for the selection of judicial candidates along with detailed and transparent procedures for the evaluation of candidates on the basis of such criteria. Consider changing the judicial selection process by simplifying it, including by abolishing the procedure for the incorporation in a reserve. Restrict the influence of local self-government bodies on the judicial appointment to prevent parochialism.*
3. *Publish detailed information about the results of all stages of the competitive selection of candidates for judicial positions.*
4. *Decisions on judicial selection shall be motivated and conveyed to candidates who shall have the right to appeal a decision on the grounds specified by law.*

Career advancement of judges

According to article 24 of the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, a judge who wishes to be considered for another judicial appointment submits an application and the necessary documents to the Council. The respective judicial qualification board delivers its opinion about the candidate and conveys it to the Council. If the judge is not eligible for the position that he/she aspires to, the Council may amend the agenda of its meeting and consider his/her appointment to a lower-level judicial job.

According to article 32 of the Regulation on judicial qualification boards adopted by the Law of the Republic of Uzbekistan of 22 April 2014, the nomination of persons who previously worked as judges is performed according to the procedure established for the nomination of judges for a new term or other judicial positions. According to article 40 of the SJC Rules, applications for judicial vacancies are considered on an alternative basis (i.e. there must be at least two candidates for a job). No special requirements are envisaged for competitive selection of judges for appellate court positions.

Table 11. Number of judicial vacancies

| | Authorized staff size | Number of vacancies |
|------|-----------------------|---------------------|
| 2016 | 1,057 | 227 |
| 2017 | 1,380 | 439 |
| 2018 | 1,380 | 364 |

Experts draw attention to a large number of vacancies (as of December 2018 there were 250 vacant positions which is equal to about 1/5 of the authorized staff size). This can be partly explained by the establishment of new bodies responsible for judicial selection. The

current situation has to be rectified since it leads to an increased workload of active judges and thereby compromises judicial independence.

System of training for judicial candidates

In accordance with the procedure, which existed until recently, the lists of first-time nominees for judicial positions included in the candidates' pool are submitted to the SJC Judicial Training Section as well as Supreme Court and Centre for Advanced Training of Lawyers under the Ministry of Justice of the Republic of Uzbekistan (hereinafter referred to as the CATL) with a view to organize training at special courses and internship in courts.

To this end, the CATL jointly with SJC and the Supreme Court of the Republic of Uzbekistan organizes a competitive selection of trainees using an oral interview. The list of nominees who failed is submitted to the Council for exclusion from the candidate pool.

In accordance with the CATL Statutes adopted by Resolution of the Cabinet of Ministers No. 212 of 12 July 2012 “On Approval of the Statutes of the Centre for Advanced Training of Lawyers under the Ministry of Justice of the Republic of Uzbekistan”, successful candidates shall take a compulsory 3-month course at the CATL followed by internship in court (45 days of theoretical studies and 45 days of on-the-job training).

Once the training is satisfactorily completed, the trainees receive an appropriate certificate issued by the Centre. The latter submits a report and copies of the certificates to the Council confirming that candidates for judicial positions have the required theoretical knowledge and practical expertise. Judges nominated for a new term in office attend a 2-week advanced training course.

The Centre for Advanced Training of Lawyers under the Ministry of Justice of the Republic of Uzbekistan provides training for the applicants included in the candidate pool or first-time nominees (appointees) for judicial office. The CATL training course allows them to acquire or improve judicial skills, knowledge of the legislation and law enforcement practice as well as legal and judicial reforms currently underway.

The Centre for Advanced Training of Lawyers in cooperation with the Supreme Court and the SJC has developed and approved the training modules and programmes dedicated to the issues of judicial ethics and integrity of judges. These training tools were designed for the courses attended by first-time nominees (appointees) for judicial office as well as advanced training courses for active judges.

Study programmes for the first-time applicants for judicial positions consist of seven modules including compulsory courses in judicial ethics and forensic psychology. These course subjects are also included in the advanced training programmes for judges.

The Presidential Decree issued in January 2019¹³ initiated a reform of the judicial training system. Among other things, it provided for the establishment of the Higher Judicial School under the Supreme Judicial Council of the Republic of Uzbekistan (hereinafter referred to as the Higher School). The Decree stipulates that the Higher School is a state educational and scientific research institution that provides training for judicial candidates as well as

¹³ Decree of the President of the Republic of Uzbekistan No. IIII-4096 of 6 Jan 2019 “On Measures to Radically Improve the System of Training for Candidates to Judicial Office, Refresher Courses and Advanced Training for Judges and Administrative Court Staff” available at: <http://lex.uz/docs/4141445>.

refresher and advanced training for judges and administrative court staff. The Higher School is headed by Director appointed and dismissed by the President of the Republic of Uzbekistan upon the recommendation of the Chairperson of the Supreme Judicial Council.

Expert comments

Experts welcome the establishment of the Higher Judicial School under the Supreme Judicial Council since subordination of the Centre for the initial and in-service judicial training to the Ministry of Justice was inconsistent with international standards. As was pointed out in paragraph 19 of the OSCE/ODIHR Kyiv Recommendations on Judicial Independence, “where schools for judges are part of the selection procedures, they have to be independent from the executive power”.¹⁴

According to Opinion No. 4 of the Consultative Council of European Judges (CCJE), the State is obliged to ensure that the responsibility for organising and supervising judicial training process is vested in a judicial or other independent body (para 11). The independence of the authority responsible for drawing up syllabuses and deciding what training should be provided must be preserved (para 15). The judiciary should play a major role in or itself be responsible for organising and supervising training. The CCJE opposes the delegation of these responsibilities to the Ministry of Justice or any other authority answerable to the Legislature or the Executive (item 16)¹⁵.

In this connection, it appears problematic that the issues related to the establishment of the Higher Judicial School and maintenance of its activities as well as the arrangements for the initial and in-service training are regulated by a Presidential Decree. These matters should be regulated by law and judicial authority acts, e.g. SJC resolutions.

New recommendation No. 13

Ensure that the issues related to the initial and in-service judicial training are regulated by law and judicial authority acts defining the curricula and procedures for training judges and judicial candidates.

Evaluation of judges

The evaluation of judges is performed on the basis of the Regulation on Criteria for Examining and Evaluating the Activities of Judges adopted by the SJC Resolution of 22 August 2017. The evaluation results are taken into account when judges are nominated for a successive 10-year term or lifetime tenure.

The evaluation is based on the following criteria:

- legality, reasonableness and fairness of issued court decisions;
- conformance to procedural requirements for drafting judicial decisions;
- efficient management of judicial proceedings;
- enforceability of court decisions;
- observance of the code of ethical judicial behaviour;

¹⁴ Kyiv recommendations on judicial independence in Eastern Europe, South Caucasus and Central Asia, OSCE/ODIHR, 2010. Source: www.osce.org/ru/odihr/73488?download=true.

¹⁵ Source: <https://rm.coe.int/1680747d37>.

- review of complaints submitted by individuals and corporate entities in accordance with a statutory procedure;
- work done with a view to improve professional skills and indicators in the field of legal education of the population as well as research activities¹⁶.

See the recommendation in the section on irremovability of judges.

Expert comments

In this connection, it is worthwhile drawing attention to the international standards regarding the evaluation of judges. Thus, for example, according to the OSCE Kyiv recommendations on judicial independence in Eastern Europe, South Caucasus and Central Asia, the criteria for professional assessment must be clearly defined, transparent and unified. The main criteria must be set out in law. Detailed criteria used to perform regular evaluations have to be defined in bylaws along with diagrams and mechanisms for conducting such evaluations.¹⁷

Experts also noted that the existence of the qualification grade system (“classes”) may have a negative impact on judicial independence since it is directly linked to the concomitant system of bonus payments. The highest qualification grade is assigned by the President of the Republic of Uzbekistan on the recommendation of the Supreme Court Chairperson. Other grades are awarded to judges by the Higher Judicial Qualification Board on recommendation of chairpersons of the respective courts. Such arrangements limit the internal and external judicial independence by making them dependent on a political body and a judicial system official. Furthermore, it is envisaged that judges can be divested of their qualification grades “for gross offence of the law while administering justice”. Actually, this constitutes an extra penalty imposed outside the normal disciplinary action procedures. The criteria for assigning qualification grades and stripping judges of these grades have not been clearly defined by law.

It is recommended to abolish the qualification grade system and introduce a balanced statutory mechanism for the judicial remunerations. Assignment of qualification grades can be used as tool for exerting pressure on judges, and it should not serve as a substitute for objective evaluation of judicial performance.

According to the information provided by NGOs, the SJC Judicial Inspection performs annual audits (inspections) of court activities including assessment of individual judges. NGO representatives believe that such audits can be used to put pressure on judges. There are no legal provisions regulating the number of audits and reasons for conducting thereof. Usually, it is asserted that audits are meant “to provide practical assistance to courts”, but in actual fact they are aimed at checking court activities. One and the same court can be subjected to a countless number of audits performed by higher courts, the Supreme Court or Supreme Judicial Council. In the course of inspection, auditors look into both completed cases and cases under examination.

Uzbekistan authorities did not accept such a description. According to them, the Council’s judicial inspection may only conduct inquiries following a complaint from individuals or legal entities alleging violation ethical rules by judges or examine possible candidates for the next term in the judicial office. Any other applications regarding judgments passed by

¹⁶ <http://sudyalariykengashi.uz/ru/lists/view/171>.

¹⁷ Article 29 of the Recommendations. Source: www.osce.org/ru/odihr/73488?download=true.

judges, complaints against judges' non-compliance with the substantive or procedural law during the trial and in sentencing, fall within the jurisdiction of the higher instance of court. There have been no known facts whereby the Supreme Judicial Council's judicial inspection would conduct audits of the courts or equally debate lawfulness of the judgments passed by judges (which is within the jurisdiction of the higher instance of court).

However, experts note that the Regulations on the Judicial Inspection, as approved by the resolution of the Supreme Judicial Council on 22 May 2017, allow for a broad range of powers for the judicial inspection. Among other things, paragraph 18 of the Regulations says that "the judicial inspection shall inspect compliance by the judges with the rules of the Code of Ethical Conduct of Judges. Such inspections may be conducted as a single audit or in a complex manner. A single audit shall be set up to look into specific issues of organizational activity of court or into stated allegations made in a complaint. A complex audit shall be conducted in accordance with the Council's plan of work." Hence, the judicial inspection does indeed conduct audits (inspections), and not only following complaints.

New recommendation No. 14

1. ***Abolish the system of judicial qualification grades and ensure the evaluation of judges on the basis of clearly defined transparent and uniform criteria and procedures determined by law.***
2. ***Exclude the possibility for conducting court audits (inspections) by the Supreme Judicial Council's Judicial Inspection or any other inspections (analyses of performance) of courts, with the exception of inquiries prompted by a complaint within a specific disciplinary proceeding conducted in the manner and on the grounds set forth by law.***

Dismissal of judges

Previous recommendation

"Limit the influence of political bodies on the appointment and dismissal of judges to the maximum extent possible"

According to the article 72 of the Law "On Courts", early termination of judicial powers is envisaged in case of: 1) violation of the judicial oath; 2) submission by a judge of a written application to this effect; 3) persistence in the activities inconsistent with judicial office following the receipt of a notice of violation issued by the respective judicial qualification board or suspension of judicial powers; 4) declared legally incapacitated or partially incapacitated; 5) loss of citizenship; 6) entry into legal force of a guilty verdict passed on a judge; 7) death or declaration of death issued by court; 8) inability to perform judicial duties for a long period of time because of ill health or other valid reasons; 9) expiry of a court chairperson's term of office if he/she does not accept another judicial position.

In the presence of circumstances listed above, premature termination of judge's powers in the takes place following manner:

- Supreme Court Judges are relieved of their office-by the Oliy Majlis Senate on the recommendation of the President of the RUz;
- chairpersons and deputy chairpersons of regional courts and Tashkent City Court, and Chairperson of the Military Court are dismissed by the President of the RUz on the recommendation of the Supreme Judicial Council;

- judges of military and regional courts, and Tashkent City Court as well as chairpersons and judges of interdistrict, district (town) courts are dismissed by the Supreme Judicial Council upon consultation with the President.

Early termination of powers in cases envisaged in para 1, 3 and 8 (see above) is permitted upon decision by the respective judicial qualification board.

A judge may appeal the decision of a judicial qualification board in accordance with the statutory procedure.

The number of judges relieved of their office:

- 2016 – total of 19 judges including 12 voluntary resignations, 5 dismissals for breach of the judicial oath, one - for errors made in the course of justice administration, and one because of death.
- 2017 – total of 69 judges including 8 resignations, 15 dismissals for breach of the judicial oath, 10 – for errors made in the course of justice administration, 3 – because of death, 20 – due to a transfer to another appointment, 11 – due to staff reduction, 2 – for health reasons.
- 2018 – total of only 16 judges. including 4 resignations, 3 dismissals for breach of the judicial oath, 3 – because of death, 5 – due to a transfer to another appointment, 1 – for health reasons.

According to the information provided by NGOs, in practice the issues regarding termination of office of a judge for any reason are considered at the Supreme Judicial Council meetings. The presence of judges whose powers are subject to possible termination is not ensured. Besides, there are no provisions envisaging the possibility to appeal SJC decisions. The information about the criteria applied in the course of judicial appointment termination is not disclosed. Under such circumstances, a dismissed judge (who does not face criminal or disciplinary charges) is actually deprived of the right to attend a Council meeting and provide his explanations concerning the matter in hand. The authorities did not accept this kind of description since in practice, when the Council looks into the termination of the judge's term of office, his presence is ensured, and the judge may volunteer additional explanations. Before the item about the dismissal of the judge is incorporated in the agenda of the SJC meeting, the judge in question must study the materials that prompted the issue and give his explanations on the matter in writing. This mechanism is regulated by the SJC Terms of Reference.

As was already noted above, the participation of political bodies in the process of judicial appointments termination should be excluded or limited to strengthen judicial independence.

Furthermore, there is a need in more detailed definitions of reasons for dismissal. The so-called “breach of the judicial oath” formula is too broad and has to be replaced by more detailed and clear-cut definitions of reasons that should be written in law thereby ensuring legal certainty. One should also ensure a fair procedure for considering appointment termination as well as observance of the rights of the judges involved (for recommendations, see the section below on disciplinary liability).

Appointment of judges to administrative positions, powers of court chairs

According to the Law “On Courts” (article 63), the Chairperson and Deputy Chairpersons of the Supreme Court are elected by the Oliy Majlis Senate on the recommendation of the President of the RUz. Chairpersons and deputy chairpersons of regional courts and Tashkent City Court are appointed and dismissed by the President of the RUz on the recommendation of the Supreme Judicial Council. Chairpersons of interdistrict and district (town) courts are appointed and relieved from office by the Supreme Judicial Council upon securing approval of the President of the RUz.

According to article 4 of the Regulation “On Criteria and Procedure for Forming the Pool of Candidates for the Positions of Court Chairperson and Deputy Chairperson” adopted by Resolution of the Supreme Judicial Council No. 799-III of 14 September 2018, selection of nominees to be included in the pool of candidates for these senior positions is performed on the basis of the following criteria:

1. as a rule, candidates for the positions of chairpersons of interdistrict and district (town) courts as well as territorial military must have at least 3 years of experience as a practicing judge;
2. candidates for the positions of Deputy Chairpersons of the Court of the Republic of Karakalpakstan, regional courts and Tashkent City Court must normally have at least 5 years of experience as a practicing judge;
3. candidates for the position of the Chairpersons of the Court of the Republic of Karakalpakstan, regional courts, Tashkent City Court, and the Military Court of the Republic of Uzbekistan must normally have at least 7 years of judicial experience;
4. profound knowledge of the legislation of the Republic of Uzbekistan;
5. resolution, fairness, perfect command of one's skills, industriousness, high sense of responsibility, management abilities and capability for taking initiatives as well as other abilities that set an example for other staff members;
6. proficiency in distributing responsibilities and problem solving, proactive vision, ability to examine problems comprehensively and foresee the consequences of the current events and decisions taken;
7. availability of references (from at least three judges of higher-level courts) confirming that the candidate enjoys respect of the colleagues and is worthy of the responsible position of a court chairperson;
8. good references from the place of residence (recommendation of a community meeting);
9. capability for conducting an open dialogue with the public, develop partnerships and speak before the public;
10. recommendations of the respective judicial qualification boards confirming that the applicant is a worthy candidate for a senior position.

In accordance with article 63-2 of the Law “On Courts” of the Republic of Uzbekistan, chairpersons are elected or appointed for a five-year term. One and the same person cannot be elected or appointed to the office of a court chairperson in the same court for more than two consecutive terms.

In accordance with the Regulation “On Judicial Qualification Boards”, at the regional level, qualification boards are headed by chairpersons of the respective courts and they participate in the process of the nomination of judges for a new term by preparing a package of documents characterizing nominees’ personal qualities and professional performance, etc. They are also organize various events (seminars, round-table discussions) related to training or retraining of candidates for a new term in office.

Chairpersons acting in these two capacities evaluate the performance of judges of the respective courts looking into such aspects of judicial activities as adequacy of procedural rules' application in the course of case examination, timeliness of sending court decisions for enforcement, participation in the advanced in-service training, number of publications in the media, amount of work related to personal reception of citizens, etc.

Deputy Chairperson of the Supreme Court holding the position of the Higher Judicial Qualification Board Chairperson evaluates the performance of Supreme Court Judges, and chairpersons or deputy chairpersons of regional courts on the basis of the same parameters mentioned above.

The chairpersons of courts are also involved in the attestation of judges. Their role consists in submitting requests to assign qualification grades to judges.

However, when a subordinate judge is transferred to a job in a different court, the court chairman has no role to play in the transfer process.

In accordance with the Law “On Courts”, the Supreme Court Chairperson has the power to initiate disciplinary proceedings against judges on the basis of a request from the chairperson of the respective court, background check note and internal audit report.

Court chairpersons are not involved in the matters related to early termination of judicial appointment and material rewards for judges.

Applicants are appointed to a court administration job by an order of the chairperson of the respective court.

As far as logistic and technical support is concerned, the chairpersons are responsible for filing applications for nonexpendable supplies and materials required for normal court functioning. The applications are submitted to a territorial section of the Department under the Supreme Court.

Court chairpersons have no part in distributing cases between judges since this task is performed by an electronic system for automatic case distribution.

Expert comments

The monitoring group points out that court chairpersons have extremely broad powers related to judicial career matters and management of organisational and technical support for judicial and court activities. This arrangement has a negative impact on judicial independence. According to the information provided by NGO representatives, external influence on judges is usually exerted exactly through the court chairpersons. In actual fact, a vertical power structure has been formed within the judiciary including court chairpersons at all levels – from the local courts to the Supreme Court on the top of the pyramid. Such an arrangement (which exists in reality but has no legal foundation) is inconsistent with the principle of judicial independence and should be eliminated.

The procedure for appointment of court chairpersons by political authorities is also unacceptable. Ideally, court chairpersons should be elected by the judges working in the

respective court. This is the best way to ensure their independence. Another acceptable arrangement would be to vest the power to appoint court chairpersons in a judicial authority body (judicial conference or the SJC once its composition is changed). The chairpersons' term of office must be limited to 2-3 years with a possibility of reappointment for one consecutive term. A special procedure can be envisaged for single-judge courts.

As was pointed out in the OSCE/ODIHR Kyiv Recommendations on Judicial Independence (see above), court chairpersons should not be vested with powers concerning judges' salaries and bonuses. They can have representational and administrative functions including supervision of the non-judicial court staff. To ensure an independent and objective review of complaints, court chairpersons should be stripped of powers to initiate disciplinary action or impose disciplinary measures.

From the judicial independence perspective, Article 34 of the Law on Courts also appears problematic. This article provides that at least once a year court chairpersons should submit a report on court activities aimed to protect the rights and freedoms of citizens as well as legal interests of corporate entities to the respective local council of deputies (kengash). Courts should operate openly and regularly provide information about their activities by publishing it on websites and in the media. The current practice of reporting information to local representative bodies restricts judicial independence.

According to Uzbekistan authorities, making such information available by court chairpersons does not restrict judicial independence, but instead ensures transparency and openness in the work of the judiciary. No criticism, analysis or interference in the administration of justice shall be allowed while hearing the reported information, it is only to comply with the provisions of the Law "On Public Control" by involving citizens in the process through their elected representatives. The information shared by court chairpersons is noted by representatives of the general public, and it is one of the mechanisms of early detection of the cause of offence or crime in the country, something that has been in the focus of attention lately, where some significant progress has been achieved, with the crime rates in 2018 going down by 40 per cent compared to 2017.

Procedure for case distribution between judges

Provisions concerning automated allocation of cases in courts of different jurisdiction were adopted by Resolution No. PC-37-18 of 6 July 2018 issued by the Presidium of the Supreme Court of the Republic of Uzbekistan. The "Automated case allocation" module was developed on the basis of information system platforms implemented in criminal, civil, administrative, and economic courts.

According to information provided by Uzbekistan authorities, this module has been implemented across all courts of the Republic of Uzbekistan from October 2018.

All parties to cases and members of the public can find information about case allocation on the website of the Supreme Court of the Republic of Uzbekistan. Representatives of the NGOs failed to confirm that general public may get access to the outcome of such allocation.

Experts welcomes the introduction of electronic allocation of cases among judges across all courts of Uzbekistan. However, there are still questions about certain exceptions whereby this allocation is made "manually" by the chairperson of the court. In accordance with the provisions on automated allocation of cases in economic courts of the republic of Uzbekistan, in the event that the judge be challenged (recuse himself), the allocation of the case to another judge, allocation of cases referred by the court of the supervisory instance

for re-trial, or cases referred from another economic court or cases referred by order of the President of the Supreme Court shall be done manually by the court's chairperson or the person acting for him. A similar procedure is stipulated for the automated allocation of cases in courts of other jurisdictions.

Such exceptions erode the positive effect of the automated allocation of cases, as such manual allocation is open to manipulation and exempts, without good reason, whole classes of cases. It is not clear, for instance, what good grounds could explain the need for manual allocation of any case which was referred by the President of the Supreme Court or an oversight instance. If there is a need to exclude the judge that tried the case before, it is easily done within the automatic allocation system.

Should manual allocation of cases be allowed in exceptional cases when the automated system is down and cannot be rectified promptly, such allocation should be substantiated in writing, be guided by the same criteria as the automated allocation and be published.

New recommendation No. 15

- 1. *Limit the scope of mandate of court chairpersons to representative and administrative powers that have no effect on the remuneration and material support of judges as well as their disciplinary liability.***
- 2. *Change the procedure for the appointment of court chairpersons by transferring the appropriate powers to the gathering of judges serving in the respective court or other judicial community body.***
- 3. *Ensure the right of a judge to attend the meetings, give explanations and use legal counsel when the matter of his/her dismissal is being considered. Provide for a possibility to file appeal against the dismissal from the judicial office. Ensure transparency and other due process safeguards when considering the matter of judicial dismissal.***
- 4. *Ensure an automated case allocation in courts for all categories of cases and online publication of the results of such allocation; in the event of "manual" allocation because of the long-term malfunctioning of the automated system, such allocation must be substantiated in writing, be guided by the same criteria as the automated allocation, and its results should be published.***

Publication of court decisions, transparency

According to the official reports, the website of the Supreme Court of the Republic of Uzbekistan publishes information about the decisions taken as well as the statistics reflecting the institution's activities. The following information is published on the Internet: agendas of the Supreme Court sessions; adopted decisions; statistics on the Supreme Court activities. The material that is not published includes draft agendas, draft decisions, and departmental minutes.

According to article 7 of the Law of the Republic of Uzbekistan "On Courts", all court hearing are open. Closed trials are permitted only in cases specified by law.

According to article 4 of the Law "On Supreme Judicial Council of the Republic of Uzbekistan", one of the main principles underlying the Council activities is openness. The Council performs his activities in an open way in conjunction with state agencies, self-government bodies, other institutions and individuals as well as the media.

Proposals by the Supreme Court, Supreme Judicial Council, and Judicial Association of the Republic of Uzbekistan concerning further strengthening of transparency in judicial activities, developing an open dialogue with society, and increasing the role of the public in the administration of justice were accepted and put into force by Decree of the President of Uzbekistan No. VII-5482 “On Measures to Further Improve the Judicial and Legal System and Enhance Public Confidence in the Judiciary” dated 13 July 2018. These measures include:

- stepwise implementation of the mechanisms for regular publication of court decisions on the website of the Supreme Court of the Republic of Uzbekistan;
- introduction into judicial practice of such an element as a post-announcement explanation of the essence of the court ruling to all the participants of the legal proceedings;
- quarterly briefings made by the chairpersons of regional courts and their deputies aimed to inform the public and the media about the court activities;
- publication of quarterly reviews of judicial practice of the Supreme Court Chambers exercising supervisory powers as well as of appeal and cassation practices of regional and equated courts.

The Supreme Court of Uzbekistan launched a new interactive website linked to the electronic court system (E-SUD) and document exchange system (E-XSUD) which would allow members of the public to process legal documents in an electronic form.

In accordance with Presidential Decree No. IIII-3723 of 14 May 2018 “On Measures for Radical Improvement of the Criminal Law and the Rules of Criminal Procedure” a protected system is being developed within the framework of the pilot project “Electronic criminal case”. The new system gives an opportunity to conduct criminal proceedings in an electronic form and exchange information obtained by inquiry agencies between prosecution, judicial, and correctional bodies.

The first stage of the interactive service “Online broadcast” was launched in September 2018. For this purpose, 12 pilot courts were selected in the most remote regions. This service allows members of the public to watch live or recorded broadcasts from the courtroom via the Internet. This development is a significant contribution towards increased transparency of the judicial system.

The monitoring group welcomes the steps towards ensuring transparency and openness of courts in the Republic of Uzbekistan. Specifically, publication of court decisions on the Supreme Court website is definitely a positive development. As of February 2019, the website of the Supreme Court (<http://public.sud.uz/#!/sign/view>) published over 29,000 court decisions in economic cases, over 44,000 court decisions in administrative cases, and more than 8,000 court decisions in criminal cases, and over 25,000 awards in civil cases. One should ensure that all court decisions are published online including interlocutory judgments and rulings with a clear-cut list of exceptions as stipulated by law.

Expert comments

The monitoring group welcomes the recently adopted measures aimed at ensuring openness of courts in Uzbekistan. This refers to the publication of court decisions on the website of the Supreme Court, online broadcasts of court hearings and other measures. To date the relevant obligations are not clearly defined by law. For example, according to Article 19 of

the Code of Criminal Procedure of the RUz, valid court judgments can be published on the official court website with consent of the participants of criminal proceedings or upon rendering personal data anonymous with the exception of cases examined in closed court hearings.

It is recommended that the law clearly provides for the compulsory publication of court decisions including interlocutory judgments, the procedure and timeframe for publication, and the list of exceptions exempt from mandatory public disclosure (the list of data that should be anonymized in judicial acts). This anonymization should not extend to government public officials that are involved in the case by virtue of their official authority. It is recommended to ensure maximum automation in the procedure of anonymization and publication of decisions on the website immediately after the judicial acts has been signed by the judge.

It is also recommended to spell out in law the procedure for live courtroom broadcasts. Such broadcasts involve serious interference with the right to private and family life of the participants of court proceedings and thereby require statutory regulation. Live broadcasts should be conducted within a legal framework ensuring that this practice contributes to openness of court trials and strengthening of public confidence in the judiciary. The appropriate provisions have to be included in the codes of judicial procedures.

According to the information provided by Uzbekistan authorities, the Supreme Court has drawn up a draft Law of the Republic of Uzbekistan providing for legal grounds for online broadcasting of court sessions. The draft law is at the stage of examination by ministries and agencies concerned.

Requirements for judges, code of ethics

In accordance with article 66 of the Law of the Republic of Uzbekistan “On Courts” judges are obliged:

- to abide by the Constitution and other laws of the Republic of Uzbekistan while handling the cases within their competence; to ensure protection of citizens' rights and freedoms, their honour, dignity and property, the rights and legal interests of enterprises, establishments and organizations; to be impartial and fair;
- to strictly preserve honour, observe rules of ethical conduct, abstain from actions that may compromise judicial authority, and judge's dignity or raise doubts about his/her objectivity.

Furthermore, judges:

- may not violate the secrecy of judges' conference and disclose confidential obtained in the course of closed court hearings.
- shall not be senators or deputies of representative bodies.
- shall not belong to political parties, nor participate in political movements, nor engage in other kinds of gainful activity with the exception of scientific research and teaching.

A new version of the Code of Ethical Judicial Conduct was adopted by Supreme Judicial Council's Resolution No. 490 of 29 January 2018¹⁸.

¹⁸ Available at: <https://oliysud.uz/ru/category/dokumenty/kodeks-eticeskogo-povedenia-sudej>.

The Supreme Judicial Council reviews complaints of individuals and corporate entities concerning violation of ethical conduct rules by judges. The Higher Judicial Qualification Board exercises control over the observance of the judicial oath and rules of ethical conduct by judges of the respective courts.

According to article 73 of the Law of the Republic of Uzbekistan “On Courts”, judges can be brought to disciplinary responsibility for misconduct by the decision of a judicial qualification board. Similarly, article 21 of the Code of Ethical Judicial Conduct provides that violation of the rules stipulated in the Code compromising the authority of the judiciary and /or damaging judge's reputation constitutes a ground for disciplinary action in accordance with the established procedure.

In 2017, the Council considered 36 cases of judicial misconduct. As a result of examination of each case performed by the Supreme Judicial Council, 19 judges were reprimanded, 12 judges were fined, and 5 judges were cautioned.

In 2018, the Council considered 27 cases of judicial misconduct and imposed the following disciplinary penalties on the culprits: 15 judges were reprimanded, 3 judges were fined, 7 judges were cautioned, and the powers of 2 judges were prematurely terminated.

Conflict of interest, other restrictions

According to article 20 of the Code of Economic Procedure, a judge cannot participate in the case examination and should be recused in the following instances:

1. he/she handled the case as a judge in the course of previous proceedings and for this reason his/her repeated participation in the trial is inadmissible in accordance with the requirements set out in this Code;
2. he/she took part in the previous trial as an arbitration court judge, prosecutor, expert, specialist, translator, court session secretary, representative or witness;
3. he/she is a relative of persons participating in the case or their representatives;
4. he/she has direct or indirect personal interest in the outcome of the trial, or there are other circumstances raising doubts about his impartiality;
5. he/she is a relative of a judge who is a member of the judicial panel examining the case.

Similar provisions are included in the Code of Civil Procedure (article 21), Code of Criminal Procedure (article 76) as well as Administrative Procedural Code of the Republic of Uzbekistan (article 21).

In the presence of the grounds specified by the relevant provisions of these Codes, judges are obliged to ask for self-recusal. For the same reasons, recusal can be asked for by the parties to the case. Both recusal and self-recusal have to be justified and the appropriate request should be made before the beginning of the trial.

Besides, according to article 6 of the Code of Ethical Judicial Conduct, judge's objectivity and impartiality are a prerequisite for the appropriate administration of justice. Judges' behaviour in the courtroom and outside office must contribute to maintaining the confidence of the public and trial participants in objectivity and impartiality of the judge and judicial authority bodies.

In 2017-2018, no disciplinary penalties were imposed on judges for violating the established rules for recusal and self-recusal aimed at preventing conflicts of interest.

There exists a number of restrictions for judges envisaged by the regulations, in particular, concerning:

a) acceptance of gifts

In accordance with article 66 of the Law of the Republic of Uzbekistan “On Courts”, judges are obliged to strictly preserve honour, observe rules of ethical conduct, abstain from actions that may compromise judicial authority, and judge's dignity or raise doubts about his/her objectivity.

Besides, according to article 9 of the Code of Ethical Judicial Conduct, judges must report in a prescribed manner to the Supreme Judicial Council and/or a judicial qualification board about the remuneration offered for certain action or inaction.

b) engaging in other activities (whether gainful or not) and holding other appointments

In accordance with article 66 of the Law of the Republic of Uzbekistan “On Courts”, judges shall not be senators or deputies of representative bodies. Judges shall not belong to political parties, nor participate in political movements, nor engage in other kinds of gainful activity with the exception of scientific research and teaching.

c) possession of corporate rights in companies and other financial interests

According to article 13 of the Code of Ethical Judicial Conduct, judges may not engage in entrepreneurial activities either personally or by proxy, or take part in the management of a commercial company. If a judge comes into possession of company shares or securities, whether by way of gift or inheritance, giving the right to take part in the management thereof he/she must provide the relevant information to the Supreme Judicial Council and delegate the acquired rights to other persons without delay.

In 2016-2018 no disciplinary penalties were imposed on judges for violating the established restrictions.

Expert comments

As far as conflict of interest is concerned, the mentioned provisions of procedural codes concerning recusal and self-recusal of judges are not sufficient to prevent the emergence of conflicts of interest (CI) in the course of judicial activities. First of all, CI has to be defined in legal terms, which can be done by adopting general legislation on CI (see the corresponding section of this report) or a special normative act regulating court activities. The rules concerning CI should be adjusted with due account for the specifics of judicial office and safeguards of judicial independence. These specific rules can be fixed by law or a bylaw issued by a judicial community body. It is also necessary to prepare detailed explanations and practical guidelines on the prevention and elimination of conflicts of interest in judges' work.

See a new recommendation below.

Asset statement rules

“The Procedure for provision of information by judges about the income received by the judge himself/herself, his/her spouse, and minor dependents, the property owned by virtue of the property rights (real estate and motor vehicles) as well as estate liability” was adopted by Resolution of the Supreme Judicial Council No. 241 of 7 August 2017.

This document obliges judges to provide income statement to the Supreme Court of the Republic of Uzbekistan. The statement shall be submitted every year before April 1.

According to the established procedure, completeness and accuracy of the information provided is checked by the Higher Judicial Qualification Board during 15 days. If necessary, the HJQB requests additional information from the appropriate government bodies.

According to para 10 of the Procedure, failure to provide information or provision of unreliable information involves disciplinary penalties imposed on judges in the prescribed manner.

In 2017-2018 no disciplinary penalties were imposed on judges for violation of asset statement rules. During this period there were no instances of failure to submit an asset statement as well as of disregarding the deadline or providing unreliable information.

Expert comments

The obligation of judges to declare their assets, income, expenses, liabilities and interests must be set forth by law. Besides, this information should be published online (with possible minor exceptions) and verified on a regular basis. See recommendations in the “Integrity in the Civil Service” Section. Before the establishment of a common effective mechanism for the asset disclosure, it would be expedient to ensure publication of statements submitted by judges in accordance with the SJC Resolution.

Corruption prevention training

If judges need a confidential consultation and recommendations concerning conflict of interests, professional restrictions, asset statement, rules of conduct and other matters, they turn to the Supreme Judicial Council.

The procedures for resolving conflicts of interest, asset statement provision rules of judicial conduct, restrictions and other issues are set out in the Code of Ethical Judicial Conduct of the Republic of Uzbekistan.

The issues related to the prevention of corruption in the judiciary, prevention, identification and regulation of conflict of interest, compliance with service restrictions, and observance of judicial ethical rules are included in a study course offered by the Centre for Advanced Training of Lawyers under the Ministry of Justice of the Republic of Uzbekistan. The name of the course is “International legal foundations of anti-corruption efforts and national legislation”.

This is a compulsory course for judges participating in the advanced training programme. The study programme for judges also includes a course on judicial ethics.

Programmes of professional education and advanced training of judges are adopted by the Council.

Educational programmes for judges are developed by the Supreme Court of the Republic of Uzbekistan in conjunction with the Centre for Advanced Training of Lawyers.

New recommendation No. 16

- 1. Enact detailed legislative provisions on conflict of interest of judges with due account for the specifics of judicial office as well as the need to observe the safeguards of judicial independence.***

2. *Ensure in practical implementation of a mechanism for providing consultations and recommendations to judges (including confidential ones) concerning conflict of interest, disclosure of assets and interests, rules of conduct and other anti-corruption restrictions. Prepare and disseminate practical guides, methodological and educational manuals on these issues designed specifically for judges.*
3. *Ensure that the training in the field of ethics, anti-corruption and integrity is included in the curricula for the initial and in-service training for judges and has a practical focus.*

Disciplinary liability

Previous recommendation

“Adopt clear grounds for disciplinary liability of judges. Abolish the powers of Court Chairpersons to initiate disciplinary cases. Ensure publication of decisions on disciplinary proceedings.”

In accordance with article 73 of the Law of the Republic of Uzbekistan “On Courts” (new version), judges can be brought to disciplinary responsibility only by the decision of a judicial qualification board in the following cases:

- disregard for the rule of law while administering justice;
- omissions in judicial work management due to neglect or lack of discipline as well as offences tarnishing the honour and dignity of judges and compromising judicial authority;
- violation of the rules of ethical judicial conduct.

1) According to the additional information provided by the authorities of Uzbekistan, offences defined as *disregard for the rule of law while administering justice* may include: erroneous interpretation of substantive and procedural law, adoption of clearly illegal decisions, one-sided approach to the case examination, incompliance with provisions of procedural law, etc.

Example: on 27 January 2018 the Higher Judicial Qualification Board received a complaint from Mr. Kurbankulov R. addressed to the Chairman of the Board; Mr. Kurbankulov complained about illegal actions of judge Irsaliyev Z. who examined criminal charges against the complainant and handled his case.

The Higher Judicial Qualification Board performed an internal audit prompted by the complaint and it was found out that during the trial judge Irsaliyev Z. refused to incorporate in the court record the opinions and comments of the accused without justifying his refusal.

On the basis of the evidence presented by the Supreme Court Chairman on 15 Feb 2018, disciplinary action was initiated against judge Irsaliyev Z. and the matter was relegated to the judicial qualification board of the Tashkent City Criminal Court for consideration. The Board ruled as illegal judge Irsaliyev’s actions and imposed a fine on him at the rate of 10% of the judge’s average wage.

2) *omissions in judicial work management due to neglect or lack of discipline* shall be understood to mean: scheduling of a case for hearing without taking into account the category and complexity thereof; inadequate case hearing schedule, and chronically belated beginning of court proceedings; poor management of pre-trial arrangements (e.g. failure to summon third persons, experts, translator as well as to attendance of the parties to the case, etc.); lack of supervision over timely sending of enforcement orders and review of complaints; labour discipline violations, etc.

Example: In the course of analysis of the statistics and judicial practice performed by the Supreme Court in July 2018, internal auditors prepared a report addressed to the Supreme Court Chairman concerning omissions committed by Kazakov B., chairman of the administrative court of Chustsk District of Namangan Region, who, due to neglect and lack of discipline, failed to draw up 34 decisions within the prescribed time limits though the respective cases had been heard and decided 25 days before the auditors made their findings.

On the basis of the above facts, on 20 July 2018 the Chairman of the Supreme Court initiated disciplinary action and the relevant materials were referred to the Higher Judicial Qualification Board for consideration. At the HJQB meeting of 23 July 2018 the actions committed by the administrative court chairman were declared to be illegal and it was deemed expedient to terminate judge Kazakov's appointment prematurely. The decision was referred to the Supreme Judicial Council for consideration, and a few months later the judge was relieved of his office by the SJC Resolution of 4 October 2018.

3) Offences tarnishing the honour and dignity of judges and compromising judicial authority include: frequent adjournment of proceedings without any reason; rude and one-sided attitude of the judge to other participants of judicial proceedings; failure to consider petitions or pleas within the prescribed time limits; presiding over court proceedings in a drunken state; meetings with participants of court proceedings outside working hours; complicity in international, interethnic conflicts; visiting the fleshpots; interference with the activities of colleagues; using court resources for personal advantage, etc.

It should be noted that offences tarnishing the honour and dignity of judges and compromising judicial authority presuppose commitment of bluntly illegal actions (violation of substantive and procedural law provisions, abuse of ethical rules of conduct, commitment of crime or administrative offence) by judges. On the other hand, violation of the rules of ethical judicial conduct shall be understood to mean both judges' misconduct while exercising their professional duties and offences committed outside the workplace. Certain types of misconduct do not necessarily diminish judicial authority or tarnish the honour and dignity of judges, e.g. untimely scheduling of a case for hearing, which can be done for a valid reason, or peculiar interpretation of law and its practical application, etc. The SJC and judicial qualification boards consider every case individually to determine the type of offence.

Reversal or modification of judgment in itself does not entail liability of the judge who delivered the judgment unless he committed deliberate violation or showed lack of integrity which led to serious consequences.

The Higher Judicial Qualification Board examines disciplinary cases involving Supreme Court judges; Chairpersons and Deputy Chairpersons of the courts of the Republic of Karakalpakstan, Uzbekistani regions and City of Tashkent; and Chairperson of the Military Court of the Republic of Uzbekistan. Lower-level judicial qualification boards examine cases of administrative offences committed by judges within their jurisdiction.

Authority to initiate disciplinary proceedings against judges is vested in the Chairperson of the Supreme Court of the Republic of Uzbekistan.

The Supreme Court Chairperson issues a ruling to this effect indicating the grounds for bringing a judge to disciplinary responsibility.

Prior to the initiation of disciplinary proceedings, the Supreme Court Chairperson performs verification of the evidence available and demands an explanation from the suspected offender in written form.

Before the materials pertaining to the disciplinary case are referred to a judicial qualification board, they are given to the culprit for familiarization. After that he/she may provide additional explanations or file a petition asking to perform additional audit.

Disciplinary sanctions can be imposed within a one-month term after detection of offence exclusive of the time spent for an internal audit, period of judge's absence from work for a valid reason, and the time for disciplinary case examination by a judicial qualification board, but not later than six months after the commitment of offence.

Before examining a disciplinary case involving a judge additional audit is performed, if necessary, to verify the grounds for initiating disciplinary action. This task is assigned by the Chairperson of the Higher Judicial Qualification Board to one of the Board members. During the check, auditor may evoke extra documents and relevant case materials.

The Regulation on judicial qualification boards adopted by Law of the Republic of Uzbekistan No. 3PY-368 of 22 April 2014 defined the procedure for appealing against the actions of judges and bringing them to disciplinary responsibility.

Thus, the Higher Judicial Qualification Board reviews complaints against judges of the Supreme Court of the Republic of Uzbekistan, Chairpersons and Deputy Chairpersons of the courts of the Republic of Karakalpakstan, other Uzbekistani regions and City of Tashkent, and Chairperson of the Military Court of the Republic of Uzbekistan.

Lower-level judicial qualification boards handle complaints against judges of the courts of the Republic of Karakalpakstan, regions and City of Tashkent as well as judges of interdistrict, district (town) courts, and military courts.

At the same time, pursuant to the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, the Council examines public appeals made by individuals and corporate entities concerning violation of rules of ethical conduct by judges (article 7).

Once examination is completed, judicial qualification board can issue one of the following decisions envisaging: imposition of administrative penalty; dismissal of disciplinary case; referral of the case materials to the Supreme Judicial Council, which, upon consideration of the matter, may decide to start early termination of offender's appointment.

If the Supreme Judicial Council finds no grounds for early termination, the disciplinary case is returned to the judicial qualification board and the proceedings are resumed. The time from the moment of initial decision to the moment of the case return does not count towards the time interval during which penalties may be imposed.

According to article 55 of the above Regulation, judicial qualification boards have the authority to impose on judges guilty of misconduct one of the following disciplinary penalties: reprimand or a fine amounting up to 30% of the culprit's average monthly wage.

While making a decision about the imposition of penalties, judicial qualification board takes into account such factors as the type of offence, its severity and consequences, judges' personal characteristics, and extent of guilt.

The Regulation also defines the grounds for dismissal of disciplinary case by judicial qualification board: the absence of valid grounds for initiating disciplinary proceedings; expiry of time-limit set for bringing offender to disciplinary responsibility; inexpediency

of disciplinary penalty imposition in cases when judicial qualification board finds it sufficient to confine proceedings to examination of presented disciplinary case materials at its meeting.

Full information on the imposition of disciplinary penalties on judges is available on the website of the Supreme Judicial Council of the Republic of Uzbekistan (<http://sudyalariyengashi.uz/uz/lists/view/103>).

Statistics

In 2016, disciplinary proceedings were initiated on the basis of complaints against judges in 210 cases; as a result, 86 judges were reprimanded, and 28 judges were fined; 92 disciplinary cases were terminated while the remaining 3 cases were referred to the authorised body for consideration of early termination of offenders' appointment; one disciplinary case was postponed to next year (i.e. 2017).

In 2017, there were 69 complaints concerning misconduct of judges: disciplinary proceedings were instituted in 54 cases; the arguments provided in 15 other complaints proved to be ill grounded.

Disciplinary proceedings initiated in the mentioned 54 cases resulted in the imposition of following penalties by the Supreme Judicial Council: 28 judges were reprimanded, 16 judges were fined, and 8 cases were terminated.

Two cases were referred to the authorised body for consideration of early termination of appointment.

During 9 months of 2018, 99 complaints against judges were received. Disciplinary proceedings were initiated in 89 cases while the other 10 were dismissed since the claims presented by complainants could not be confirmed.

Subsequently, upon consideration by the Supreme Judicial Council, 34 judges were reprimanded, 6 judges were fined, and 16 judges were cautioned.

Two cases were referred to the authorised body for consideration of early termination of appointment.

Expert comments

The envisaged grounds for bringing judges to disciplinary responsibility are too general and broad, which by itself can compromise the principle of legal certainty and predictability of the impact of statutory instruments. Supplementary explanations provided by the authorities reduce the scope of possible interpretations and make the definitions more meaningful. However, they are not fixed by law and, hence, can be applied arbitrarily. Besides, even if these supplementary explanations are factored in, the grounds for liability still remain too broadly defined.

In particular, that refers to “violation of the rules of ethical judicial conduct”. This definition is too broad and ambiguous. Besides, it appears unjustified that this provision puts very serious and relatively minor offences on the same level, i.e. violation of basic judicial principles such as judicial independence, objectivity, impartiality, fairness and integrity entails the same liability as disregard for rules governing personal interaction of judges with their peers and subordinate staff.

Furthermore, there is considerable overlap between the two grounds discussed. Therefore, both of them (“offences tarnishing the honour and dignity of judges and compromising

judicial authority” and “violation of the rules of ethical judicial conduct”) can serve to impose penalty for one and the same offence. It is practically impossible to draw a line between them, which allows to bring a judge to responsibility for any offence, even if it be a minor fault.

Experts also have a negative opinion about the arrangement whereby the Chairperson of the Supreme Court is vested with authority to initiate disciplinary proceedings against judges. This power is alien to a chairperson of any court and should be revoked. Moreover, disciplinary cases can be examined by the Higher Judicial Qualification Board elected by the Supreme Court Plenum from the ranks of Supreme Court judges. Thus, it turns out that the body examining disciplinary cases consists of the members “subordinate” to a person vested with exclusive right to initiate disciplinary proceedings.

In the same way, any powers of chairpersons concerning initiation of proceedings against judges have to be revoked. This would help to strengthen the principle of equality of judges – court chairperson should not be regarded as a “boss” of judges.

Procedure for initiating and conducting disciplinary proceedings has to be spelled out in the legislation along with demarcation of relevant powers vested in judicial qualification boards, on the one hand, and Supreme Judicial Council, on the other. The active legislation is complicated and non-transparent. For example, in accordance with Regulation on judicial qualification boards adopted by Law of the Republic of Uzbekistan No. 3PY-368 of 22 April 2014, the right to initiate disciplinary proceedings against judges belongs to the Chairperson of the Supreme Court Supreme Court (*vis-a-vis* judges of the courts of the Republic of Uzbekistan). At the same time, according to the additional information provided by the authorities, the decision to institute disciplinary proceedings can be also taken by the Chairperson of the Supreme Judicial Council whereafter he/she refers the resolution and case material to the respective judicial qualification board deciding whether a judge should be brought to disciplinary responsibility or not. Moreover, the issues related to disciplinary liability of judges are spelled out in the Regulation “On Procedure for Considering the Issue of Disciplinary Liability of Judges” adopted by the SJC though the same issues are covered by the Regulation on judicial qualification boards.

The participation of judicial qualification boards in disciplinary proceedings against judges raises a number of questions. These boards take part in the selection of candidates for judicial positions and evaluation of judges when they are reappointed for a new term or moved to a different judicial job. In other words, qualification boards are partly responsible for the selection and appointment of judges, and at the same time conduct disciplinary proceedings against them. Such arrangement may raise a question about the efficiency and fairness of their work.

Furthermore, consideration should be given to possible extension of the list of sanctions. Current rules envisage only two measures (reprimand and fine) and referral of the case materials to the Supreme Judicial Council, which, upon consideration of the matter, may decide to start early termination of offender's appointment. However, there is no hierarchy of penalties depending on the severity of offence. Therefore, it is recommended to supplement the list of sanctions, e.g. by such penalties as temporary withdrawal of wage increments and bonuses, temporary suspension of appointment with a concomitant obligation to attend advanced training courses, or transfer to a lower-level court.

New recommendation No. 17

1. *Establish in law clear grounds of disciplinary liability of judges, procedure for conducting disciplinary proceedings as well as a system of proportionate and dissuasive sanctions including termination of judicial office.*
2. *Consider assigning the authority to impose disciplinary sanctions to the Supreme Judicial Council and establishing a special unit within the structure of the Council responsible for handling disciplinary matters and performing investigations prompted by complaints submitted to disciplinary inspectors.*
3. *Envisage in law sufficient procedural safeguards for judges in the course of disciplinary proceedings including the possibility of preparing and submitting their opinion, right for legal counsel, and the possibility to appeal decisions in court.*

Administrative, criminal investigation into the activities of judges, immunities

According to article 70 of the Law of the Republic of Uzbekistan “On Courts” (new version), a criminal charge against a judge can be launched only by the Prosecutor General of the Republic of Uzbekistan. Judges enjoy personal immunity. Judicial immunity extends to his home, office, vehicles and communications tools, his/her, belongings and documents. Judges cannot be brought to criminal responsibility and taken into custody without obtaining opinion of the Supreme Judicial Council and consent of the Supreme Court Plenum. Judges cannot be brought to administrative responsibility without securing opinion of the Supreme Judicial Council.

In accordance with article 223 of CCP judges shall not be detained and brought to a police office or office of any other law enforcement agency (unless they are detained at the crime site). According to article 239 of CCP, remand in custody or home arrest shall be applicable to judges of the Constitutional Court upon consent thereof; to judges of the Supreme Court as well as of civil, criminal, economic, administrative, and military courts — upon receipt of the SJC opinion and assent of the Supreme Court Plenum of the Republic of Uzbekistan.

Pursuant to According to article 345 of CCP, criminal investigation into activities of judges lies within the competence of prosecution service investigators.

Criminal case filed against judges of interdistrict, district (town) courts, and territorial military courts is subject to the jurisdiction of a higher-level court; criminal case filed against judges of other courts is subject to the jurisdiction of the Supreme Court of the Republic of Uzbekistan.

There were no administrative cases involving judges accused of corruption offences. The number of criminal convictions in the last three years is given below:

2016 - 8 judges including 5 convicted for offence under article 210 of CC (acceptance of bribe); 2 under article 211 (bribery) ; and 1 under article 212 (mediation in bribery);

2017 - 2 judges including 1 convicted for offence under article 210 of CC (acceptance of bribe) and 1, under article 211 (bribery);

In 2018 there were no criminal convictions involving judges.

Before 2017, administrative or criminal proceedings against judges could be initiated only upon assent of the Plenum of the Supreme Court of the Republic of Uzbekistan. But since the establishment of the Supreme Judicial Council of the Republic of Uzbekistan (№3PY-

427 of 06 June 2017) the Council also delivers its opinion on the matter and takes decisions concerning suspension or early termination of judicial appointment.

Besides, according to article 28 of the Law “On Supreme Judicial Council of the Republic of Uzbekistan”, Council members elected from the ranks of judges enjoy the immunity safeguards envisaged for judges by provisions of the Law “On Courts”. An SJC member cannot be brought to criminal or administrative responsibility or taken into custody without the assent of the Council. A criminal charge against an SJC member can be launched only by the Prosecutor General of the Republic of Uzbekistan.

Expert comments

The necessity to secure assent of the Supreme Court Plenum to bring a judge to account or take him/her into custody is excessive. The Plenum of Supreme Court should not be concerned with administering the judicial system and ensuring independence of courts. The Supreme Judicial Council was established exactly for this purpose.

It is also recommended to restrict the possibility of detaining a judge at the site of the crime preserving this provision for cases of severe or extremely severe crimes. It should be also envisaged that information about such an event must be conveyed to the Supreme Judicial Council without delay.

New recommendation No. 18

- 1. *Abolish the requirement to receive consent of the Supreme Court Plenary Assembly to be able to bring a judge to responsibility or take him/her into custody.***
- 2. *Provide for immediate mandatory notification of the Supreme Judicial Council, should a judge be apprehended in flagrante delicto.***

Remuneration, material support

Decree of the President of Uzbekistan No. VII-5482 “On Measures to Further Improve the Judicial and Legal System and Enhance Public Confidence in the Judiciary” dated 13 July 2018 approved the pay grades for judges, staff of the Supreme Court, lower-level courts as well as the Department for Supporting Court Activities and its territorial subdivisions in accordance with the unified wage rate scale. It also introduced a number of wage increments (for special work conditions, qualification grade, and time in service).

There is a provision, envisaging extra payments such as bonuses amounting to 2 salaries and financial aid benefit equal to one salary and granted once a year; rent compensation benefit, and travel allowance (such practices exist in the Supreme Court and Centre for Advanced Training of Lawyers).

The arrangements for providing long-term mortgage loans to judges allowing to buy a home on special terms as well as payment of rent compensation benefit on a monthly basis have been put into effect by a resolution of the Cabinet of Ministers.

According to Presidential Decree No. VII –5482, Chairpersons of the Supreme Court, Court of the Republic of Karakalpakstan, regional courts, and Tashkent City Court are granted the authority to make increment payments to highly qualified proactive judges as well as Supreme Court staff and staff of the Department for Supporting Court Activities who perform their professional duties efficiently and diligently; these payments can amount to 100% of their payroll. Besides, pursuant to article 17 of the Law “On Supreme Judicial

Council of the Republic of Uzbekistan”, the Council can initiate incentive reward payments to judges.

Expert comments

The remuneration system for judges that exists in Uzbekistan is problematic. First of all, the size of their salaries was established by a Presidential Decree rather than primary legislation. Secondly, bonuses are paid to judges on a discretionary basis and can be initiated by the Chairperson of the Supreme Court and the Supreme Judicial Council. Decisions on some of these payments are made by the Judicial Development Fund which is fraught with conflict of interest (see above). On the whole, the incentive payment system is non-transparent and significantly affects the independence of judges.

The size of judicial salaries was set at the same level with the management of the Prosecution Office and Ministry of Justice (see the Annexes). The practice of European States shows that normally judges in Europe receive higher remuneration than prosecutors.¹⁹

NGO representatives assess remuneration of judges as low, also noting the practice of burdening judges with informal responsibilities to finance local community projects, maintain court buildings, subscribe to official periodicals, participate in cotton harvesting, etc.

New recommendation No. 19

1. *Set in law the amount of the judicial remuneration including the salary rates and all possible increments that in total must reach the level ensuring judicial independence. Exclude the possibility of making extra incentive payments to judges.*
2. *Increase financial security of judges and make legislative provisions ensuring elimination of the practice of placing informal financial obligations on judges' shoulders and engaging them in non-core labour activities. Non-compliance with such prohibition should entail legal liability.*

Uzbekistan is partially compliant with previous recommendation No. 22.

Public Prosecution Service (Prosecutor's Office)

General information, functions

According to the Constitution of the Republic of Uzbekistan (article 118), supervision over exact and uniform observance of laws in the territory of the Republic of Uzbekistan is performed by the General Prosecutor and his subordinate prosecutors. The Constitution does not provide for other functions of the prosecution authorities.

According to Article 10 of the Law of the Republic of Uzbekistan “On Public Prosecution” of August 29, 2001, the system of public prosecution consists of: Prosecutor General's office; Prosecutor's office of the Republic of Karakalpakstan; Prosecutor's offices of regions and the city of Tashkent; Prosecutor's offices of districts and cities; Military Prosecutor's office of the Republic of Uzbekistan, Transport Prosecutor's office of the

¹⁹ For wages of judges and prosecutors in proportion to the national average wage, see CEPEJ, European judicial systems - Efficiency and quality of justice, CEPEJ Studies No. 26, 2018, available at: <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.

Republic of Uzbekistan, equivalent to the prosecutor's offices of the regions; territorial military, transport and specialized prosecutor's offices, equivalent to the district prosecutor's offices.

The following bodies operate at the General Prosecutor's Office of the Republic of Uzbekistan: the Department for Combating Economic Crimes, the Bureau of Compulsory Enforcement and the Inspectorate for Control of the Agro-Industrial Complex and Food Security, which also have field offices.

In accordance with Article 4 of the Law of the Republic of Uzbekistan “On Public Prosecution”, the prosecution authorities carry out their activities in the following main areas:

- supervision over the implementation of laws by ministries, state committees, departments, citizens' self-governing bodies, public associations, enterprises, agencies, organizations, governors and other officials;
- supervision over the implementation of laws aimed at ensuring the rights and freedoms of a citizen;
- supervision over compliance with laws in the Armed Forces, military units of ministries, state committees and departments of the Republic of Uzbekistan;
- supervision over the implementation of laws by the bodies that carry out operational investigative activities, inquiry, preliminary investigation, and coordination of their activities in the fight against crime;
- conducting preliminary investigation of crimes;
- support of the state prosecution in criminal cases in courts, participation in the consideration of civil cases in courts, cases on administrative offenses and economic disputes, protesting judicial acts that are inappropriate to the law;
- supervision over the implementation of laws aimed at strengthening tax discipline, combating tax, currency crimes and offenses, as well as compensation for economic damage caused to the state;
- supervision over the observance of laws in places of keeping of the detainees taken into custody, in the execution of criminal penalties and other measures of criminal law impact;
- participation in legislative activities and work to improve the legal culture in society.

Along with that, in accordance with the Law of the Republic of Uzbekistan “On Combating Corruption”, the General Prosecutor’s Office of the Republic of Uzbekistan is one of the bodies directly involved in anti-corruption activities.

Thus, in accordance with Article 9 of this Law, the General Prosecutor's Office of the Republic of Uzbekistan, within the limits of its authority:

- participates in the development and implementation of state and other anti-corruption programmes;
- oversees the precise and uniform implementation of anti-corruption legislation;
- coordinates the activities of bodies engaged in operational investigative activities, inquiry, preliminary investigation, as well as the prevention of offenses in the field of combating corruption;
- carries out preliminary investigation of crimes related to corruption;

- collects and analyses information on the state of corruption and the results of countering corruption;
- considers appeals of individuals and legal entities on the facts of corruption and takes measures to restore their violated rights and protect legitimate interests;
- participates in legislative activities in the field of combating corruption, including in the realisation of the right of legislative initiative;
- participates in the activities of legal propaganda among the population, aimed at improving the legal consciousness, legal culture in society and strengthening the rule of law;
- develops and implements measures to ensure the timely prevention, detection and suppression of corruption offenses, the elimination of their consequences, as well as the causes and conditions contributing to them;
- interacts with other bodies and organizations engaged in and participating in anti-corruption activities;
- carries out international cooperation in the field of combating corruption.

In addition, in accordance with the Resolution of the President of the Republic of Uzbekistan “On measures to implement the provisions of the law of the Republic of Uzbekistan “On combating corruption” dated 02.02.2017, No. IIII-2752, the Prosecutor General of the Republic of Uzbekistan is the Chairman of the Republican interdepartmental Commission on combating corruption. The functions of the working body of the Commission are performed by the Prosecutor General's office.

Legislative acts:

1. The Constitution of the Republic of Uzbekistan (Chapter XXIV, Articles 118-121);
2. The Law of the Republic of Uzbekistan No. 257-II “On the Prosecutor’s Office” dated August 29, 2001;
3. The Law of the Republic of Uzbekistan No. 3PY-419 “On Combating Corruption” dated January 3, 2017;
4. Decree of the President of the Republic of Uzbekistan No. IIII-2036 “On service in the bodies and institutions of the Prosecutor’s Office of the Republic of Uzbekistan” dated September 12, 2013;
5. Decree of the President of the Republic of Uzbekistan No. IIII-2568 “On measures for the widespread introduction of information and communication technologies in the activities of the prosecution authorities of the Republic of Uzbekistan” dated July 29, 2016;
6. Decree of the President of the Republic of Uzbekistan No. IIII-2752 “On measures to implement the provisions of the Law of the Republic of Uzbekistan “On combating corruption” dated February 2, 2017;
7. Decree of the President of the Republic of Uzbekistan No. VII-5019 “On strengthening the role of the prosecutor’s bodies in the implementation of social and economic reforms and modernization of the country, ensuring reliable protection of human rights and freedoms” dated April 18, 2017;
8. Decree of the President of the Republic of Uzbekistan No. IIII-3387 “On measures to further improve the efficiency of information and analytical activities of the prosecution authorities” dated November 14, 2017;

9. Decree of the President of the Republic of Uzbekistan No. VII-5343 “On Additional Measures to Increase the Efficiency of the Prosecution Authorities in Enforcement of Adopted Regulatory Acts” dated February 15, 2018;
10. Decree of the President of the Republic of Uzbekistan No. VII-5438 “On measures to radically improve the system of training, retraining and professional development of personnel of prosecution bodies” dated May 8, 2018;
11. Decree of the President of the Republic of Uzbekistan No. VII -5446 “On measures to radically increase the efficiency of using budgetary funds and improve mechanisms to combat economic crimes” dated May 23, 2018.

Table 12. Number of prosecutors

| Positions | Total number of prosecutors as of: | | |
|---|------------------------------------|--------------|---------------|
| | End of 2016 | End of 2017 | December 2018 |
| General Prosecutor's Office | | | |
| Management | 5 | 6 | 7 |
| Heads of divisions | 23 | 25 | 38 |
| Investigators | 20 | 20 | 24 |
| Other workers | 174 | 197 | 307 |
| The Prosecutor's Office of the Republic of Karakalpakstan, the prosecutor's offices of the regions, the city of Tashkent, the Transport and Military Prosecutor's Offices | | | |
| Management | 52 | 52 | 80 |
| Heads of structural divisions | 290 | 290 | 359 |
| Investigators | 136 | 136 | 125 |
| Other workers | 510 | 553 | 962 |
| District (city) and equivalent (transport and military) prosecutor's offices | | | |
| Management | 443 | 653 | 847 |
| Assistant Prosecutors | 522 | 730 | 1 063 |
| Investigators | 353 | 344 | 328 |
| Interns | 26 | 26 | 26 |
| Total | 2 554 | 3 032 | 4 166 |

Table 13. Number of employees in the prosecutor's bodies

| Body | Management personnel | | Operational personnel | Total |
|--|----------------------|--|-----------------------|--------|
| | Total | Of these, prosecutors and investigators and others | | |
| General Prosecutor's Office | 421 | 376 | | 421 |
| The Prosecutor's Office of the Republic of Karakalpakstan, the prosecutor's offices of the regions, the city of Tashkent and the Transport Prosecutor's Office | 1 637 | 1 481 | | 1 637 |
| District (city) prosecutor's offices and prosecutor's offices equated to them | 2 229 | 2 144 | | 2 229 |
| Military Prosecutor's Office | 227 | 165 | | 227 |
| Department for combating economic crimes | 1 076 | 1 076 | | 1 076 |
| Enforcement Bureau | 4 835 | 4 553 | 7 239 | 12 074 |
| Inspectorate for the control of the agro-industrial complex and food security | 862 | 816 | 933 | 1 795 |
| Academy of the General Prosecutor's Office | 74 | 74 | | 74 |
| Information Analytical Multimedia Centre | 4 | | | 4 |

Anti-corruption measures

The State Anti-Corruption Programme for 2017-2018, approved by the Decree of the President of the Republic of Uzbekistan “On measures to implement the provisions of the Law of the Republic of Uzbekistan “On Combating Corruption”, provides a number of sections aimed at eliminating risks to the integrity of prosecutor’s bodies and prosecutors. In particular, paragraph 23 provides for the implementation by state bodies, including the General Prosecutor's Office, of measures to prevent corruption, based on a systematic analysis of their activities, identifying areas subject to corruption risks, and taking effective measures to prevent corruption offenses.

In addition, section IV “Timely detection, suppression of corruption offenses, elimination of their consequences, causes and conditions, contributing to them” includes paragraphs 37-41, aimed at:

- implementation of measures to ensure the timely identification, suppression of corruption offenses, the elimination of their consequences, causes and conditions that contribute to them, as well as the inevitability of responsibility in this area;
- development and implementation of a set of measures to organize the effective work of state bodies directly involved in anti-corruption activities, based on a systematic analysis of the state and trends of corruption, as well as effective interagency cooperation and information sharing;
- development and adoption of departmental acts providing for effective measures to prevent corruption offenses in the activities of state bodies directly involved in anti-corruption activities;
- raising the level of technical support of law enforcement agencies, introducing modern information and communication technologies into their work;
- implementation of practical measures for the training of law enforcement officers and courts in the field of combating corruption.

In pursuance of these points of the State Programme in law enforcement agencies, including the General Prosecutor’s Office, the orders were issued, and the Republican Interdepartmental Anti-Corruption Commission by its decision approved a Set of measures for 2017-2018 for organizing effective work of state bodies directly carrying out anti-corruption activities based on a systematic analysis of the state and trends of corruption, as well as effective interdepartmental interaction and information exchange (Appendix 5 to Minutes No. 1 of March 30, 2017), and Practical measures for the training of employees of law enforcement bodies and courts in the field of combating corruption for 2017-2018 (Appendix 6 to Minutes No. 1 of March 30, 2017).

No research on the level of perception of corruption in the prosecution authorities has been conducted.

Guarantees of independence / autonomy of prosecution authorities and prosecutors

According to Article 120 of the Constitution, the prosecution authorities of the Republic of Uzbekistan exercise their powers independently of any state bodies, public associations and officials, subject only to the law.

Any form of influence on a prosecutor for the purpose of making an unlawful decision or impeding the implementation of his activities, encroachment on his immunity, as well as disclosure without the permission of a prosecutor or investigator of the information on

inspections and preliminary investigation, failure to comply with the requirements of a prosecutor entails responsibility in accordance with the established procedure.

To ensure the independence of the prosecution authorities, the criminal liability for unlawful influence in any form on an investigator or a prosecutor for the purpose of preventing a full, complete and objective investigation of a case, is provided for in Article 236 of the Criminal Code.

Article 33 of the Code of Criminal Procedure establishes that a prosecutor exercises his powers independently of any authorities and officials, subject only to the law and on the instructions of the Prosecutor General.

The Order of the Prosecutor General of the Republic of Uzbekistan “On further strengthening of measures for ensuring internal security in prosecution authorities, increasing employee responsibility and preventing misconduct among them” of 06.11.2017 No. 158 establishes the obligation of employees to immediately inform the superior prosecutor about any facts of unlawful interference with the activities of the prosecutor's bodies, to ensure that such facts are subject to internal inquiry, as well as to strictly punish the perpetrators.

According to Article 348 of the Code of Criminal Procedure of the Republic of Uzbekistan, the transfer of a criminal case from one investigator to another within the same investigative unit is made by the head of this investigative unit. The transfer of a case from one investigative unit to another is done by the head of a superior investigative unit with the consent of a prosecutor. The transfer of a case from one preliminary investigation body to another is allowed by the resolution of a prosecutor.

The Prosecutor General is appointed and dismissed by the President of the Republic of Uzbekistan. Decrees of the President of the Republic of Uzbekistan on the appointment and dismissal of the Prosecutor General are approved by the Senate of the Oliy Majlis. There are no specific grounds for dismissing the Prosecutor General in the legislation.

Comments by experts

1. The prosecution authorities in Uzbekistan are vested with significant powers and oversee many areas of relations. In general, the broad supervisory functions of the prosecution authorities are problematic from the point of view of international standards. This supervisory role is based on the Soviet model of a prosecutor's office, where prosecution had some of the functions of the courts, the Bar, the Ombudsman and other institutions. Such excessive powers cannot only violate the principle of separation of powers, but also bear considerable corruption risks, since they concentrate a considerable amount of power in hands of a hierarchical structure headed by an official appointed by political bodies.

As noted by the Venice Commission in its opinion on similar powers in another country in the region, in recent decades many post-Communist and now democratic States have preferred to deprive prosecutors of broad supervisory powers by transferring this prerogative to other bodies, including national human rights institutions (such as the Ombudsman institution). The purpose of such reforms is to eliminate the public prosecution service, which is endowed with excessive power and largely unaccountable to anyone. The Commission noted that the granting of such broad oversight powers to the prosecution service has been criticized on numerous occasions by international and regional organizations, including the OSCE / ODIHR and the Venice Commission. In various conclusions on this issue, the OSCE / ODIHR and the Venice Commission recommended,

for the above reasons, depriving prosecutors of the supervisory function and limiting their competence to the criminal sphere²⁰.

In addition to the above, the supervisory powers of the prosecution authorities in Uzbekistan are not limited to state bodies and officials, but extend to institutions, enterprises and organizations regardless of their subordination, affiliation and forms of ownership, public associations, officials and citizens.

Recently, the prosecution authorities in Uzbekistan have been entrusted with an increasing amount of powers (see the organizational chart of the Prosecutor General's Office in the Annex – available in the Russian version of the report), including those that even go beyond supervisory powers (e.g. control of quality, rational and targeted use of crops, cotton and other seeds of agricultural crops, for the implementation of the state policy in the field of genetic purity of varieties and the quality of seeds of agricultural crops, etc., which is assigned to the Inspectorate for the Control of agro-industrial complex and ensuring food security at the Prosecutor General's Office). This is also reflected in the number of prosecutors and other employees of the prosecution bodies (see above). According to the information by Uzbekistan, in March 2019 certain functions, including those of the Agribusiness Inspectorate, were divested from the jurisdiction of prosecution and transferred to the government.

With the development in Uzbekistan of an administrative jurisdiction of courts, reforming the provision of legal aid to the population, the supervisory powers of prosecutors should be abandoned or reduced as much as possible, keeping them within the scope of pre-trial investigation and execution of criminal punishments. It is also necessary to gradually exclude the fulfilment by the prosecution authorities of functions non-characteristic of them, transferring the appropriate powers to the executive authorities.

2. Of serious concern are powers of prosecutors, regardless of participation in the judicial proceedings, to verify the compliance of the court decisions, sentences, rulings with the law and the materials collected in the case. According to the law on the prosecutor's office, the prosecutor may appeal to a higher court decisions in criminal, civil, economic cases and cases of administrative offenses.

These powers violate the independence of the judiciary and the principles of the rule of law, in particular the finality of a judicial decision that has entered into force (see the section on judicial authority).

The powers of prosecutors to recall or file a protest against court decisions should be abolished. See relevant recommendations in the section on the Judiciary.

3. Despite the guarantees established by law, the prosecution authorities cannot be considered sufficiently independent of political influence. This is primarily related to the procedure of appointment and dismissal of the Prosecutor General by the President of the Republic of Uzbekistan with the approval of the Oliy Majlis in the Senate. Neither the Constitution nor the Law “On the Prosecutor's Office” contain grounds for the early

²⁰ Joint opinion on the draft Law “On Amendments to the Constitution of the Kyrgyz Republic”, Venice Commission and OSCE / ODIHR, 2016, pages 30-31, available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)025-rus](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)025-rus).

termination of the powers of the Prosecutor General. Thus, both the appointment and the dismissal from the office are of a political nature.

This procedure should be revised. It is necessary to provide a transparent mechanism for the appointment of a Prosecutor General on the basis of an assessment of the personal qualities of candidates. The procedure for the selection and appointment of the Prosecutor General should include consultations with the civil society.

As noted in one of the conclusions of the Venice Commission, “In assessing various models for appointing Chief Prosecutors, the Commission has always tried to find the right balance between the demands of the democratic legitimacy of such appointments, on the one hand, and the requirement of de-politicisation, on the other. Therefore, an appointment process that involves the executive and / or legislative power has the advantage of providing democratic legitimacy to the appointment of the head of the public prosecution service. However, in this case, additional guarantees are needed to reduce the risk of politicizing the prosecution service. The creation of the Prosecutorial Council, which will play a key role in appointing the Chief Prosecutor, can be considered one of the most effective modern tools for achieving this goal. [...] The nomination of a candidate should be based on his / her legal qualifications and experience, based on the criteria set out in the draft law. It is not enough that a candidate for such a high position meets only the general qualification requirements that are put forward for any prosecutorial office; Powers of the Attorney General require special competencies and experience. [...]”²¹

It is recommended to eliminate or limit as much as possible the role of the President and Parliament in appointing and dismissing the Prosecutor General, to provide for the formation of a procurator self-government body (for example, a council of prosecutors or another body) whose authority is to transfer the selection of candidates for this position and the appointment of the Prosecutor General and also a conclusion on the existence of grounds for the early release of the Prosecutor General from office.

The grounds for the early dismissal of the Prosecutor General from office should be clearly defined in the Constitution or the law and should not allow dismissal for political reasons.

4. Of problematic nature are regular updates by the General Prosecutor's Office to the President of the Republic of Uzbekistan and his administration about ongoing criminal investigations, including sending special circulars within 24 hours after the initiation of a criminal case, arrest, and so on. The Law on the Prosecutor's Office (Article 12) stipulates that the Prosecutor General systematically informs the President of the Republic of Uzbekistan on the state of law and order, and also reports to the Oliy Majlis of the Republic of Uzbekistan at least once every five years. However, informing “about the state of law and order” should not mean prompt notification of the President about ongoing criminal proceedings. Information on ongoing criminal proceedings should be reported in a general manner through the media as decided by the responsible prosecutor.

5. The authorities of Uzbekistan, in their responses regarding the bodies of prosecutorial self-government, provided information about the boards in the prosecution authorities.

²¹ CDL-AD(2015)039, Joint Opinion of the Venice Commission, the Consultative Council of European Prosecutors (CCPE) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on the draft Amendments to the Law on the Prosecutor's Office of Georgia, paragraphs 19, 20 and 27; available at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)039-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)039-e).

According to the Law of the Republic of Uzbekistan “On the Prosecutor’s Office”, a board composed of the Prosecutor General (Chairman), his first deputy, deputies, the prosecutor of the Republic of Karakalpakstan, and other prosecutors is formed in the Prosecutor General’s Office. The composition of the board is approved by the President of the Republic of Uzbekistan. In the Prosecutor’s Office of the Republic of Karakalpakstan, the prosecutor’s offices of the provinces, the city of Tashkent, and procurator’s offices equal to them, collegiums are also formed, the composition of which is approved by the Prosecutor General.

Such boards, in fact, are advisory bodies under the heads of prosecution authorities. The colleges are not bodies of prosecutorial self-governance, they are formed by the President of the Republic (which, moreover, limits the independence of the prosecutor's office from political influence) and the Prosecutor General, and they have an exclusively advisory function.

The level of autonomy of the prosecution authorities is increasingly approaching the guarantees of the independence of the judiciary. As noted in the opinion and recommendations of the Consultative Council of European Prosecutors (November 2018), the status, independence, recruitment and career of prosecutors should, as well as for judges, be clearly established in law and be based on transparent and objective criteria. The status of prosecutors should be guaranteed, which ensures their external and internal independence, preferably by norms at the highest legal level, the application of which is guaranteed by an independent body, such as the prosecution council, in particular regarding appointment, career and discipline issues.²²

In the Report on the fourth round of monitoring of Georgia, within the framework of the ACN’s Istanbul Action Plan²³, the monitoring group positively assessed the establishment of the Prosecutorial Council, which was given the authority regarding the appointment and release of the Chief Prosecutor. However, the monitoring group was concerned about the limited role of an independent prosecution authority. The majority of the members of the Prosecutorial Council are elected by the Prosecutors Conference, but the Council has limited powers that relate to the different stages of appointment and dismissal of the Chief Prosecutor, disciplinary proceedings regarding the Chief Prosecutor, hearing reports of the Chief Prosecutor and his deputies regarding the activities of the Public Prosecution Service, criminal law policy, protection of human rights in criminal proceedings and other issues. At the same time, the Chief Prosecutor determines who in the Commission is responsible for the selection and recruitment of prosecutors. The Chief Prosecutor also established the Advisory Board, which plays an important role in promoting, disciplining and dismissing prosecutors. The Chief Prosecutor decides on the composition of the Advisory Board, which can be changed at any time. The advisory council is not an independent body, but only a body that provides advice to the Chief Prosecutor. Such a system may adversely affect the independence of individual prosecutors and lead to the concentration of excessive

²² Consultative Council of European Prosecutors, Opinion No. 13 "Independence, accountability and ethics of prosecutors", 2018, available at <https://rm.coe.int/opinion-13-ccpe-2018-2e-independence-accountability-and-ethics-of-pros/1680907e9d>.

²³ Report on the fourth round of monitoring of Georgia, IAP, ACN of OECD, September 2016, pp. 69-70, available at <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>.

powers in the hands of the Chief Prosecutor. In addition, although the Chief Prosecutor has a guaranteed tenure, he is still appointed with the decisive participation of too many political bodies (Minister of Justice, Government, Parliament). To further enhance the objectivity and independence of prosecutors, it would be better if the main function in the recruitment, promotion and dismissal procedures were transferred to the Prosecutor's Council or another independent prosecutor's office, which would ensure the participation of prosecutors in these key decisions and would help strengthen the independence of prosecutors.

New Recommendation No. 20

- 1. *Ensure a gradual alignment of the functions of the prosecution authorities of the Republic of Uzbekistan with international standards and recommendations.***
- 2. *Consider limiting the role of political bodies in the appointment and dismissal of the Prosecutor General in accordance with international standards; to determine an exhaustive list of the grounds for the early release of the Prosecutor General from office.***
- 3. *Envisage the formation of a body (bodies) of prosecutorial self-governance, the majority of members of which will be elected by a regularly held conference of prosecutors and which will include representatives of the civil society. Such a body (bodies) should be independent of the Prosecutor General and play a key role in the competitive selection of candidates for the post of Prosecutor General, his deputies and other prosecutors consider issues of their disciplinary liability and evaluation of their performance.***

Selection for prosecutor positions

The Order of the General Prosecutor of the Republic of Uzbekistan dated August 29, 2016 No. 131 "On increasing the effectiveness of activities in the field of staff selection, placement and education" approved the Regulations on the procedure for admission to the prosecution service and the establishment of the prosecutor's office, and on organizing work with young professionals. In accordance with this Regulation, recruitment to the prosecution service is carried out by way of selection based on the principles of transparency, publicity, objectivity and collegiality.

Candidates undergo the following selection stages for recruitment:

- medical examination (in order to determine the ability of candidates to perform official duties – is organized by the personnel department);
- special check (in order to study personal and business qualities, behaviour in a candidate's environment – is organized by the internal security department);
- testing and interviewing (testing includes a psychological test and a specialty test – organized by the personnel department; a special commission of 7–9 employees headed by the Deputy Prosecutor General) is formed to conduct an interview with the candidates.

A prosecutor position is, as a rule, occupied by an employee of a prosecutor's office, who is in reserve for higher positions.

Candidates to the personnel reserve are proposed by the Deputy Prosecutors General, the Prosecutor of the Republic of Karakalpakstan, the prosecutors of the provinces, the city of Tashkent and equivalent prosecutors, personnel management and heads of other departments of the General Prosecutor's Office, as well as attestation commissions of the prosecution authorities.

The personnel department of the Prosecutor General's Office, together with the Internal Security Department and other units of the prosecutor's office, carried out an objective selection of candidates to the personnel reserve, their education and systematic training in order to ensure further promotion of the most responsible, qualified and trained employees.

In accordance with the Regulations on the procedure for admission to the prosecution service and the prosecution institution, and on the organization of work with young specialists (approved by Order No. 131 of the Prosecutor General of the Republic of Uzbekistan dated August 29, 2016, "On increasing the effectiveness of activities in the field of selection, placement and education of personnel") the recruitment to the prosecution service is held on a competitive basis.

The decree by the Prosecutor General of the Republic of Uzbekistan of 29 August 2016, No 131, stipulates the rules for professional contests to be held among prosecutorial workers, and one of the main goals of the contest is to build the human resources pool.

The main criteria for selecting candidates to the reserve for service are:

- availability of theoretical knowledge necessary to perform the tasks of the prosecution authorities, the Department and the Bureau;
- conscientious and responsible execution of official duties by clerks, inspectors and specialists of prosecution bodies, the Department and the Bureau, as well as public assistants to prosecutors and responsible secretaries of juvenile affairs commissions;
- high rankings obtained in higher education;
- positive conclusions of special and certification commissions, as well as special verification.

When selecting candidates for the reserve for higher positions, special attention is paid to the employees:

- who successfully graduated from the Academy of Public Administration under the President of the Republic of Uzbekistan, educational institutions of the General Prosecutor's Office under the programme of retraining of leading personnel, the Graduate School of Strategic Analysis and Forecasting of the Republic of Uzbekistan;
- who are recommended by decision of the attestation commission for the appointment to higher positions;
- who achieved high results in activities and especially distinguished in service;
- who are winners and prize-winners of professional competitions of the prosecution authorities, the Department and the Bureau;
- who are encouraged for success in activities;
- holding positions of deputy heads.

The course and results of the selection of personnel for service in the prosecution authorities and higher positions are not published. Representatives of the public and the media are not invited to the procedure for the selection of candidates to work at the prosecution authorities and higher posts.

In accordance with the Regulations on serving in the bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan, which is a document for official use

(approved by Presidential Decree No. IIII-2036 dated September 12, 2013), the promotion of prosecutors in the service is carried out in accordance with their business and personal qualities, achieved results on the assigned work tasks, professional training. In this case, the consent of the employee to his appointment to a higher position is not required.

Expert comments

Enrolment in the reserve for service in the prosecution authorities and in the reserve for higher prosecution posts is carried out on a competitive basis, which is positive. However, this process is not transparent enough. It is necessary to publish the information online about the competition for the reserve, about the candidates, the results of the passage of the various stages of selection. Also, the appointment to a vacant position in the prosecution bodies from among those enrolled in the reserve is not transparent. Such an appointment must take place on a competitive basis or take into account the personal rating obtained by candidates during the selection to the reserve, so that the appointment to the position is based on the personal qualities of the best candidates.

Experts negatively assess the possibility of interdepartmental rotation of prosecution positions within the prosecution authorities out of the competition.

In general, the appointment of prosecutors and investigators to all positions should take place on a competitive basis on the basis of clear criteria and assessment methodology. At the same time, it is also important that the competitive selection is carried out by a body formed by the bodies of prosecutorial self-governance.²⁴

The main issues of recruitment to the service in the bodies and institutions of the prosecutor's office and the service itself (issues of hiring and career promotion of prosecutors) should be regulated by law, and not by by-laws, especially the acts that are restricted to official use or acts of political bodies.

²⁴ As the Venice Commission noted in its Report on European standards for the independence of the judiciary (Part II - Public Prosecution Service), "In order to prepare for the appointment of qualified prosecutors, expert participation will be useful. Ideally, this can be done through an independent body, like the democratically legitimized board of prosecutors or a board of senior prosecutors whose experience will allow them to propose the proper candidates for appointment" (CDLAD (2010) 040, paragraph 48). In the conclusion on the draft law on the public prosecution service of Montenegro, the Venice Commission "welcomed the fact that public prosecutors and heads of public prosecution services would be appointed (for a five-year term, as stipulated in the Constitution) by the Prosecutor's Council" (CDL-AD (2014) 042, Interim Opinion on the Draft Law of the State Prosecution Office of Montenegro, paragraph 74).

New Recommendation No. 21

1. *Regulate in law the procedure for the recruitment of prosecutors and their service. Foresee an open competitive selection for all positions in the bodies and institutions of the prosecutor's office on the basis of personal qualities, integrity and previous experience.*
2. *Selection and appointment, including for senior positions, should be based on clear criteria and assessment methodology with online publication, among other things, of the information about vacancies, the results of all stages of selection. Ensure the openness of regulations that govern these issues. Provide the candidates with the possibility of appealing the selection results.*

Training of candidates

In accordance with the Decree of the President of the Republic of Uzbekistan “On measures to fundamentally improve the system of training, retraining and advanced training of personnel of prosecution authorities” dated 08.05.2018 No. YII-5438, the Higher training courses of the Prosecutor General of the Republic of Uzbekistan were transformed into the Academy of the Prosecutor General of the Republic of Uzbekistan.

The Academy is an educational and research institution responsible for the training, retraining and advanced training of prosecutors.

Professional retraining and advanced training at the Academy are carried out according to the following programmes:

- professional retraining of candidates for positions in the prosecution authorities in the form of primary specialization, aimed at teaching the basics of prosecutorial and investigative work and organizing office work in the prosecution authorities, lasting at least 576 hours;
- retraining of personnel who are in reserve for senior positions aimed at deepening the professional knowledge and skills of conducting prosecution, investigation and analytical work, participation in law-making activities, as well as the development of innovative forms and methods of work organization and management fundamentals, lasting at least 576 hours;
- improvement of professional skills of prosecutors, aimed at bringing the essence and value of innovations in legislation, improving professional skills and abilities, training in advanced achievements in conducting prosecution and investigation work, as well as eliminating systemic deficiencies in the activities of prosecutors, lasting at least 144 hours.

The periodicity of advanced training for prosecutors is at least once in every three years.

The procedure of professional retraining of candidates for positions in the prosecutor's office in the form of primary specialization, retraining of personnel who are in reserve for filling senior positions in the prosecutor's office and advanced training of employees of the prosecutor's office is determined by the Regulation “On the courses of professional retraining and advanced training of prosecutor's offices” approved by the Order of the Prosecutor General of the Republic of Uzbekistan No. 201 of September 14, 2018 “On the organization of activities of Academy of the Prosecutor General of the Republic of Uzbekistan”.

The subjects, terms and duration of training courses are determined by the Academy's semi-annual work plan.

When organizing studies, the faculty of the Academy, taking into account the peculiarities of the activities of the prosecution authorities, study groups and topics, makes extensive use of interactive and other modern teaching methods.

The composition and contingent of advanced training course groups are formed by the Academy, one year before the start of training, based on the data provided by personnel departments of the prosecution authorities and an analysis of the needs for advanced training, taking into account the latest trends and requirements set by prosecutors. The groups are composed of the number of workers who have not undergone advanced training for more than three years, taking into account the equal distribution of quotas by region.

Retraining courses for the management are organized annually on the basis of the needs of the prosecution authorities for new management personnel.

Evaluation of the work of prosecutors

In accordance with Article 45 of the Law on the Prosecutor's Office, the main criterion for evaluating the activities of prosecutors is the state of legality and ensuring the protection of the rights and freedoms of citizens, the legitimate interests of society and the state. Renomination to the position of a prosecutor of persons who did not ensure proper supervision over the implementation of laws in the relevant territory during their activities is not allowed.

In addition, in accordance with the Regulations on serving in the bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan²⁵ (approved by the Decree of the President of the Republic of Uzbekistan No. IIII-2036 of September 12, 2013), the main criteria for evaluating the activities of employees of the prosecution authorities, within their official duties, are:

- strict observance of the rights and freedoms of citizens, the legitimate interests of society and the state;
- the effectiveness of measures taken to prevent violations of laws;
- the effectiveness and completeness of supervision over the precise and uniform implementation of laws;
- the timeliness and completeness of the identification of violations of the laws, the identification of persons who violated the laws, and the enforcement of the principle of inevitability of responsibility;
- the effectiveness of maintaining public prosecution in criminal cases in courts, the participation of a prosecutor in civil and economic cases in courts, as well as the timeliness of protesting the unlawful court decisions;
- effectiveness of work to improve the legal culture and legal awareness of the population.

The Law "On the Prosecutor's Office" established that the activities of the Prosecutor of the Republic of Karakalpakstan, as well as prosecutors of the provinces, the city of

²⁵ Document for internal use only.

Tashkent, districts, cities and prosecutors equated to them are comprehensively studied by the respective higher prosecutor's offices at least twice in their tenure.

The procedure for organizing and conducting of such an inspection is established by the Regulations of the General Prosecutor's Office of the Republic of Uzbekistan (approved by order of the Prosecutor General dated 05.12.2017 No. 172). Issues to be studied in the course of a comprehensive audit of the activities of prosecutors are detailed in the annex to the Rules.

The results of complex inspections are usually put for discussion at the board meeting of the General Prosecutor's Office. In case there is no need to submit them to the discussion of the board of the General Prosecutor's Office, they are discussed at operational meetings under the Prosecutor General or his deputies. During the discussion, an assessment of the work done is given, measures are identified to eliminate the identified deficiencies and improve their activities.

Prosecutors also undergo certification every 3 years (first when accepted for service and in a year or 6 months period). Attestation commissions are formed by order of the Prosecutor General and regional prosecutors; they are headed by the Deputy Prosecutor General or Deputy Prosecutor of the region. The head of the prosecutor's office represents his employee at a meeting of the commission. Based on the results, a decision is made on compliance, partial compliance or non-compliance. In the case of partial compliance, the employee is given a period of up to 6 months to correct the deficiencies, after which re-certification is carried out. In case of non-compliance, the employee is dismissed. The subject of the assessment is the behaviour of the prosecutor and work performance. During the certification an interview is also conducted and the results of a comprehensive audit are taken into account.

In addition, the prosecutor must be trained at the Academy of Prosecutor's Office at least once in every three years. At the same time, the Academy conducts a “general diagnostics” of an employee for knowledge of legislation and competency assessment, based on test and psycho-diagnostic results. This sets thresholds for the position and a target benchmark for the employee. Such diagnostics are not linked to the certification process, although such plans exist.

Expert comments

According to experts, the procedures for evaluating prosecutors should be shortened and unified. It is recommended to cancel the certification procedures and the comprehensive evaluation of prosecutors, which may adversely affect their independence. Instead, they should introduce a modern system of regular (for example, once a year) assessment based on clear criteria and individual indicators of the effectiveness of the work of prosecutors. The basis and general procedure for such an assessment should be settled in the law, and the detailed regulation of the assessment procedure – an act of the body of the prosecutor's self-government (for example, the procurator's council). Such an assessment should be based not only on quantitative indicators, but also on qualitative indicators.²⁶ Moreover, the

²⁶ See also the Conclusion No. 11 of the Advisory Council of European Prosecutors, paragraphs 42-46, is available at: <https://rm.coe.int/16807474b9>. See also the Opinion on Rules of Procedure on Criteria and Standards for the Evaluation of the Qualification, Competence and Worthiness of Candidates for Bearers of Public Prosecutor's Function of Serbia adopted by the Venice

indicator of the number of acquittals should not play a key role. When creating a new evaluation system and its implementation, it is necessary to take into account the progressive experience of the Academy of Prosecutor's Office in conducting diagnostics of prosecutors.

New Recommendation No. 22

Introduce a modern system for evaluating the performance of prosecutors based on performance indicators, limiting the use of indicators of the number of acquittals and other quantitative indicators.

Transparency of the prosecution, the use of ICT

In order to ensure the openness and transparency of the activities of the prosecution authorities, in June 2018 a new version of the official website of the General Prosecutor's Office (prokuratura.uz) was launched. The site contains information on the schedule of reception of citizens in the Prosecutor General's Office, legislation of Uzbekistan on appeals, as well as a list and contacts of employees of the Office for Work with Appeals of the Prosecutor General's Office, as well as senior assistants to prosecutors of the regions and prosecutors equal to them.

A practice of publishing in the media of operational information on criminal cases related to the commission of corruption offenses has been introduced. A channel in Telegram Prokuratura.uz was launched to inform the public, a page with same title was opened in the social network Facebook.

A "Call Centre for Receiving Telephone Reports" (short number "1007") was organized at the Prosecutor General's Office of the Republic of Uzbekistan, the calls are accepted around the clock. Also, an opportunity has been created to apply to the Organizational and Analytical Group on supporting entrepreneurship and strengthening the legal protection of business entities formed within the Prosecutor General's Office.

The work was completed on the creation of a data processing centre that meets all modern requirements, as well as on connecting all regional divisions to optical communication lines. In addition, a videoconferencing system is currently operating, and a project is being implemented at the republican, regional and district levels in the prosecutor's offices at equipping each workplace with a modern digital IP phone.

In addition to creating an information infrastructure, measures are being implemented to strengthen interagency electronic interaction.

Connections were installed for the relevant divisions with the systems and databases of the Virtual Reception Office of the President of the Republic of Uzbekistan pm.gov.uz and the Call-Centre of the General Prosecutor's Office, the databases of the Ministry of Health, the Ministry of Employment and Labour Relations, the National Information and Analytical Centre for Drug Control, and the Operational and Information Division of the Ministry of the Interior.

The General Prosecutor's Office together with the ministries and departments is implementing the pilot project "Electronic Criminal Case", which provides for:

- introduction of a protected system that allows to conduct in electronic form criminal proceedings and the exchange of information of inquiry bodies between prosecution authorities, courts and enforcement agencies, as well as other organizations when conducting legal proceedings;
- ensuring the possibility of information interaction of individuals and legal entities with the bodies of inquiry, courts and prosecutors through the Internet;
- developing of uniform electronic forms of criminal procedure documents in the conduct of inquiries in criminal cases;
- simplification of the order of procedural actions, including by obtaining sanctions in electronic form, collecting evidence, conducting examinations, adjudicating cases and executing court decisions.

Also, an accelerated introduction of ICT is taking place in the Department for Combating Economic Crimes and the Bureau of Compulsory Enforcement under the General Prosecutor's Office. They have Specialized ICT units were created, as well as information systems, and the connection to the databases of the relevant government agencies and organizations were installed, which are used to accomplish the tasks assigned.

Thus, one of the systems developed by the Bureau is the Unified Electronic Trading Platform E-IJRO AUKSION for conducting electronic online auctions for the sale of property when executing judicial acts and acts of other bodies. The system implements the principle of maximum automation of the process of selling property, thereby eliminating the human factor and external interference in conducting auctions and determining their winners.

Prosecutors' Rules of Conduct

The Order of the Prosecutor General of the Republic of Uzbekistan No. 127 dated December 01, 2015 approved the Rules of Professional Ethics for employees of the bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan, which are a set of basic requirements establishing the rules of conduct for employees of the bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan during duty and off-duty time.

Thus, prosecutors are obliged to:

- honestly and conscientiously perform tasks to ensure the rule of law, strengthen the rule of law, protect the rights and freedoms of citizens, legally protected interests of society and the state, the constitutional system of the Republic of Uzbekistan, prevent offenses;
- be faithful to the oath and official duty of employees of the prosecution authorities;
- take in their activities legal, reasonable and fair decisions;
- not use official powers for personal or selfish purposes, as well as in the unlawful interests of individuals or legal entities;
- not use the official position for illegal influence on the activities of state bodies or other departments, as well as their officials and citizens;
- not allow receiving any material values or property (non-material) benefits for the action or inaction associated with official activity;
- resolutely fight against any violations of the law, especially manifestations of corruption;

- immediately inform the supervisor of the appeals connected with the commission of a crime or other offense;
- immediately inform the supervisor of cases of a conflict of interest (when the personal interest of an employee may affect the objective performance of official duties) in the performance of official duties;
- not perform actions that have a negative impact on the performance of official duties of other employees;
- adhere to statutory prohibitions and restrictions related to service in the prosecution authorities;
- possess high spiritual and moral qualities, comply with generally accepted standards of ethics, treat with respect the national customs, values and traditions;
- strictly observe labour and executive discipline, internal regulations, as well as the procedure for wearing uniforms and more.

In addition, employees of the prosecution authorities are obliged to immediately report in writing on each fact of inclination to receive a bribe or other illegal actions to the immediate supervisor. Senior officials are obliged to notify about these facts the superior prosecutors or the Internal Security Directorate of the General Prosecutor's Office, as well as take all necessary legal measures.

According to Article 43 of the Law “On the Prosecutor's Office” employees of the prosecution authorities may not engage in any other types of paid activities. They can be engaged in scientific, teaching and creative activities only in their free time.

For employees of the prosecution authorities, there are no restrictions after dismissal.

The rules of professional ethics of employees of bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan also require that prosecutor's leadership officials do not allow localism, nepotism, cronyism and other negative phenomena in the selection and placement of personnel; do not force a subordinate employee to commit unlawful actions and take illegal decisions, and also not give instructions not related to the official duties of the employee.

In the period 2016-2018, 2 prosecutors were dismissed for violating the restrictions mentioned above.

Control over the observance by the employees of the prosecution authorities of the Rules of Professional Ethics, the prevention of the facts of abuse of official position, corruption and other negative phenomena, the prevention of committing offenses among employees is carried out by the Internal Security Directorate of the General Prosecutor's Office.

Mechanism for preventing and resolving conflicts of interest, other restrictions

In accordance with the Rules of Professional Ethics, employees of the prosecution authorities are obliged to immediately inform the supervisor of cases of conflicts of interest (when the personal interest of an employee may affect the objective performance of official duties) during the performance of official duties.

Violation of the established rules regarding conflicts of interest is a violation of the norms of the Rules of Professional Ethics, which is the basis for bringing the prosecution officer to justice in the prescribed manner.

During the given period, no sanctions were applied to employees of the prosecution authorities for violating the rules regarding conflicts of interest.

Property declaration

Employees of the prosecution authorities, in accordance with the procedure established by the Attorney General, each half of the year submit information regarding movable and immovable property in their possession to the internal security units. Violation of the established rules for the declaration of property, as well as the provision of false information entails disciplinary measures. The verification of the completeness and accuracy of the information contained in the declarations of prosecutors is regularly carried out by internal security units. During the given period, employees of the prosecution authorities were not prosecuted for violating the established rules for declaring property.

Sanctions for violation of the established rules of conduct

Violation of the norms of the Rules of Professional Ethics is the basis for bringing an employee of a prosecution authority to justice in the prescribed manner.

The state of compliance with the Rules of Professional Ethics is taken into account when carrying out employee certification, appointing them to higher and other positions, as well as forming the personnel reserve.

For violation of the Rules of Professional Ethics, in 2016, 80 prosecutors were brought to disciplinary responsibility, in 2017 – 65 prosecutors, and during 9 months of 2018 – 88 prosecutors.

Counselling and anti-corruption training

Consultations and recommendations on issues of conflict of interest, restrictions on service, declaration of assets, rules of conduct and other issues are provided by internal security units.

Written guidelines, methodological and training manuals on the prevention of corruption within the prosecutor's community have been developed specifically for prosecutors.

Courses / training modules on prosecutor ethics and the integrity of prosecutors are included in the programmes of:

- professional retraining of candidates for positions in the prosecution authorities in the form of primary specialization, aimed at teaching the basics of prosecutorial and investigative work and organizing office work in the prosecution authorities, lasting at least 8 hours;
- retraining of personnel who are in reserve for senior positions aimed at deepening the professional knowledge and skills of conducting prosecution, investigation and analytical work, participation in law-making activities, as well as the development of innovative forms and methods of work organization and management fundamentals, lasting at least 8 hours;
- improvement of professional skills of prosecutors, aimed at bringing the essence and value of innovations in legislation, improving professional skills and abilities, teaching advanced achievements in conducting prosecution and investigation work, as well as eliminating systemic deficiencies in the activities of prosecutors, lasting at least 6 hours.

Expert comments

1. In terms of conflicts of interest, the general provisions stipulated in the Rules of Professional Ethics are not enough to effectively prevent and regulate the conflicts

of interest of prosecutors. It is necessary to develop detailed rules on the regulation of conflicts of interest, taking into account the powers and specifics of work of the prosecution authorities.

2. The mechanism for declaring property and interests of prosecutors cannot be considered effective. The information that is submitted is extremely limited in its coverage, these data are not published, the verification is carried out selectively and ineffectively. See general recommendations in the section “Integrity of the public service”. Prior to the establishment of a general, effective declaration mechanism, it is necessary to ensure the publication of statements submitted by prosecutors on the website of the Prosecutor General’s Office.
3. Training modules on ethics and integrity of prosecutors cannot be considered sufficient. For example, only one theoretical and one practical task are provided on the subject of corruption.

New Recommendation No. 23

1. *Establish detailed rules for preventing and resolving conflicts of interest of prosecutors, taking into account the powers and specifics of the work of prosecution bodies*
2. *Implement in practice a mechanism for providing prosecutors and other employees of bodies and institutions of the prosecutor's office with consultations, including confidential ones, and recommendations on issues of conflict of interest, disclosure of assets and interests, rules of conduct and other anti-corruption restrictions. Prepare and distribute practical guides, methodological and educational manuals on these issues, designed specifically for prosecutors and other employees of the prosecutor’s bodies.*
3. *Ensure regular on the job training and professional development of prosecutors on issues of ethics, integrity and prevention of corruption, as well as developing appropriate training materials having a practical focus.*

Dismissal of prosecutors

In accordance with the Regulations on service in the bodies and institutions of the Prosecutor’s Office of the Republic of Uzbekistan (approved by Presidential Decree No. ПП-2036 of September 12, 2013)²⁷, service in the bodies of the Prosecutor’s Office may be terminated:

- at the initiative of the Prosecutor General of the Republic of Uzbekistan, the Prosecutor of the Republic of Karakalpakstan, prosecutors of regions, the city of Tashkent and prosecutors equated to them;
- at the initiative of the employee of the prosecution authority;
- in circumstances not dependent on the will of the parties (transfer of an employee of a prosecution authority to another job, including to an elective office; call-up of an employee for military service; restoration to service of an employee who previously performed this work; death of an employee, recognition of an employee as missing or declared dead; other cases provided by law).

²⁷ For internal use only.

The grounds for termination of service at the initiative of the Prosecutor General of the Republic of Uzbekistan, the Prosecutor of the Republic of Karakalpakstan, prosecutors of regions, the city of Tashkent and prosecutors equated to them, are:

- changes in the organization of the service, reduction in the number (staff) of employees of the prosecution authorities or changes in the nature of the service;
- inconsistency of an employee of a prosecution authority with the work performed due to insufficient qualifications or health status;
- systematic violation by an employee of a prosecution authority of their official duties. A systematic violation of official duties is a repeated commission by a worker of disciplinary misconduct within a year from the date of bringing to disciplinary responsibility for a previous violation of official duties (unless the recovery has been withdrawn ahead of time);
- a single gross violation by an employee of a prosecution authority of their official duties;
- continuation by an employee of a prosecutor's office of another paid (except for scientific, teaching and creative) activity, after the warning made to him;
- achievement by an employee of a prosecution authority of the age limit for serving in the prosecution bodies;
- loss by an employee of a prosecution authority of the citizenship of the Republic of Uzbekistan;
- commission of defamatory misconduct, incompatible with the position held by an employee of a prosecution authority.

Table 14. Statistics of vacancies and dismissals in the prosecution authorities

| | 2016 | 2017 | 2018 |
|--|------|------|------|
| Number of vacancies | 86 | 176 | 646 |
| Number of dismissals (initiated by a superior prosecutor, initiated by an employee, depending on circumstances beyond the will of the parties) | 141 | 395 | 268 |
| Rotation | 245 | 306 | 109 |

In 2017-2018, at the initiative of the Prosecutor General of the Republic of Uzbekistan, the Prosecutor of the Republic of Karakalpakstan, the prosecutors of the provinces, the city of Tashkent and equivalent prosecutors, 2 and 10 employees were dismissed, respectively (for systematic or one-time gross violation of official duties).

The growth in the number of vacancies in 2018 happened due to:

- an increase in the staff number of prosecutors by 293 units pursuant to Presidential Decree “On additional measures to increase the effectiveness of the activities of the prosecution authorities in enforcing the adopted regulatory legal acts” dated February 15, 2018 No. VII-5343;
- the dismissal of 177 prosecutors in connection with the transfer to the Academy of Prosecutor's Office and the Inspectorate for the Control of the Agro-Industrial Complex and Ensuring Food Security at the General Prosecutor's Office.

Disciplinary responsibility

In accordance with the Regulations on serving in the bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan, the following disciplinary actions may be applied to employees of the prosecution authorities for non-performance or improper performance of official duties or for misconduct discrediting the title of a prosecutor's office worker:

- admonition;
- a fine of not more than fifty percent of the average monthly salary;
- demotion;
- decrease in class rank or military rank by one degree;
- dismissal from service for a systematic or one-time gross violation of official duties.
- Below are the examples of a single gross violation of official duties:
- absenteeism (including the absence at work for more than three hours during the working day) without good reason;
- the appearance at work in an intoxicated condition, as well as the use of alcoholic beverages in the workplace;
- the commission of a criminal offense or an unworthy for an employee of a prosecution authority action;
- violation of the oath of prosecutors and investigators.

There are no special rules for filing complaints against prosecutors. Complaints may be filed with a higher level prosecutor in oral, written or electronic form.

Complaints about illegal actions of employees of the prosecution authorities are considered by internal security units.

Disciplinary action is imposed by order, which is announced to the employee of the prosecutor's office. The order on the application of a disciplinary sanction against an employee of the prosecution authorities may be brought to the notice of the employees of this prosecutor's office, and, if necessary, of all the employees of the prosecution authorities.

Table 15. Number of complaints against prosecutors

| Time period | Number of complaints | Results of the review | | |
|------------------|----------------------|-----------------------|---------------------|-------------------|
| | | Satisfied | Satisfaction denied | Explanation given |
| 2016 | 503 | 37 | 153 | 313 |
| 2017 | 207 | 20 | 15 | 172 |
| 9 months of 2018 | 87 | 17 | 14 | 56 |

Table 16. Statistics of the use of disciplinary measures against employees of the prosecution authorities in 2016-2018

| Sanction | 2016 | 2017 | 9 months of 2018 |
|------------|------|------|------------------|
| admonition | 209 | 196 | 107 |
| fine | 40 | 18 | 12 |
| demotion | 4 | 2 | 2 |
| dismissal | 6 | 2 | 10 |

Expert comments

According to experts, Uzbekistan needs to revise the disciplinary system of prosecutors and bring it in line with international standards to ensure the independence of prosecutors.²⁸

1. Issues of disciplinary responsibility of prosecutors and their dismissal from the service are governed by the Regulations on serving in the bodies and institutions of the prosecutor's office, approved by the Decree of the President of the Republic of Uzbekistan. At the same time, the decree itself is a document for official use. As noted above, the issues of recruitment and service of prosecutors should be regulated by law; individual procedural aspects can be regulated by the bylaws of the prosecution authorities themselves (the best option for such acts to be approved is by a prosecution council – see above).

2. The grounds for disciplinary responsibility are defined very broadly, which leaves virtually unlimited discretion in these matters for the heads of the prosecutor's office.

3. It is also problematic that the decision on disciplinary action is imposed solely by the head of the prosecution authority. In this case, an internal investigation is not required. The Prosecutor General of the Republic of Uzbekistan has the right to cancel any disciplinary action, apply a more severe penalty or mitigate it.

This violates the rules of due process, opens up possibilities for abuse and inappropriate influence on prosecutors, and limits their independence. It is advisable to entrust the consideration of issues of disciplinary responsibility of prosecutors to a specially created body, for example, a prosecution council or its body, which will be formed by a conference of prosecutors and have adequate guarantees of autonomy from the leadership of the prosecutor's office (for example, a disciplinary commission).²⁹

²⁸ See, for example, the Opinion No. 13 of the Consultative Council of European Prosecutors (November 2018), paragraph 47: "... they are subject to disciplinary proceedings, which must be based on the law in case of a serious breach of duty (negligence, violation of a protected secret, violation of anti-corruption rules, etc.) for clear and specific reasons; investigation should be transparent, based on certain criteria and conducted by bodies independent of the executive authorities; relevant prosecutors should have the right to be heard and have the opportunity to defend themselves with the help of advisers, have protection from political influence and the right to appeal to the court; any sanction must be necessary, adequate and proportionate to the disciplinary violation.": See Consultative Council of European Prosecutors, Opinion No. 13 "Independence, accountability and ethics of prosecutors", 2018, available at: <https://rm.coe.int/opinion-13-ccpe-2018-2e-independence-accountability-and-ethics-of-pros/1680907e9d>.

²⁹ See, for example, the Conclusion of the Venice Commission CDL-AD(2012)008 (Opinion on Act CLXIII of 2011 on the Prosecution Service and Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and other Prosecution Employees and the Prosecution Career of Hungary, paragraph 77): "... the decision on disciplinary measures should not be taken by a leader, who thus acts as a prosecutor and a judge, as in the accusatory system. A certain form of prosecutorial council would be more appropriate for handling disciplinary cases. "

4. The legislation also does not provide guarantees of fair consideration of disciplinary cases; the appeal is limited to the Attorney General.

5. The disciplinary system provides for disproportionate measures, namely the possibility of dismissal from the service, even for one-time minor violations. For example, one-time gross violation of official duties (which may entail dismissal) is considered to be absenteeism (including the absence of more than three hours from the service during the working day) without valid reasons, as well as one-time violation of the oath of prosecutors and investigators. Dismissal from service is the last resort and can only be applied in the case of truly serious violations, which must be defined in the law.

New recommendation No. 24

1. *To establish in law: a clear list of grounds for the disciplinary liability of prosecutors; a system of sanctions proportional to the act; detailed procedures for bringing to disciplinary liability with guarantees of procedural rights of the prosecutor.*
2. *Change the procedure for consideration and adoption of decisions in disciplinary cases with regard to prosecutors, ensuring impartiality and fairness, separating the functions of the investigation from making a decision (for example, by creating a disciplinary commission under the body of prosecutorial self-governance).*
3. *To ensure the publication of information on disciplinary sanctions applied to prosecutors.*

Administrative offences, criminal investigation against prosecutors

According to Article 49 of the Law of the Republic of Uzbekistan “On the Prosecutor’s Office”, the initiation and conduct of a preliminary investigation in criminal cases against a prosecutor and an investigator are the exclusive competence of the prosecution authorities.

The procedure for publishing information on the imposition of administrative measures and the application of criminal penalties against employees of the prosecution authorities has not been established.

According to Article 223 of the Code of Criminal Procedure, prosecutors cannot be detained and brought to the internal affairs or other law enforcement bodies, except in cases of detention at the crime scene.

Article 239 of the Code of Criminal Procedure of the Republic of Uzbekistan establishes that a preventive measure in the form of detention or house arrest can be applied to a prosecutor and an investigator of a prosecutor's office with the consent of the Prosecutor General of the Republic of Uzbekistan.

In 2016-2018, employees of the prosecution authorities were not brought to administrative responsibility for corruption offenses.

Table 17. Information regarding the criminal liability of employees of the prosecution authorities for corruption offenses

| № | Position | 2016 | 2017 | 9 months of 2018 |
|--|------------------------|------|------|------------------|
| Regional and equivalent Prosecutor's offices | | | | |
| 1 | prosecutors | - | - | - |
| 2 | deputy prosecutors | 1 | - | - |
| 3 | assistant prosecutors | - | - | 1 |
| 4 | heads of departments | - | - | - |
| 5 | department prosecutors | - | - | - |
| 6 | investigators | - | - | - |
| District and equivalent Prosecutor's offices | | | | |
| 7 | prosecutors | - | - | - |
| 8 | deputy prosecutors | 1 | - | - |
| 9 | assistant prosecutors | 2 | - | - |
| 10 | investigators | 2 | 1 | 1 |
| Total | | 6 | 1 | 2 |

Remuneration, material security

Monetary allowance of employees of the prosecution authorities consists of a salary, monthly supplements for a class rank (military rank), long-service allowances and other payments (annual paid leave, financial assistance to leave in the amount of payroll per year, compensation for renting housing in the amount of from 4 to 6 minimum monthly wages per month, quarterly bonuses in the amount of double payroll per year, holidays and jubilee awards, etc.).

The average salary of employees of prosecution bodies ranges from 4.0 to 10.0 million soms, depending on the position held, class rank, and long-service allowance.

According to the Decree of the President of the Republic of Uzbekistan No. YII-5019 dated April 18, 2017, the Prosecutor General was given the right to set monthly personal allowances for highly qualified and enterprising employees, as well as technical and support staff of the prosecution authorities in the amount of not more than twice the wage bill. Prosecution bodies, which are also taken into account when calculating the incentive payments and allowances established by the legislation, at the expense of extra budgetary funds new prosecutors.

In accordance with the Regulations on serving in the bodies and institutions of the Prosecutor's Office of the Republic of Uzbekistan, the criteria for encouraging employees of the prosecution authorities are objective and transparent. Employees of the prosecutor's office are encouraged for their initiative and efficiency in the service, conscientious and exemplary performance of official duties.

Employees are promoted by the Prosecutor General of the Republic of Uzbekistan, the Prosecutor of the Republic of Karakalpakstan, as well as by the prosecutors of the provinces, the city of Tashkent and prosecutors equated to them.

Submissions on the promotion of employees of the prosecution authorities are made by the Deputy Prosecutor General, heads of departments and divisions of the General Prosecutor's Office of the Republic of Uzbekistan, heads of institutions and educational institutions of the Prosecutor's Office, the Prosecutor of the Republic of Karakalpakstan, prosecutors of

regions, the city of Tashkent and prosecutors equal to them, prosecutors of districts, cities and equals prosecutors within their jurisdiction.

The order of the incentive is communicated to the employees of the prosecution authorities, at their place of service, and, if necessary, to the information of all the employees of the prosecution authorities of the Republic of Uzbekistan.

Employees of individual structural units with a large amount of work are provided with allowances from 50 to 100 percent of the wage bill.

Expert comments

1. Issues of remuneration of prosecutors should be regulated by law, and not secondary legislation, especially acts of the President. This is an important guarantee for the independence of prosecutors.

2. The payment of cash incentives to prosecutors is problematic in terms of the independence of prosecutors. This creates conditions for interfering with the work of prosecutors, restricting their independence, and stimulates the loyalty of prosecutors to their leadership and not to the requirements of the law. The legislation does not limit the amount of cash incentives and does not provide clear criteria for their payment.

It is recommended to cancel the payment of any discretionary incentives to prosecutors and increase their official salaries, if necessary. If the incentive payment system is temporarily maintained, it should be based on clear and transparent criteria, and incentives should be allocated through an open and sound decision-making procedure based on an annual assessment of the performance of a prosecutor.

New Recommendation No. 25

1. *Establish in the Law on the Prosecutor's Office the amount of salary rates of prosecutors and an exhaustive list of possible increments to them. The amount of monetary remuneration of prosecutors should be sufficient and ensure the minimization of corruption incentives and not provide for discretionary payments (incentives).*
2. *Ensure the publication of detailed information on the structure and amount of remuneration of prosecutors.*

2.4. Administrative procedures, accountability and transparency in the public sector

Recommendation No. 16 of the Report on the third round of monitoring of Uzbekistan:

1. *Adopt the law on administrative procedures based on best international practices.*
2. *Ensure regular publication of the generalized results of anti-corruption expertise.*
3. *Continue implementation of e-government tools to reduce direct contacts between users of public services and state bureaucracy, as well as reduce corruption risks.*
4. *Take further steps to ensure transparency in the public administration, including intensifying efforts to increase transparency in risk-prone areas, including tax and customs systems.*
5. *Provide further simplification of all types of registration, authorization and licensing procedures on the basis of the developed methodology.*

6. Ensure introduction of Regulatory Impact Analysis (RIA) in the legislative process (at least when developing the most important laws to specify their categories in the regulations).

Administrative procedures and administrative justice

The Law on administrative procedures

On January 8, 2018, the Law of the Republic of Uzbekistan No. 3PY-457 “On Administrative Procedures” was adopted. This law came into force on January 9, 2019.

The Law applies to administrative and legal activities of administrative bodies in relation to interested persons, including licensing, permitting, registration procedures, procedures related to the provision of other public services, as well as other administrative and legal activities in accordance with the legislation.

When drafting the Law “On Administrative Procedures”, the developers (Ministry of Justice) studied international standards for the regulation of the procedures of consideration of administrative cases, as well as the laws of Germany, the Netherlands, Switzerland, Sweden, Finland, Austria, Greece, China, Japan, Russia, Estonia, Belarus, Czech Republic, Azerbaijan, Georgia, Armenia, Latvia, Bulgaria.

The draft Law “On Administrative Procedures” was being developed in the context of its active discussion. In particular, the draft was twice posted for its wide discussion at SPIPS (single portal of interactive public services), and was also posted on the official websites of the Ministry of Justice and its territorial divisions. Citizens submitted over 50 proposals and comments on the posted draft.

In 2016, preliminary opinions on the draft law were received from 50 ministries and departments. Pursuant to the order of the Prime Minister of the Republic of Uzbekistan No. 90 of 11.09.2017, the draft law was sent to 69 ministries and departments to organize its additional discussion and consideration. During the discussion, proposals were received from more than 40 ministries and departments.

The framework nature of the law is believed to allow, at a later stage, to have developed a system of special procedures in any area. Until then, all “administrative procedures” are to be regulated by numerous legislative acts of various levels which were adopted without regard for uniform principles and standards of administrative procedures.

Supported by the UNDP PARDT, late in 2018 an interdepartmental working group carried out some preliminary work to compile an inventory of acts of legislation on administrative procedures and systematize administrative procedures and came up with an alternative draft Model Administrative Regulations in line with the Law “On Administrative Procedures”. Now, it is up to the government to draw up draft administrative regulations for administrative agencies and local executive authorities, ensure their efficient and effective introduction, providing necessary support and training for relevant officers of the state administrative sector, raise public awareness about changes in the administrative operations of the government and local authorities, and also monitor the reform.

Other reforms in the field of administrative justice

The monitoring group also welcomes the creation of administrative courts³⁰ and the adoption of the Administrative Procedure Code of the Republic of Uzbekistan³¹, which covers the procedure for the implementation of administrative proceedings when reviewing and resolving administrative cases on the protection of violated or disputed rights, freedoms and legal interests of citizens and legal entities.

In accordance with the Decree of the President of the Republic of Uzbekistan dated 21.02.2017 “On measures for radical improvement of structure and increase the efficiency of the judicial system of the Republic of Uzbekistan”, administrative courts of the Republic of Karakalpakstan, regions and the city of Tashkent, district (city) administrative courts have already been established, which are responsible for the consideration of administrative disputes on appeal against the actions of state bodies.

Also, within the structure of the Supreme Court, judicial boards on administrative cases were formed. If previously such complaints were considered by civil courts, economic courts and criminal courts, they are now being considered by administrative courts.

Continuing reform

The monitoring group welcomes the consistent continuation of reforms in this area and commends Uzbekistan’s thoughtful approach to determining the next steps. Uzbekistan has conducted both research and analysis of judicial practice, as well as citizen surveys to identify their negative experience and perception of corruption in administrative procedures.

Studies on corruption risks in administrative procedures were carried out in the complex of research activities of state bodies within the framework of the implementation of the Concept of Administrative Reform in the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan dated September 8, 2017.

The generalization and analysis of the law enforcement activity of state bodies made it possible to identify systemic violations of legislation, problems or deficiencies in the

³⁰ Presidential Decrees No. VII–4850 of 21.10.2016 “On Measures for Further Reform of the Judicial and Legal System, Strengthening Guarantees of Reliable Protection of the Rights and Freedoms of Citizens” dated 21.02.2017, No. VII-4850 “On Measures for Radically Improving the Structure and Increasing the Efficiency of the Judicial System of the Republic of Uzbekistan”, as well as the Law of the Republic of Uzbekistan No. № 3PY-428 dated April 14, 2017 “On Amendments and Additions to the Law of the Republic of Uzbekistan “On Courts”, civil procedural and economic procedural codes of the Republic of Uzbekistan”.

³¹ Presidential Decrees No. VII–4850 of October 21, 2016 “On Measures for Further Reform of the Judicial and Legal System, Strengthening Guarantees of Reliable Protection of the Rights and Freedoms of Citizens”, No. VII–4850 of February 21, 2017 “On Measures for Radically Improving the Structure and Enhancing of the effectiveness of the judicial system of the Republic of Uzbekistan”, as well as the Law of the Republic of Uzbekistan dated April 14, 2017 No. 3PY – 428" On Amendments and Additions to the Law of the Republic of “On Courts”, civil procedural and economic procedural codes of the Republic of Uzbekistan”.

activities of the studied state bodies, which, in many respects, are due to the lack of the necessary legal bases for the implementation of administrative procedures by state bodies.

In particular, the most common violations, shortcomings and problems in this area that have been identified as a result of this analysis can be grouped as follows:

- violation of decision-making procedures and their execution;
- going beyond one's competence;
- performance of activities in accordance with informal and oral instructions, which are based on considerations of expediency;
- making decisions that do not comply with the law;
- not performing assigned duties.

Public opinion polls on corruption risks in administrative procedures related to the activities of the judiciary have shown that the most prone to corruption areas are the areas directly working with citizens. The polls were conducted on the pages of the Ministry of Justice in the social network Facebook³².

As a result, the Uzbek authorities have come to the conclusion that there are systemic problems and shortcomings in the relationship of state bodies with citizens and legal entities, which cannot be eliminated within the framework of the current legislation.

Uzbekistan plans to eliminate these systemic problems in the course of improving the activities of state bodies within the framework of the implementation of the Concept of Administrative Reform.

The Concept of administrative reform in the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan No. VII-5185 dated September 8, 2017, provides for:

- development of the administrative justice system by improving the procedure for appealing decisions and actions (inaction) of executive bodies and their officials in higher authorities;
- introduction of mechanisms for collegial hearing of appeals of individuals and legal entities as a method of pre-trial settlement of disputes.

Conclusions

The monitoring group welcomes the reforms undertaken in the area of administrative justice. So, in accordance with Recommendation 16.1, Uzbekistan adopted the Law "On Administrative Procedures". According to the data provided by the Uzbek side, international experience was studied and used in its development, and its draft was developed in consultation with the public and government bodies.

The law came into force already after the visit to the country and it would be especially important to monitor the practice of its application. It will make sense, after the expiration of a significant period of its application, to monitor the effectiveness of the implementation of this law and, if necessary, take the necessary measures to improve it or improve the practice of its application. Uzbekistan has also undertaken a number of other reforms and

³² <https://www.facebook.com/groups/adliya/>.

plans to continue reforming administrative justice; it is very important to continue these processes.

Uzbekistan has fully complied with Recommendation 16.1. At the same time, with all the importance of having the Law “On Administrative Procedures” adopted, for the system to really start working, a comprehensive systematization of administrative procedures should be carried out across all branches and spheres of public administration.

The priority task should be to harmonize laws that regulate specific types of administrative procedures with the Law “On Administrative Procedures” and, taking into account amendments to specialized laws, to review the vast body of secondary regulatory legal acts. This systematization of administrative procedures must embrace the legislative drafts as well as the effective legislation.

Additionally, experts note that the jurisdiction of administrative courts also includes the consideration of cases of administrative offenses, which are of a different nature and should be considered on different principles from cases on claims against public administration. Consideration by the same judges of the cases of two categories may hamper the proper implementation of administrative justice. It is recommended to consider the possibility of separating the specified categories of cases, passing the consideration of cases of administrative offenses to the courts of criminal jurisdiction.

Anti-corruption expertise

Since the third monitoring round, the Law “On combating corruption” was adopted, Article 24 of which regulates the anti-corruption examination of regulatory acts and their drafts. According to this law, anti-corruption expertise is a process aimed at:

- identification of corruption factors that create the possibility of committing corruption offenses;
- general assessment of the consequences of adopting a draft creating the possibility of committing corruption offenses;
- forecasting the possibility of corruption risks in the application of legal acts;
- development of recommendations and taking measures aimed at eliminating the identified corruption factors.

The anti-corruption screening of regulatory legal acts and their drafts is carried out by state bodies and other organizations in the relevant areas of activity in the manner prescribed by law.

Also, from the third monitoring round, in December 2015, the Methodology for conducting anti-corruption expertise of regulatory legal acts was approved, which described the procedure for anti-corruption expertise of regulatory legal acts.

Further, the State Anti-Corruption Programme for 2017-2018 (paragraph 31) provided for the preparation of proposals for the further improvement of the legal framework and increasing the effectiveness of anti-corruption expertise of regulatory acts and their drafts.

In fulfilment of this paragraph, in June 2018, changes and additions were made to the Methodology for conducting anti-corruption expertise of draft regulations.³³

In particular, the Methodology for conducting anti-corruption expertise is supplemented by the norms that anti-corruption expertise of existing regulatory legal acts is carried out in the process or according to the results of study, analysis and monitoring of law enforcement practice; the grounds for anti-corruption expertise of current legal acts are work plans of justice bodies, state bodies and organizations, the appeals of individuals and legal entities, proposals and recommendations of subjects of the public control bodies, the results of the study of publications and other materials received from the media.

The procedure for anti-corruption expertise of regulatory legal acts is the same for draft laws, draft decisions of the Cabinet of Ministers and the President of the Republic of Uzbekistan, and drafts of other regulatory legal acts.

Materials on the results of anti-corruption examination of draft legal acts are published online.

Uzbekistan publishes all materials on the results of anti-corruption expertise on the Internet, thus, Recommendation 16.2 has been fully implemented. Moreover, the methodology of anti-corruption expertise was further improved.

E-government

First to be mentioned is the adoption of the Law “On e-government” in December 2015, shortly after the adoption of the Report on the third monitoring round of Uzbekistan. The purpose of this Law is to regulate relations in the field of e-government. It entered into force in May 2016.

Since the third monitoring round, Uzbekistan has been improving the activities of ministries and departments in the provision of public services through the use of ICT, as well as interdepartmental electronic interaction.

Thus, the Government Protocol No. 7 of February 23, 2016 was adopted on the formation of databases of state bodies in the Unified Register of Electronic State Services, within the framework of the functions assigned to them. This Registry is located on the Unified portal of interactive state services (UPISS). The list of state bodies and other organizations providing public services, as well as the procedure for interaction of departments, state-owned companies and associations, local authorities on the introduction of ICT, have been determined.

In order to ensure high-quality translation of public services into electronic form, to improve the current procedure for the provision of electronic public services, including

³³ Presidential Decrees No.YII-4850 of October 21, 2016 “On Measures for Further Reform of the Judicial and Legal System, Strengthening Guarantees of Reliable Protection of the Rights and Freedoms of Citizens”, No.YII-4850 of February 21, 2017 “On Measures for Radically Improving the Structure and Enhancing of the effectiveness of the judicial system of the Republic of Uzbekistan”, as well as the Law of the Republic of Uzbekistan dated April 14, 2017 No. 3PY – 428" On Amendments and Additions to the Law of the Republic of “On Courts”, civil procedural and economic procedural codes of the Republic of Uzbekistan”.

ensuring the unification of documents of state bodies, the Cabinet of Ministers adopted a Resolution “On Measures to Improve the Procedure for Providing Electronic Public Services” (No. 184 dated June 2, 2016) and the Regulation on the implementation of measures to improve the procedure for the provision of electronic public services. These acts provide for the analysis by government agencies and other organizations of the main causes of bureaucratic barriers, high time and financial costs in the provision of electronic public services.

The Resolution of the Cabinet of Ministers “On Further Measures to Implement the Law of the Republic of Uzbekistan “On e-Government” (No. 188 dated June 3, 2016) approved the Regulation on the procedure for the provision of electronic public services through the Single portal of interactive public services and official websites of state bodies, and the Regulation on the Governmental portal of the Republic of Uzbekistan on the Internet. These acts make it possible to clearly regulate the provision of electronic public services through the SPIPS.

Since the beginning of 2016, all types of registration, permitting and licensing procedures have been further simplified. So, an online submission of applications for registration of business entities with and without forming a legal entity is implemented at the SPIPS in the open access.

The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On measures to create an Interdepartmental e-government data transmission network” (No. 262 of August 12, 2016) defined a list of state bodies and other organizations providing e-government services that are connected as a matter of priority to the Interdepartmental e-government data transmission network, as well as an Action Plan for the creation and effective use of the Interdepartmental e-government data transmission network. From January 1, 2017, interactions between departmental and interdepartmental information systems, and information resources of state bodies providing electronic public services, and the central e-government databases are carried out through the Interdepartmental network.

A new version of SPIPS 2.0 has been developed and launched, taking into account full-fledged e-services and the introduction of a system of payment for e-government services through the portal, integration with the info-kiosks, as well as with transaction services. From April 1, 2017, state registration and registration of business entities are carried out around the clock through an automated system integrated into the SPIPS.

An Interdepartmental data transmission network of “Electronic Government” was created.

The integration of the developed information systems for the provision of electronic public services to the interdepartmental platform of “Electronic Government” and the Unified User Identification System was implemented.

In 2017, the Single portal of interactive public services (my.gov.uz) provided 308 electronic services rendered by 2,437 state bodies, including subordinate organizations. 16 types of services were provided exclusively through the “One window” centres.

Starting from January 1, 2018, Single centres for the provision of public services on the principle of “one window” to business entities have been transformed into Centres of public services under the people's reception offices of the President. And if until April 1, 2018, 37 types of public services were provided through these centres only to business entities, then starting from April 1, 2018, more than 60 services were provided to ordinary citizens as well.

In addition, out of 201 centres, 14 are considered to be pilot centres, one in each region, i.e. these centres currently provide about 100 types of public services. This is implemented in order to identify the shortcomings of the process, to prevent them in the future, when implementing them everywhere.

It was planned to increase by the end of 2018 the number of services provided to individuals and legal entities to 87 (i.e., this will be implemented in all centres), and by 2020 – to more than 160.

One of the elements of e-government is the virtual reception of the President of the Republic of Uzbekistan (09/24/2016). On the basis of the Citizens Admissions Office of the Presidential Administration, the People's Reception Office was created, as well as the President's Virtual Reception, as well as the President's People's Receptions in the Republic of Karakalpakstan, the regions and Tashkent, in each district and city, this type of e-government is most popular. This was reported to the monitoring group by both representatives of civil society and business representatives.

The Service for the Control and Coordination of Work with Appeals of Individuals and Legal Entities has been established within the structure of the Presidential Administration. Its goal is to monitor and coordinate the activities of state bodies and economic management bodies in dealing with appeals of the people's reception offices. In May 2017, it was transformed into the Service of the Presidential Administration for the Protection of the Rights of Citizens, Control and Coordination of Work with Appeals of individuals and Legal Persons.

This virtual reception is organized in order to fundamentally improve the work on economic, social, financial and legal analysis, as well as resolve issues addressed by individuals and legal entities previously to the Prime Minister, now – to the President of the Republic of Uzbekistan, since after the election of the President of the Republic of Uzbekistan on December 4, 2016 and the victory of the current Prime Minister, the website PM.gov.uz was transformed into a virtual reception room of the President of the Republic of Uzbekistan (“PM” – “Prezidentgamurojaat”, “Address to the President”).

In 2018, on the basis of the Unified system of control of the performance discipline “ijro.gov.uz”, a special module for the Accounts Chamber of the Republic of Uzbekistan was developed, which allows to control the execution of instructions of the President of the Republic of Uzbekistan.

The execution of more than 22,200 instructions arising from decrees, resolutions, orders and protocols of the President of the Republic of Uzbekistan are monitored in the Unified System ijro.gov.uz.

In addition to that, in order to integrate the information systems of state bodies authorized for the issuance of permits, as well as the formation of a unified information space for foreign trade participants, a decree of the President of the Republic of Uzbekistan No. IIII-2224 of August 18, 2014 was issued “On measures to ensure the effective use of the grant of the Government of the Republic of Korea for the implementation of the project on the introduction of a unified customs information system “Single window” in the Republic of Uzbekistan.

An electronic document management system has been launched in the system of customs authorities, the “E-Nazorat” (“e-control”) programme has been developed, through which the transparent and timely execution of documents, including appeals from citizens, is ensured.

Currently, electronic public services are provided in the new version of the Single portal of interactive public services (my2.gov.uz). In this version of the portal, more than 2 million applications have been processed, over 48 thousand users have been registered and more than 120 public services have been introduced, in particular: submitting applications for the admission of children to state pre-school educational institutions; registration of a citizen in a funded pension system; submission of electronic cargo customs declaration to the customs authorities; issuance of TIN to individuals; providing address and reference information; registration at the place of stay, etc.

After logging in to the office of a citizen, one can get information on the presence of arrears in taxes and utilities payments, traffic fines, personal pension and insurance accruals online. In addition, citizens can apply for various public services.

According to the results of the service, the Single Portal forms an electronic document (certificate, licence, extract) stored in the repository of electronic documents, so that users do not have to visit various departments to receive a paper version of the document. The ability to receive electronic documents without leaving home saves time and money.

In the office of an entrepreneur, one can view and pay taxes, obtain information about inspections, control the timing of licenses with the possibility of extension. Entrepreneurs have the opportunity to submit electronic applications for public services in the sections of customs, licensing, taxation, housing and utilities and others.

Users do not need to perform additional actions outside the portal.

From July 2017, a new version of the Single portal of interactive public services (my2.gov.uz) began to function fully, including the provision of complex services and increasing the stability of the system.

The new version of the Single portal was developed taking into account the introduction of full – fledged electronic public services, grouped by offices – for a citizen and for an entrepreneur, there is also a possibility of online payment for electronic public services.

An updated version of the Single portal now has a significantly more user-friendly design and interface, as well as enhanced security and privacy of user data. After a one-time authorization through the Unified Identification System (OneID - id.gov.uz) integrated with the database of individuals and legal entities, users have the opportunity to receive personalized services that are provided by the system for various types of users.

In connection to the open data portal (data.gov.uz), a draft list has been developed of the new open data sets of state and economic management bodies as well as local government bodies, which are subject to mandatory publication on their official websites (343 sets). This draft list is being considered by the Cabinet of Ministers.

At the same time, it is planned to develop a new version of the portal, taking into account the integration of the database of state bodies, provision of automated database updates through API technologies and more.

In order to improve the quality of legal informing of performers and the public about the essence and importance of the regulatory legal acts adopted in the country, on February 8, 2017, the President of the Republic of Uzbekistan adopted a resolution “On measures to radically improve the system of dissemination of legislative acts”.

This decree provides for the establishment of a unified procedure for the dissemination of regulatory legal acts, identifying new approaches in the field of legal propaganda.

Mechanisms of the organization of execution of newly adopted laws and explanation of their essence and meaning among the population were captured in it.

One of them is to provide access to information and analytical materials of regulatory legal acts prepared in the course of their development, which will make it possible to better convey their essence and importance, improve the quality of legal culture and legal awareness of the population.

According to the amendments and additions to the law of the Republic of Uzbekistan “On regulatory legal acts”, from September 25, 2017, the National Legislation Database (LexUz) was given the status of an official source of publication of regulatory legal acts of the Republic of Uzbekistan.

On the website LexUz, the laws of the Republic of Uzbekistan, acts of kengashes (councils) of the chambers of the Oliy Majlis, presidential decrees, government decisions, legal acts of ministries, state committees and departments, local public authorities, and also the international legal acts of the Republic of Uzbekistan and others, are published.

Texts and relevant information and analytical materials of the adopted regulatory legal acts, if necessary, are published in the section of the National Legislation Database for publishing official texts of the RLAs within one day from the moment of their receipt by the Ministry of Justice.

In accordance with the law “On regulatory legal acts”, documents were previously published in the National database after being printed in official publications. RLAs are published on the LexUz website in PDF format within one day from the moment they are received by the Ministry of Justice.

This is the only information and legal website in Uzbekistan that will officially publish the adopted regulatory legal acts in electronic form, which will allow for them to be quickly communicated to the public.

In addition, the regulations published in the section of the site dedicated to the official texts of the RLAs, come into force from the day of their publication, which helps to quickly apply them in practice.

According to Uzbekistan, at present, almost 100 thousand people are users of this database, in which more than 47,776 thousand documents are posted in the Uzbek and Russian languages. More than 13 thousand individuals and legal entities use this database free of charge every day.

In order to timely communicate to the performers and the public the essence and importance of the adopted regulatory legal acts and the amendments and additions made to them on the day of adoption, each document is immediately published in the print and electronic media. All these new features will create convenience for users and save their time in searching for and acquainting themselves with regulatory legal acts.

Transparency of public administration

In order to ensure transparency in the sphere of public administration, the following activities have been carried out:

Virtual reception of the President of the Republic of Uzbekistan (pm.gov.uz)

From September 24, 2016, the Virtual Reception of the President of the Republic of Uzbekistan, pm.gov.uz, has operated on the Internet (until December 23, 2016 – the Virtual

Reception of the Prime Minister). Until November 2018, the Virtual Reception Office received more than 1.95 million inquiries (an average, more than 3200 inquiries per day), of which 1.89 million (97%) were considered.

Due to the launch of the Virtual Reception Office of the President of the Republic of Uzbekistan, the population and business entities can directly contact the President of the Republic of Uzbekistan with unresolved problems, statements, complaints or suggestions, instantly without any costs. The call centre does not require personal data, such as passport data, only a phone number is enough. This portal is designed to contribute to the improvement of institutional reforms and should become a common platform for the public, as well as a friendly system for the public and businesses.

Since February 1, 2018, an updated version of the Virtual Reception began to work. The new version of the Virtual reception of the President has a citizen's office, online consultations, and the possibility of addressing the heads of state bodies. Since the launch of the resource until November 2018, more than 2.2 million inquiries were received.

Portal for discussing the drafts of regulatory documents of the Republic of Uzbekistan (regulation.gov.uz)

On July 24, 2018, a new version of the Portal for discussing the drafts of regulatory documents of the Republic of Uzbekistan SOVAZ (the system of assessing the impact of legislation) was launched in full-fledged mode on the Internet from the test address regulation2018.gov.uz and transferred to the official address regulation.gov.uz.

Despite the short period of time since the launch of the new version of the portal, by November 2018 it had posted 660 drafts of RLAs, of which – 57 laws, 24 decrees of the President, 74 resolutions of the President, 184 resolutions of the Cabinet of Ministers, etc.

In April 2018, for the first time in history a portal for collective appeals “My opinion” was launched in Uzbekistan – meningfikrim.uz. This initiative was put forward by the President of Uzbekistan during his address to the parliament in the end of 2017. The “My opinion” portal was developed to increase the participation of citizens in managing the affairs of society and the state, ensuring the transparency of the activities of state bodies, as well as the viability and effectiveness of adopted laws.

The sent electronic collective appeal will be posted on the portal after the examination by the moderator of the system – the Institute of legislative issues and parliamentary studies.

General voting is held within 90 days from the date of publication of the petition. The appeal, addressed to both houses of Parliament, should receive not less than 10 thousand votes, to the republican council of Karakalpakstan, as well as regional and Tashkent city councils of people's deputies – at least 5 thousand votes, district and city councils of people's deputies – at least a thousand votes of citizens.

An appeal with the required number of votes will be sent by the moderator to the competent state authorities no later than the next day. The term of consideration and decision-making on appeals should not exceed 60 days.

A project for installation of information kiosks:

According to the Decree of the President of the Republic of Uzbekistan No. IIII-2432 dated November 16, 2015, “On measures to implement the agreements reached during the international investment forum in Tashkent”, a project was launched on installation in the period 2016-2019 of information kiosks throughout the country in order to create the possibility of receiving a wide range of interactive public services by the population and

entrepreneurs, including in remote areas. To date, 201 information kiosks have been installed in public service centres and other institutions.

The official information channel of the State Customs Committee was launched in the Telegram network, where over 1,700 users are currently participating.

In this social network, a group “Assistance to export” was opened which has about 2200 users among businesses and customs officials. Through this group, entrepreneurs can directly receive answers and advice online from the employees on customs legislation issues.

Currently, the State Customs Committee of the Republic of Uzbekistan, as well as the Chairman of the State Customs Committee, have a web page in the social network Facebook³⁴.

Agency on intellectual property of the Republic of Uzbekistan designed a search engine “Intellectual Mulk” (intellectual property) with the aim of increasing the effectiveness of the patent information search on the items: <http://www.baza.ima.uz/#about>.

Execution of court decisions is carried out on a single electronic trading platform of an electronic auction (“E-IJRO AUKSION”).

Since September 1, 2018, the provision of land plots to legal entities and individuals for permanent use for entrepreneurial and urban development activities is made through an electronic auction at a single electronic trading platform (“E-IJRO AUKSION”). At this site, the sale and lease of state property take place.

Measures in areas exposed to increased corruption risk

Tax sphere

Since October 2015, the following services in the tax sphere have been provided on the Single interactive services portal:

- Issue of a certificate on the absence of tax debt of legal entities, individuals and individual entrepreneurs;
- Provision of information on value added taxpayers;
- Preliminary declaration on the income of an individual received from the provision of property for rent (hire) to individuals;
- Overpaid taxes and other obligatory payments;
- Identification of TIN;
- Paid insurance premiums of citizens;
- Property and land taxes;
- Providing information about the district state tax inspectors;
- Tax benefits for legal entities; and others.

³⁴ <https://www.facebook.com/UZDBQ/>

Customs sphere

In connection with the large-scale implementation of information and communication technologies in the country, 42 information systems and 16 interactive services have been developed and implemented in the customs authorities, contributing to the liberalization of public services as one of the types of activities aimed at corruption prevention.

In 2017, as part of the “Electronic Government”, on the official website of the SCC and on the Single Portal of Interactive Public Services, 12 interactive services were introduced that allow the foreign trade participants to perform customs clearance remotely, as well as other operations via the Internet without visiting customs posts. In 2018, other 4 types of interactive services “Mail Recipient”, “Mail Declaration”, “Declaring Persons” and “Integrated Tariff” were introduced, which allow to send postal declarations electronically and provide the necessary information on the import / export of goods and vehicles respectively according to selected criteria via the Internet.

SCC’s interactive services include:

1. Electronic declaration of goods;
2. The act of reconciliation of customs payments;
3. Presenting of data on foreign trade contracts into the Unified Electronic Information System of Foreign Trade Operations (UISFTO);
4. Obtaining information on goods imported by rail to the territory of the Republic of Uzbekistan;
5. Obtaining information on goods imported by road to the territory of the Republic of Uzbekistan;
6. Register of customs warehouses;
7. Preliminary electronic informing of the state customs service on goods and vehicles moved across the customs border of the Republic of Uzbekistan by road;
8. Submission of an electronic application for entering the enterprise into the directory of enterprises for ensuring the payment of customs duties for the movement of foreign goods;
9. Notification on ensuring payment of customs duties for the movement of foreign goods;
10. “Declaring Persons”;
11. Filling and dispatching a passenger customs declaration;
12. “Mail recipient”;
13. “Declaration of mail”;
14. “Integrated tariff”.

The number of requests in 2015 with the use of the online service “Presenting of data on foreign trade contracts to the Unified electronic information system of foreign trade operations (UEISFTO) on the Single portal of public services amounted to 79% of all registered contracts in the UEISFTO system.

In 2016, more than 100 thousand contracts and additional agreements to them in electronic form were registered. In 2017, this figure amounted to more than 320.2 thousand applications. During 9 months of 2018 over 145 thousand contracts and additional agreements to them were registered.

In general, the information systems and interactive services introduced in the customs authorities allow customs clearance of goods remotely via the global network Internet and save the time and reduce costs of foreign trade participants. The analysis showed that after the introduction of these systems, the time spent on customs clearance of goods decreased by 4.7 times.

The sphere of education

Submission of an electronic application for admission of children to a state pre-school educational institution;

Submission of an electronic application for nostrification (establishing equivalence) of an education document issued in a foreign country;

Submission of a repeated electronic application for nostrification (establishing equivalence) of an education document issued in a foreign country;

Sphere of Internal Affairs

Submission of an electronic application for obtaining certificates of absence (presence) of a criminal record;

Providing the address and reference information;

Registration by place of stay in the city of Tashkent and the Tashkent region;

Online check of road police fines.

According to Uzbekistan, optimization of public services has helped achieve the following results:

- the number of documents provided by an applicant has been reduced by an average of 3 times;
- the procedures for the provision of services have been reduced by an average of 4 times;
- terms of services have been reduced by an average of 3 times;
- the number of visits to government agencies for the receipt of services decreased by an average of 4 times.

Simplification of registration, permitting and licensing procedures

Since the beginning of 2016, further simplification of all types of registration, permitting and licensing procedures has been provided. So, on the Single portal of interactive state services (SPIPS), an online application for registration of business entities with or without formation of a legal entity is made publicly available.

Since 2017, a complex of information systems “License” was launched to provide interactive services in the field of licensing and permitting procedures (<https://license.gov.uz/>).

CIS “License” is a single access point for automation of registration of licenses and permits in electronic form, providing:

- acceptance by state bodies and other organizations rendering state services through “one window” centres of applications for issuing permits and licenses in the field of business activity (hereinafter - permits and licenses);

- remote access to information on the procedure and terms for obtaining permits and licenses in a form convenient for business entities;
- automation of licensing and permitting procedures in the field of entrepreneurship with the possibility of submitting applications by business entities for issuing permits and licenses in electronic form;
- the ability to track the progress and result of the consideration of applications for issuing permits and licenses, regardless of the place and method of application of business entities for public services provided through the “one window” centres;
- the possibility of obtaining information from the registries of permits and licenses.

The purpose of the CIS “License” is to improve the quality of information technology support for the activities of licensing authorities and transfer licensing and authorization services to electronic form by developing and implementing the “License” information system. Moreover, there is an increase in the efficiency of interaction between licensees / applicants and licensing bodies, ensuring openness of information on licensing of certain types of activities in the Republic of Uzbekistan, including the information contained in license registers. It also increases the productivity of employees of organizations engaged in licensing activities.

In order to accelerate the implementation of export-import operations, improve the efficiency of information and communication technologies in the process of customs clearance of goods, the Ministry of Health, the State Inspectorate for Plant Quarantine under the Cabinet of Ministers, the State Veterinary Committee, the State Committee of the Republic of Uzbekistan on Ecology and Environment Protection, the Agency “Uzstandard” and JSC “UzbekExpertise” provide timely and complete input of information on issued certificates and documents of permissive nature in the unified One Stop Shop customs information system.³⁵

This system represents a platform that allows:

to remotely address the authorized bodies (Ministry of Health, Ministry of Agriculture and Water Management, State Committee on Geology, Uzstandard, UzbekExpertise) by the participants of foreign economic activities, to issue permits and other documents within the framework of the “Single Window” system;

- to simplify the process of customs clearance by obtaining permits in electronic form in real time terms;
- to increase the efficiency of processing information on the registration of permits for foreign trade operations and the level of control over their execution.

In order to improve the business environment and provide greater freedom to business, an automated information system “Electronic Customs Clearance” has been developed. This system provides foreign trade participants with the right to fill in and submit to customs

³⁵ <https://www.facebook.com/UZDBO/>

³⁵ Resolution by the President of the Republic of Uzbekistan of 3 November 2017, No IIII-3351, “On Measures to further liberalize foreign trade and support business entities”, available at <http://lex.uz/docs/3470725>.

authorities in real time terms via the Internet the customs cargo declarations without contacting customs brokers.

The launch from April 1, 2017 of the automated system of state registration of business entities, which allows to reduce the registration procedures to 30 minutes, contributed to improving the position of Uzbekistan in terms of the “Business Registration” indicator in the global ranking “Doing Business 2018” from the 24th to the 11th place.

In order to simplify all types of registration, permitting and licensing procedures, Decree of the President of the Republic of Uzbekistan No. YII-5409 of April 11, 2018 “On measures to further reduce and simplify licensing and permitting procedures in the field of entrepreneurship, as well as improving business conditions” was adopted.

Thus, by this Decree:

- licenses for 7 types of activities and 35 permitting documents were cancelled;
- licenses for 4 types of activities and 34 permits were cancelled by combining them;
- terms of registration of licenses for 15 types of activities and 10 permits were reduced;
- the functions of licensing of 9 types of activities were transferred from the Cabinet of Ministers to other bodies;
- functions for issuing licenses for 3 types of activities and 2 permits were transferred from the republican government bodies to their territorial departments and local government bodies, as well as from the Council of Ministers of the Republic of Karakalpakstan, regional khokimiyats and the city of Tashkent, were transferred to the district (city) khokimiyats;

Additional measures were taken to further reduce and simplify procedures for obtaining licenses and permits in the field of entrepreneurial activity from June 1, 2018 on 11 types of activities and on 7 permitting documents.

The Decree also introduced a procedure in accordance with which all licenses for the right to carry out certain types of activities are issued without limitation of their validity, except licenses for the right to carry out medical and pharmaceutical activities, for the right to engage in activities related to the trafficking of drugs, psychotropic substances and precursors, operation and provision of mobile radiotelephone (cellular) communication services and the distribution of television broadcasts, as well as the production, processing and sale of oil, gas and condensed gas.

The Decree stipulates that:

- a specific list of works (services) performed (rendered) in the framework of the licensed type of activity is specified in the provisions on the procedure for licensing the relevant types of activity;
- if a licensing authority does not make a decision on issuing or refusing to issue a license during the period of consideration of an application for issuing a license, then after a specified period the license applicant has the right to carry out the activity declared by him, notifying the licensing authority in writing. At the same time, the licensing authority is obliged to issue the license within five working days upon receipt of a written notice of the applicant’s license.

Regulatory Impact Analysis

In order to introduce the Regulatory Impact Analysis (RIA), a procedure was introduced in the law-making process in accordance with which from May 1, 2018 all drafts of regulatory legal acts are to be posted by the organizations-developers of drafts on the Single portal of interactive state services of the Republic of Uzbekistan for public discussion. <http://regulation.gov.uz/ru>

In particular, in accordance with the Decree of the President of the Republic of Uzbekistan No. IIII-3666 dated April 13, 2018, from May 1, 2018 a procedure was established, in accordance with which:

all projects of RLAs are subject to placement by the organizations-developers of drafts on the Single portal of interactive state services of the Republic of Uzbekistan for public discussion;

- draft RLAs are submitted to the Cabinet of Ministers, the office of the President of the Republic of Uzbekistan only if there is a conclusion from the Ministry of Justice of the Republic of Uzbekistan on the advisability of adopting them on the basis of legal expertise, including anti-corruption expertise;
- the obligatory condition for the adoption of the RLAs by the local state authorities is the presence of a positive conclusion of the territorial bodies of justice following the results of legal expertise;
- legal expertise of the drafts of the regulatory legal acts is carried out by the Ministry of Justice of the Republic of Uzbekistan after they are agreed with interested organizations, and again – when their conceptual provisions are changed in the structural units of the Cabinet of Ministers Office and the President of the Republic of Uzbekistan;

Ministries and departments can adopt departmental RLAs if they are authorized to adopt the relevant act or to regulate specific social relations by legislative acts, decrees, resolutions and orders of the President of the Republic of Uzbekistan, resolutions of the Cabinet of Ministers of the Republic of Uzbekistan.

On July 24, 2018, a new version of the Portal for discussing drafts of regulatory documents of the Republic of Uzbekistan, SOVAZ, was launched on the Internet in full mode from the test address www.regulation2018.gov.uz and then transferred to the official address www.regulation.gov.uz.

By the end of 2018, over 800 draft regulatory legal acts were discussed in this system.

Figure 4. Data on the discussion of draft regulations, November 2018

Source: responses to the questionnaire provided by Uzbekistan in November 2018

Conclusions

The monitoring group believes that the introduction of all the above-described e-government tools and the use of modern technologies in services and the provision of information by the government to the population is one of the most successful anti-corruption initiatives. It not only aims to reduce direct contacts between recipients of public services and the state bureaucracy, which significantly reduces corruption risks, but also saves time and resources for obtaining and providing public services.

Especially it is worth noting the provision of public services through the unified info-kiosks. And although the number of users of these new tools is still quite small, it will continue to grow.

Given the positive anti-corruption effect and user friendliness, it is advisable to further develop and improve these tools.

At the same time, special attention should be paid to access (especially free access, for example, in libraries) and the quality of the Internet in the regions. It is also equally important to inform the population and develop the necessary skills of users, especially groups with lower levels of electronic literacy and residents of the regions.

Also, it is necessary to preserve the possibility of obtaining public services in the usual way for consumers who do not have access to the Internet or do not want to use it. In such cases, special emphasis should be placed on anti-corruption measures in the process of providing public services.

With the development of e-government, it is important to ensure high-quality communication from the government, given the intensity of use of a particular service at a particular time. For example, the Monitoring Group at a meeting with representatives of the non-state sector learned that with a heavy load, some services, for example, tax inspection, sometimes cannot be used and have to be addressed directly.

Besides, there were some of the opinion that the progress in e-government was achieved largely as a result of the launching of the open data portal, development of online payments for utilities bills, and various online consultations, and that over 80 per cent of e-services rendered are for information only and are hardly interactive. This means Uzbekistan need to develop its e-government system to start offering more advanced electronic services.

The monitoring group also notes the progress made in reducing licenses and permits; simplification of their provision; extension of their validity. Given the country's intention to continue these efforts, the development by the coordinating body of an appropriate uniform methodology based on good national and international practice would ensure a systematic approach and would make the process more efficient.

Regulatory impact analysis was introduced into the legislative process in Uzbekistan in accordance with Recommendation 16.6. It would also be useful to provide an estimate of the administrative burden on certain types of draft regulatory legal acts for the private and public sector separately.

The monitoring group recommends a periodical monitoring of the effectiveness of measures taken to develop e-government, simplify procedures, increase the transparency of state and local authorities and administration, in collaboration with representatives of the civil and private sectors. Given the results of such monitoring, identify priorities for further efforts to reduce licenses and permits, simplify procedures for obtaining them, and increase the transparency of state and local authorities and administration, especially in the sectors and authorities with the greatest risk of corruption.

The monitoring group acknowledges the success and believes that Recommendations 16.3, 16.4 and 16.5 have been fully implemented, and Recommendation 16.6 implemented partially.

Thus, **Uzbekistan is largely complied with Recommendation No. 16 of the Report on the third round of monitoring of Uzbekistan.**

New Recommendation No. 26

1. *Ensure the effective implementation of the Law on Administrative Procedures, including streamlining of administrative procedures across all branches and areas of public administration, and develop the relevant legislative framework; monitor the effectiveness of the implementation of this law and, if necessary, improve its provisions and practice of its application.*
2. *Consider removing cases of administrative offences from the jurisdiction of administrative courts.*
3. *Ensure high-quality provision of electronic services and continue expanding the potential of e-government aiming to increase the range of interactive services.*
4. *Ensure that citizens are regularly, widely and effectively informed about available e-government tools, especially in the regions. Teach them to use these tools, especially those with low levels of computer literacy.*

Access to information

Recommendation No. 19 of the Report on the third round of monitoring of Uzbekistan:

Ensure that legislation on free access to information limits discretion of officials in refusing to provide information; set precise definitions of a “state secret” or “other secret protected by the law”.

Carry out campaigns to raise citizens’ awareness about their rights and responsibilities in regard to the access to information. Ensure systematic training of officers who are responsible to provide information on the access to information.

Establish a unified electronic system of publication of information by government bodies and state institutions, define the list of types of information that should be published by them on a mandatory

basis, and ensure the publication of this information, including regulations, court decisions, as well as information on revenues and expenditures of the state budget, including separately on export revenues and how these revenues are used. Ensure free access of the population to this information.

Establish a special agency or use an existing body (for instance, the Ombudsman's office) which will be responsible for the enforcement of the access to information legislation, perform surveillance over the implementation of the regulation, ensure independent review of complaints and can apply necessary sanctions in this regard.

Recommendation No. 20 of the Report on the third round of monitoring of Uzbekistan:

Repeal the criminal and administrative liability for defamation.

Take practical steps to assign officers to be responsible for access to information in all public authorities.

Review the legislation on access to information by consolidating the relevant provisions within one law and bringing other relevant legislation in line with the law on access to information, in particular the law on state secrets. Ensure implementation of the Law "On the Transparency of the Activities of Bodies of State Power and Administration" including, where necessary, adopting the relevant bylaws.

Limiting the discretionary powers

There have been no significant changes since the third round of monitoring in the context of limiting the discretionary powers of officials regarding possible refusals to provide information pursuant to the Law "On Principles and Safeguards of Freedom of Information".

Definition of the concepts of a "state secret" and "other secret protected by the law"

No changes in the legislation of Uzbekistan on these concepts have been introduced since October 2015. The concepts of a "state secret" and "other secret protected by law" are found in the Law of the Republic of Uzbekistan No. 848-XII dated May 7, 1993 "On protection of state secrets", as well as in 23 laws (the list and texts are attached in electronic form). Thus, there can be no question of any harmonization of these concepts.

Raising awareness of citizens and training of officials

Uzbekistan reports on various information campaigns, but they are not directly related to raising citizens' awareness of their rights and obligations regarding access to information.

The public Fund for support and development of independent print media and information agencies of Uzbekistan and the Uzbek Agency for press and information regularly hold training seminars to improve the skills of employees of information services. So, in the period from 2015 to 2016, seminars on the theme: "Improving the professional skills of employees of information services of the bodies of state power and government and public organizations, strengthening their cooperation with the media" were organized and conducted in almost all departments.

In addition, the state and economic management bodies independently adopt schedules or plans, "road maps" for improving the skills of information services personnel and staffing them with highly qualified specialists in the field of journalism, and organization of public relations.

Thus, Uzbekistan provides an example of the organization of such trainings for customs officers responsible for providing information to individuals and legal entities about the activities of government bodies.

According to the information provided, such trainings are conducted on an ongoing basis, within the framework of a signed agreement between the territorial customs administrations and the Tashkent University of Information Technologies on the training of customs officers in the field of information and communication technologies³⁶.

Also, the Public Council for the coordination and monitoring of activities to ensure the openness of the work of state governing bodies, on a systematic basis implements the following measures:

- holding a series of workshops with the heads of state agencies' information services with a view to develop the institutional framework and organizational and technical support for their informational openness, increasing their level of knowledge in this area;
- active use of the official website of the Public Council www.ochiqlik.uz in order to inform the public, including the international community, about the effective experience of Uzbekistan in the field of ensuring the openness of public authorities and administration.

A unified electronic system for publishing information

In March 2015, the Open Data Portal was launched at data.gov.uz. The open data portal functions as a state information resource on the Internet, consisting of a combination of software and hardware, designed to place publicly available information of government bodies in the form of open data. The portal serves as a “single point” of access to open data. As of the end of 2018, the portal hosts 1,249 sets of open data, which have been used more than 463.6 thousand times.

The Republican Commission for Coordination of the Implementation of the Complex Programme of development of the National Information and Communication System of the Republic of Uzbekistan for 2013-2020 (Minutes No. 7 of February 23, 2016), approved the list of open data sets of state and economic management bodies, local state administration authorities to be published on a mandatory basis on their official websites and open data Portal of the Republic of Uzbekistan.

A unified electronic system for publishing information by public authorities and bodies of state administration has been created, in particular:

- Governmental portal of the Republic of Uzbekistan www.gov.uz;
- A unified portal of interactive public services www.my.gov.uz;
- Open data portal www.data.gov.uz.

All the official websites of the state bodies have included a section called “Open data”, where an array of information of public interest is placed and regularly updated. The Ministry for the Development of Information Technologies and Communications regularly evaluates the official websites of state bodies to ensure access of individuals and legal entities to information about their activities, determines the ratings of the ministries and departments. Each government agency is responsible for the publication of information relating to its activities.

³⁶ <https://www.mf.uz/deyatelnost/deyatelnost1/gosudarstvennyj-byudzhhet.html>.

Normative legal acts are published in the National database of legislation of the Republic of Uzbekistan at www.lex.uz.

Court decisions are published on the official website of the Supreme Court of the Republic of Uzbekistan.

The Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan has developed a draft law providing for the submission of information on the revenues and expenditures of the state budget and how these revenues are used.

However, at the time of monitoring, only statistical information on the execution of the State budget of the Republic of Uzbekistan³⁷ was published on the official website of the Ministry of Finance.

According to comments provided by Uzbekistan to the draft report, in January 2019 an information portal “Open Budget” was developed and launched. It hosts the general information about the budgeting process, revenues and expenditures of the state budget with the breakdown to different budgetary levels, the report on the execution of the state budget and an information brochure, Budget for Citizens, with the draft 2019 state budget of the Republic of Uzbekistan. It was developed as part of the joint project with the UNDP, “Assisting the reform of government finance management in Uzbekistan”, and with the financial support from the UK Embassy.

Also, Uzbekistan informed that in order to improve openness and quality of budgetary data, making them known to foreign investors and other interested parties, the Ministry of Finance planned to adopt 12 international public sector accounting standards based on IPSAS in 2019-2020, and that out of 12 accounting standards the Ministry had approved 11, 6 of which had been registered at the Ministry of Justice.

A special body of oversight and complaints

Uzbekistan had not established a special body, nor had it engaged an existing one, to ensure compliance with the legislation on access to information, oversight and complaints.

Uzbekistan shared information on the activities of the Public Council for the coordination and monitoring of activities to ensure the openness of the work of state governing bodies. This Council is implementing measures to monitor the “Openness index” of state bodies.

The statistics on appeals against actions (inaction), decisions regarding access to information is not conducted.

In accordance with the rate of state duty, approved by the Resolution of the Cabinet of Ministers No. 533 of November 3, 1994, the size of the court fee for complaints filed in civil courts against unlawful actions of state bodies and officials, infringing the rights of physical persons is equal to 1 minimum wage³⁸.

A special size of the court fee for appealing actions, decisions of authorities concerning access to information is not provided by the current regulatory procedure.

Administrative responsibility for violation of the right to access information is not provided for in the legislation.

³⁷ <https://www.mf.uz/deyatelnost/deyatelnost1/gosudarstvennyj-byudzhnet.html>.

³⁸ <http://lex.uz/docs/699301>.

Statistics on information requests is maintained by each state and economic management body independently and was not provided to the monitoring group.

The monitoring group finds it difficult to draw any conclusions about the effectiveness of the system for providing information on requests, as well as about the effectiveness of the mechanisms for appealing decisions on refusals to provide the requested information.

Officials responsible for the issues of access to information

In accordance with the requirements of Article 10 of the law “On the openness of state governing bodies”, information services are functioning in all state governing bodies, and responsible officials on the issues of access to information have been appointed; also special units responsible for ensuring access to information have been created.

Heads of the state and economic governing bodies are personally responsible for rigorous and high-quality implementation of the provisions of the Law “On the openness of the activities of state governing bodies”.

Information services (press services, public relations services) of state and economic management bodies are separate, independent divisions which are directly subordinated to their heads.

A model regulation on the information service of state and economic management bodies has been approved.

Heads of divisions of the Republican executive bodies responsible for the development of information technologies and communications are appointed to their positions in coordination with the Ministry for the Development of Information Technologies and Communications in accordance with the Decree of the President of the Republic of Uzbekistan No. VII-5349 dated February 19, 2018 “On measures to further improve the sphere of information technologies and communications”.

Legislation on the access to information

The monitoring group is not aware of any attempts to revise the legislation on access to information in order to combine the relevant provisions in one law, having harmonized other legislative acts with the law on access, primarily the law on state secrets, as was required by Recommendation 20.3.

Implementation of the Law “On the openness of the state governing bodies”

In order to ensure the implementation of the Law of the Republic of Uzbekistan “On the openness of the activities of state governing bodies”, improve the efficiency of their activities, the Cabinet of Ministers adopted a Resolution No. 320 of November 6, 2015 “On the implementation of a set of measures aimed at the realization of the provisions of the Law of the Republic of Uzbekistan “On the openness of the activities of state governing bodies”.

This Resolution approved and adopted for execution by state bodies a Set of measures to implement the provisions of the Law of the Republic of Uzbekistan “On the openness of the activities of state governing bodies”.

Also, the Public Council for coordination and monitoring of activities to ensure the openness of the activities of state governing bodies was formed, which developed a Methodology for monitoring and assessing the openness of the activities of state governing bodies, as well as the Regulations to ensure the openness of the activities of state governing bodies.

On the basis of these documents, the Public Council began its work on monitoring and assessing the openness of the activities of state governing bodies.

Since January 2016, the Public Council together with the Centre for the development of the “Electronic government” system, national media, non-governmental non-profit organizations of the Republic working in the information sphere, introduced a System of monitoring and assessing the openness of the activities of bodies of state power and administration.

Currently, there are 59 entities in the system of national monitoring “Index of openness”: 21 ministries, 12 state committees, 6 agencies, 6 centralized institutions and 14 local government bodies.

According to the data provided by Uzbekistan, the analysis of the rating indicators of the “openness index” of state bodies shows that in general the state governing bodies are doing a lot to ensure the effective enforcement of the law on openness, and the conditions are created for access by citizens to socially significant information being at the disposal of state bodies, in the manner prescribed by the law.

Defamation

Public insult and defamation continue to be criminal offenses in Uzbekistan (articles 139 and 140 of the Criminal Code). The Code of Administrative Offenses provides for administrative liability for defamation (article 40), insult (article 41).

According to the data provided by Uzbekistan, punishments connected with the deprivation of liberty were applied under these articles. So, for defamation:

- in 2016, 339 persons were brought to criminal responsibility on 221 criminal cases. 72 convicts were sentenced to imprisonment;
- in 2017, 214 persons were brought to criminal responsibility on 192 criminal cases. 36 convicts were sentenced to imprisonment;
- in the first half of 2018, 65 persons were brought to criminal responsibility on 57 criminal cases. 1 convicted person was sentenced to imprisonment.

Conclusions

The monitoring group welcomes the work done by Uzbekistan on the implementation of the Law “On the openness of the activities of state governing bodies”, and the creation of a system of continuous monitoring of the implementation of this law. The fact that the monitoring is carried out by a public council, which includes representatives of media associations, allows to reduce the potential risk of the influence of the Executive power on the activities of this Council and to provide more objectivity. The representation of NGOs and other members of the public sector should be expanded.

The ratings that the state governing bodies receive as part of monitoring the implementation of the requirements of the Law “On the openness of the activities of state governing bodies” and other relevant legal acts can serve as a measure to encourage more active actions of state authorities, but it should not develop into a competition of self-promotion.

It should also be noted that the Law “On the openness of the activities of state governing bodies” establishes a list of information that must be published on information boards and (or) other technical means of analogous purpose (Article 14), but the list of information for publication on official websites of state governing bodies is not mandatory (Article 13).

However, according to Uzbekistan authorities, such mandatory list has been defined with the resolution by the Government, No 355 , of 31 December 2013.

This law also leaves the authority to approve the list of information relating to information about the activities of state governing bodies to their heads, access to which is restricted in accordance with the law. It should be noted that there is a concept of “other secret protected by law” in the legislation of Uzbekistan which is defined by different laws.

The Law “On the openness of the activities of state governing bodies” establishes requirements for requesting information, the timing and the procedure for considering a request for information, the requirement to provide reasons for refusing to provide information, as well as the authority of the heads of state governing bodies, among other things, to determine the officials responsible for providing information on the activities of the state governing bodies.

The Law “On the openness of the activities of state governing bodies” provides for internal control over observance of the requirements of the Law. But in the absence of generalized statistical data on the petitions received and considered, it is not possible to judge about the effectiveness of this system.

An effective system of access to information also requires that citizens are well aware of such a system, its capabilities and their rights to receive information and appeal against violations of their rights. The monitoring group did not see enough effort in this direction.

For the effective application of the Law, it is also necessary to establish an independent effective external control and to encourage citizens to actively use this mechanism to protect their rights for access to information.

The monitoring group welcomes the country's efforts related to the openness of the national budget, the involvement of citizens in the decision-making process on the use of the part of the extra budgetary funds of local authorities, the publication of court decisions, the development of open databases and registers for the population. But since these efforts are quite new, there is no way to assess their real effect.

Therefore, Uzbekistan is recommended to develop these initiatives without losing sight of the main goal – to ensure transparency and integrity of public decision-making and effectively involve the society in this process. In order for these initiatives to be rational, purposeful and effective, it is necessary to periodically evaluate their impact, ensuring the objectivity of such an assessment.

The growing cooperation of public authorities and administrations with the mass media is positively regarded.

A significant achievement is the publication of drafts and adopted regulatory legal acts in electronic form on the Internet and in paper form locally. It is necessary to continue the support of the openness of the legislation and the legislative process, for example, by transferring into electronic form for publication of the existing regulatory legal acts, legal expertise of draft regulatory legal acts of the Ministry of Justice.

It should be noted that the existing system of agreement of draft regulatory legal acts with the population, in the event of its growing popularity among the non-state sector, may turn into an unreasonable burden for state authorities developing draft regulatory legal acts.

In order for the system of involving representatives of the non-state sector in the legislative process to be effective, it is necessary to provide criteria and rules that would ensure purposefulness, efficiency and effectiveness of this process.

It should also be noted that, although there is a requirement to consider proposals and comments from representatives of the non-state sector, the monitoring group heard during its visit to the country at the meeting with representatives of the non-state sector that the feedback of this process is not perfect.

With regard to the implementation of the recommendations, Uzbekistan has not complied with Recommendation 19.1, as the recommended legislative measures were not taken. Recommendation 19.2 has been implemented given that trainings for employees are being conducted. A single electronic system has been created, but some of its parts are still at the launch or planning stage, and the publication of some information is still not being implemented – accordingly, Recommendation 19.3 has been partially implemented. An oversight and appeals body on information requests has not been created, and these functions were not delegated, so Recommendation 19.4 has not been implemented.

Criminal liability for defamation has not been abolished and, unfortunately, is actively applied in practice, so Recommendation 20.1 has not been implemented. As noted in the OECD Final Report, tough laws on defamation demotivate discussions about public authorities and control over them, prohibiting criticism of the head of State, other officials and state bodies. Defamation laws are often abused by government officials, politicians who use them to protect themselves from criticism or from disclosing unsightly facts that often involve denunciations of corruption and incompetence. Draconian defamation laws and their application lead to self-censorship in the media and among citizens. The very existence of criminal liability for defamation, insult and other similar acts has a chilling effect on freedom of speech and media activity, leads to self-censorship and prevents journalistic investigations revealing corruption³⁹.

The application of sanctions related to the restriction of liberty or the threat of imprisonment further exacerbates this problem and is not acceptable in a democratic state. The imposition of harsher sanctions for defamation and insult of public officials is also contrary to international standards, according to which, on the contrary, a higher level of criticism may be directed at such persons. These provisions have a negative impact on the fight against corruption, as they suppress public activity aimed at identifying and disclosing information about illegal acts. Journalists and individuals reporting illegal actions (both of whom play an important role in revealing corruption) should not become objects of intimidation with possible sanctions for defamation⁴⁰.

As the access to information officers have been appointed in all bodies, recommendation 20.2 is deemed fully implemented. No revision of the legislation on access to information has been made, however, effective steps have been taken to implement the law on the openness of authorities – which was reflected in the partial implementation of Recommendation 20.3.

Thus, Uzbekistan is partially compliant with recommendations No. 19 and No. 20 of the Report on the Third Round of Monitoring of Uzbekistan.

³⁹ See OECD (2016), Final Report “Anti-Corruption Reforms in Eastern Europe and Central Asia. Achievements and challenges, 2013-2015”, pp. 273-274, available at <https://www.oecd.org/corruption/acn/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-RUS.pdf>.

⁴⁰ Ibid.

New Recommendation No. 27

1. *Revise the legal provisions on access to information in order to bring them in line with international standards and best practices. In particular, review laws on state and official secrets in order to harmonise them with the basic law on access to information and ensure that these laws are not used to unreasonably exclude information from public domain.*
2. *Establish an independent mechanism of the state oversight with adequate powers, which should include the right for application of sanctions and adoption of obligatory decisions concerning access to information.*
3. *Decriminalise all offences of defamation and insult as having a strong deterrent effect on the media freedom and, in particular, on investigative journalism and the uncovering of corruption.*
4. *Carry out campaigns to raise citizens' awareness of their rights and obligations regarding access to information, with a focus on the regions of the country.*
5. *Continue the effective implementation of the unified electronic system for publishing information by the authorities and government agencies, having also provided the publication of information on revenues and expenditures of the state budget.*
6. *Develop the standards and the procedure for publishing open data on the Internet (machine-readable data), establishing rules for their free reuse, a minimum list of mandatory data sets; ensure the functioning of the national open data portal.*
7. *Ensure the publication of registers on ownership of movable and immovable property, registration of legal entities, including information on the beneficial owners of legal entities, and other socially significant registers, including in the open data format.*

2.5. Integrity in public procurement

Recommendation No. 18 of the Report on the third round of monitoring of Uzbekistan:

1. *Ensure soonest completion of the development, adoption and enforcement of the Concept of further development of public procurement system for 2015-2025 and the Law “On Public Procurement” to provide the necessary transparency, clarity and fair operation of the entire procurement system and preventing corruption in procurement.*
2. *Upon adoption of these basic documents, ensure the reforming of the public procurement system having provided compliance with the basic international standards, in particular, the OECD recommendations and the principles of UNCITRAL.*
3. *Promote the establishment of an independent, transparent and effective system, as well as appeal procedures for participants of public procurement.*
4. *Expand the e-procurement portal and registry (“black list”) of mala fide suppliers in order to cover all government tenders. Further development of e-procurement should ensure greater transparency in procurement, minimize bureaucratic and subjective factors in the sphere of procurement, organise a unified database for statistical analysis of results, all the necessary parameters of the procurement.*
5. *Strengthen the capacity of the working body for public procurement in the sphere of monitoring and analysis of public procurement.*

Regulation of public procurement in Uzbekistan

Public procurement accounts for a significant part of Uzbekistan's economic activity.

In 2017, Uzbekistan's GDP was estimated at \$ 223 billion in calculations at purchasing power parity, or 249 trillion soms, or 49 billion US dollars in absolute terms (calculated using the official exchange rate). In the same year, the total amount of public procurement (including budget and corporate customers, as well as purchases by strategic enterprises) amounted to 60.5 trillion soms, or about 24.6 percent of GDP (government procurement in OECD countries averages about 12 percent of GDP).

Public procurement is a high-risk area of corruption, however, the regulatory environment for public procurement in the recent past did not have to reduce corruption risks. Until 2017, government procurement was regulated by scattered regulatory acts, including Cabinet of Ministers Decree No. 456 dated November 21, 2000 "On holding tenders for the purchase of raw materials, components and equipment" and No. 302 dated July 3, 2003 "On measures to improve the competitive bidding system in capital construction", Presidential Decree No. 1475 "On Optimization of the Public Procurement System and Expanding the Attraction to It of Small Business Entities", Cabinet Resolution No.

Public procurement is an area with a high risk of corruption, however, the regulatory environment for public procurement in the recent past did not have to reduce corruption risks. Until 2017, public procurement was regulated by scattered regulatory legal acts, including the Cabinet of Ministers Resolutions No. 456 of November 21, 2000 "On holding tenders for the purchase of raw materials, components and equipment" and No. 302 of July 3, 2003 "On measures to improve the system of competitive bidding in capital construction", presidential Decree No. 1475 "On optimization of the public procurement system and expanding the involvement of small businesses in them", Resolution of the Cabinet of Ministers No. 100 "On measures to improve the regulatory framework for the organization of public procurement". These regulations were often revised and amended.

The situation was aggravated by the lack of a single body with regulatory, supervisory and coordinating powers in the field of public procurement, which led to the lack of a unified approach to the regulation of public procurement.

The relative closeness of the public procurement market and the restrictions of foreign trade activity had a certain negative effect due to many administrative obstacles until the liberalization of foreign trade which began with the publication of Presidential Decree No. 3624 "On measures to further liberalize foreign trade and increase the efficiency of trade operations" of March 24, 2018 .

However, in the period after the third round of anti-corruption monitoring of Uzbekistan, a qualitative transition to a new system of organization and regulation of public procurement took place.

In order to ensure the openness and transparency of public procurement, the State Committee of the Republic of Uzbekistan on Assistance to Privatized Enterprises and Development of Competition, in cooperation with the Ministry of Finance and other interested agencies, developed the draft Resolution "On Measures to Further Improve the Special Information Portal of the JSC "Uzbek Republican Commodity and Raw Materials Exchange" and the processes of implementation of public and corporate procurement", which was later adopted by the Cabinet of Ministers of the Republic of Uzbekistan (No. 242 of July 27, 2016).

In January 2016, a new procedure was introduced for the electronic exchange of information between the portals of the Uzbek Republican Commodity and Raw Materials

Exchange (RCME) and the Treasury on public procurement conducted on the electronic platform of the RCME portal.

In January 2017, in order to reduce risks of price manipulation in public and corporate procurement, the Uzbek RCME has launched a software module that enabled the provision of free access to all users to the information about the price level established by the results of exchange trading, public and corporate procurement.

In 2017, the Resolution of the President of the Republic of Uzbekistan “On Measures to Further Reform the System of Public and Corporate Procurement of Goods (works, services)” was adopted (No. IIII-3166 of July 31, 2017).

The Decree of the President of the Republic of Uzbekistan “On Measures for the Implementation of the Project Management System in the Republic of Uzbekistan” (No. VII-5120 of July 24, 2017), established the creation of a Unified National Information System of Project Management of the Republic of Uzbekistan, providing for the introduction of a unified national directory of resources, as well as the organization of a unified automated system of public procurement, ensuring transparency and prevention of abuse.

The most important step over the years has been the reforming of the principles of organization and regulation of public procurement. In 2016, in order to improve and strengthen the regulatory and legal framework for public procurement and enhance the efficiency of using budgetary allocations, a draft law of the Republic of Uzbekistan “On public procurement” was developed. In developing the draft law, prepared with the participation of experts from the World Bank and UNDP, the current international UNCITRAL Model Law on Public Procurement was taken into account. The draft law was held in the nationwide discussion on the portal <http://regulation.gov.uz/ru>. In May 2017, the draft law “On public procurement” was submitted to the Cabinet of Ministers. The final version of the Law of the Republic of Uzbekistan “On public procurement” (No. 3PY-472), approved by the President of Uzbekistan, was adopted on January 25, 2018 and entered into force on April 9, 2018.

The Law applies to government procurement carried out at the implementation of state development programmes, projects stipulated by executive orders, decrees and orders of the President of the Republic of Uzbekistan, decisions of the Government of the Republic of Uzbekistan, as well as the implementation of economic activities of state customers. In addition, the Law regulates purchases financed from the budgets of the budget system and other state trust funds of the Republic of Uzbekistan, foreign grants provided under contracts with donor countries, international, foreign governmental and non-governmental organizations concluded by the President of the Republic of Uzbekistan and the Government of the Republic of Uzbekistan, and foreign loans attracted under the guarantee of the Republic of Uzbekistan.

In order to implement the Law and improve public procurement, a number of regulatory documents were adopted. In particular:

Decree of the President of the Republic of Uzbekistan “On measures to further liberalize foreign trade and increase the efficiency of trade operations” (No. IIII-3624 dated March 24, 2018);

Decree of the President of the Republic of Uzbekistan “On measures to implement the Law of the Republic of Uzbekistan “On public procurement” (No. IIII-3953 of September 27, 2018);

Regulation on specialized organizations entitled to render public procurement services (approved by Agency order No. 219 dated June 11, 2018);

Regulation on the procedure for consideration of complaints in the field of public procurement (approved by Agency order No. 180 of May 1, 2018);

Regulation on the organization and conducting of procurement procedures (approved by Agency order No. 185 of May 15, 2018);

Regulation on the procedure of conducting activity of the operator of a special information portal in relation to the organization and conduct of public procurement (approved by Agency order No. 186 of May 15, 2018).

In order to create effective and clear mechanisms for examining pre-project, project, tender documentation and contracts, Resolution of the President of the Republic of Uzbekistan No. IIII-3550 dated February 20, 2018 was adopted “On measures to improve the procedure for conducting examination of pre-project, project, tender documentation and contracts”. This regulation determines the procedure for the development, conduct of a comprehensive examination and approval of technical specifications for the development of pre-project and project documentation, as well as pre-project and project documentation for investment and infrastructure projects.

An important milestone in reforming the public procurement system of Uzbekistan was the creation, on the basis of the Presidential Decree (No. VII-5120) of July 24, 2017, of the National Agency for Project Management under the President of the Republic of Uzbekistan (NAPM), the main objectives of which were defined as:

- creation, implementation and operation of the Unified National Project Management Information System;
- improving the efficiency and transparency of the development and implementation of state and regional programmes, investment projects financed by the state budget, state trust funds, foreign loans, loans and grants attracted by the Republic of Uzbekistan;
- maintaining a unified national directory of resources, which allows to form their objective market value, to exclude incorrect technical specifications and estimates;
- creation of a single information space for public procurement;
- providing assistance in quality and timely implementation of projects financed by the state budget, state trust funds, foreign loans, loans and grants attracted by the Republic of Uzbekistan, identifying unprofitable and low-efficient projects;
- analysis of income and expenditure of budgets of the budget system;
- carrying out of a comprehensive feasibility study of projects, including those being implemented, for signs of corruption and other abuses;
- introduction of modern information and communication technologies in state bodies and other organizations that ensure the functioning of the Unified National Information System for Project Management of the Republic of Uzbekistan;
- assistance in training and professional development of personnel in the field of project management.

In accordance with the Resolution of the President of the Republic of Uzbekistan No. IIII-3237 of August 23, 2018 “On measures for further introduction of modern forms and methods of public and corporate procurement of goods (works, services)”, NAPM was

determined as a single authorized body for the organization and conduct of public and corporate procurement in the framework of the implementation of investment projects of the Republic of Uzbekistan.

At the time of the monitoring visit, activities of the NAPM covered state bodies and other organizations, economic entities with the state share of more than 50 percent, as well as economic entities supervised by the Cabinet of Ministers of the Republic of Uzbekistan. NAPM is also an authorized body in the field of implementation and development of the digital economy. With regard to public procurement, the scope of activities of NAPM includes state regulation of procurement, control of project implementation and execution of programmes and development of project management. NAPM is staffed with highly professional specialists.

In January 2019, with his decree “On Measures to improve further the activity of the National Information System for Project Management under the President of the Republic of Uzbekistan” (No YII-5624), the public procurement powers of the agency were transferred to the Ministry of Finance, which was assigned to be the authorized agency in this sphere.

All of the above steps and measures to reform the public procurement system as a whole, of course, are positive and essentially address the most important recommendations of the third round of monitoring under the IPA, and also reflect the best practice of public procurement in accordance with international standards.

As to the institutional structure of the public procurement system, it appears that at the transitional stage, the then existing concentration of all functions related to public procurement within NAPM helped to ensure a coordinated and rapid reforming of the former procurement system. The transfer of relevant functions to the Ministry of Finance was the next step in reforming public procurement. With this it is important to ensure in future the separation of legislative (regulatory), executive, control functions and the system of appealing against the actions of procuring organizations and bidders, and the allocation / transfer of these functions to organizations / institutions independent from each other.

Overall, despite major progress in the public procurement reform, the results of the application of the new Law “On public procurement” and the new system of organization and regulation of procurement remain to be seen.

It is proposed to improve the Law “On public procurement” as follows:

- (a) expanding the notion of conflict of interests (not limiting it only to the employees of the customers, the operator of a special information portal or members of the procurement commission), including also affiliates of potential bidders in relation to their participation in the early stages of projects / tenders preparation;
- (b) the inclusion of agreements and / or declarations of integrity provided by bidders along with their proposals;
- (c) taking into account the project orientation of the development of the public procurement system, special provisions addressing the issues of management and administration of contracts;
- (d) imposing restrictions on participation in the procurement of companies that are affiliated with or controlled by the heads of the purchasing organization, even if such managers do not directly participate in the procurement procedure.

Attention should also be paid to the disclosure of information about the ultimate beneficial owners of the procurement participants. The requirement to provide such information and its publication will reduce corruption risks in the procurement procedures, will allow to identify cases of participation in the procurement of companies that are controlled or otherwise affiliated with the management of the purchasing organization. Illustrative in this regard is an example of the implementation of a large-scale infrastructure project of Tashkent City.⁴¹ It is recommended that the disclosure of such information be required for high-value purchases (with a clear threshold set by law).

In addition to improving legislation, procurement organizations should be encouraged to introduce prevention and anti-corruption mechanisms that will enable them to be certified according to the ISO 37001 anti-corruption standard in the near future. Such certification could be made a prerequisite for eligibility for public procurement in the medium term. In the near future, it is recommended that the standard tender documents and the terms of public contracts be supplemented with integrity and anti-corruption provisions.

At the same time, work with the private sector should be expanded to prevent corruption in public procurement. In addition to seminars and large-scale or targeted information campaigns, in cooperation with the Chamber of Commerce (CCI) and the business associations of Uzbekistan, it is recommended to consider the formation and signing of the Anti-Corruption Charter.

Procurement of strategic enterprises

Despite the positive nature of the Law, it excludes from its effect purchases made by strategic entities according to the list approved by the President of the Republic of Uzbekistan. Currently, at least 19 strategic entities are among the enterprises that form the basis of the economy of Uzbekistan, and leading large-scale economic activity. The nature of the economic activities of these enterprises indicates that they conduct a significant amount of procurement and implement major investment projects. So, the general statistics on the procurement of these enterprises for 2017 indicates that the amounts of the procurement contracts of these enterprises were about 38.2 trillion soms (5.9 trillion soms – the sum of contracts concluded in national currency and 4 billion USD – the sum of contracts concluded in foreign currency). In 2018, the volume of purchases fell to 17.1 trillion soms (8.7 trillion soms – the sum of contracts concluded in national currency, and 1 billion US dollars – the sum of contracts concluded in foreign currency). At the same time, in addition to the general principles for selecting the best offers and requirements for their mandatory examination and registration at the Centre for Comprehensive Examination of Projects and Import Contracts at NAPM, briefly formulated in No. IIII-3487 “On Measures to Support the Activities of Economic Societies and Enterprises of Strategic Importance” of January 22 2018, there is neither clear, detailed procedure defined by the legislation, nor the centralized control over their procurement activities.

One of the approaches to solve this problem can be the abolition of the exclusion of these enterprises from the action of the Law “On public procurement”. However, given the nature of the economic activities of these enterprises, the transfer of their procurement activities under the direct effect of the Law may not be economically feasible. In this case, it is

⁴¹ See Uzbekistan Ltd: private-public interests clash in flagship project, Open Democracy, January 29, 2019, available at: <https://www.opendemocracy.net/od-russia/kristian-lasslett/uzbekistan-ltd>.

necessary to adopt a separate law on procurement for the considered strategic entities and legal entities affiliated with them. Such a law can formulate basic principles of procurement, such as competitiveness / competition, openness, economic efficiency, prevention of corruption, etc., as is done in the Law “On public procurement”, but allow these entities to develop their rules and procurement procedures (based on the description of procedures in UNCITRAL Model Law) taking into account the sectoral specifics and nature of economic activity, publish such rules on their websites and strictly follow them. At the same time, it is necessary to provide an independent system of appeal by the participants of the tenders against the actions of the entities in case of violation of laws or corporate norms.

A significant support for the procurement reform of these entities can be the introduction of a system of certification of companies for procurement (ISO 20400) and anti-corruption (ISO 37001) standards.

Public-private partnership and investment projects

Taking into account the importance of the infrastructure sector of Uzbekistan for the development of the economy and raising the living standards of people, it is necessary to reform the procurement system of public-private partnership (PPP) projects, making it more competitive, transparent and attractive to investors.

In general, the infrastructure sector is characterized by a large number of complex and expensive contracts, usually concluded for the development or major modernization of existing infrastructure, mainly in the utilities, energy and transport sectors, as well as contracts for the planned maintenance of existing facilities and equipment. Given these contract characteristics, procurement procedures in the infrastructure sector typically involve traditional tendering procedures for conventional contracts and more complex multi-stage procedures for attractive infrastructure contracts.

The new Law “On public procurement” properly regulates the procurement of conventional contracts, while large infrastructure investments are often made through public-private partnership (PPP) mechanisms that require more complex and iterative procurement procedures and are not properly regulated at the moment.

In this regard, it should be noted that the legal framework of Uzbekistan in relation to public procurement of PPP / concessions and turnkey contracts is in the development stage.

Such contracts require procedures based on a competitive dialogue with market representatives / investors, which implies a competition of ideas and technologies representing the best economic interests for the country / sector, and not a price competition. However, the Law “On public procurement” does not provide for such an approach, and even definitely prohibits its use.

A similar competitive dialogue is necessary for concession and PPP projects, especially where the legal structure of a transaction includes long-term contracts for the financing of infrastructure facilities, as well as their design, construction and operation.

In November 2018, the Ministry of Finance of Uzbekistan published a draft law “On Public-Private Partnership”, followed in February 2019 by a finalized draft agreed upon with ministries and agencies. The draft law includes numerous positive elements aimed at providing a solid legal basis for the development of PPP. The mechanism for choosing a private partner proposed in the draft law involves competitive selection and describes in general terms the main stages of the procurement process. However, the draft Law provides

for a rule that allows for holding a tender in the form of a closed tender, which is contrary to the principles of openness in public procurement and may stimulate corruption.

It is recommended to abandon the use of closed tenders for PPP. In addition, a more detailed regulation of tender procedures is recommended, with the possibility of a competitive dialogue using a multi-stage iterative process. It is also reasonable to provide individual consultations with bidders in the course of reviewing and evaluating preliminary bids (in order to clarify technical solutions, commercial, financial and legal conditions) before the submission of financial proposals. In this regard, it should be noted that the success of the implementation of infrastructure projects, as well as the minimization of corruption risks, largely depends on the terms of contracts.

The draft law provides for the creation of a specialized Agency. According to the information currently available, in October 2018, the President of Uzbekistan signed a Decree “On priority measures to create a legal and institutional framework for the development of public-private partnership”, which provides for the creation in 2018 of the Agency for the Development of Public-Private Partnerships under the Ministry of Finance. The creation of a professional institute in the field of PPP should contribute to a professional approach in the formation of the necessary regulatory framework, including procurement, as well as in the development and implementation of PPP projects. It is expected that the Agency will also contribute to the reduction of corruption risks in this area.

It should be noted that an important role in monitoring infrastructure projects should be played by civil society and non-governmental organizations, whose activities are aimed at improving the legal institutions, the legislative framework and the development of the economy of Uzbekistan. It is recommended to more broadly reflect the need for public control in the draft Law, by analogy with similar provisions of the Law on public procurement.

Openness of information

In accordance with the principles of openness and transparency, declared in the Law on public procurement, information on public procurement is published on a special information portal. Information on public procurement includes: legislative and regulatory acts; procurement plans; procurement announcements; forms of documents; model contracts; information on the results of public procurement; the Unified register of unscrupulous performers; Decisions of the Commission for consideration of complaints in the field of public procurement; statistical information on public procurement.

Placement of all the information (with the exception of procurement plans, announcements about government procurement and information on their results, which is placed in the system by state customers independently) is carried out by the operator of a special information portal (XARID.UZ).

The Law on public procurement determines the time periods for the publication of information, as well as establishes minimum requirements for the content of announcements, etc.

E-procurement

An essential step to the openness of the public procurement system and reduction of transaction costs in public procurement is the use of an electronic procurement system.

In accordance with the Law, at present, electronic purchases are carried out in the form of an electronic store (implemented at a special site <http://shop.uzex.uz>) and auctions for lowering the starting price.

For the implementation of the competition and tender state customers place ads and the results of the procurement procedures on the information portal: <http://dxarid.uzex.uz/ru/competitive/>; <http://dxarid.uzex.uz/ru/tender2/>.

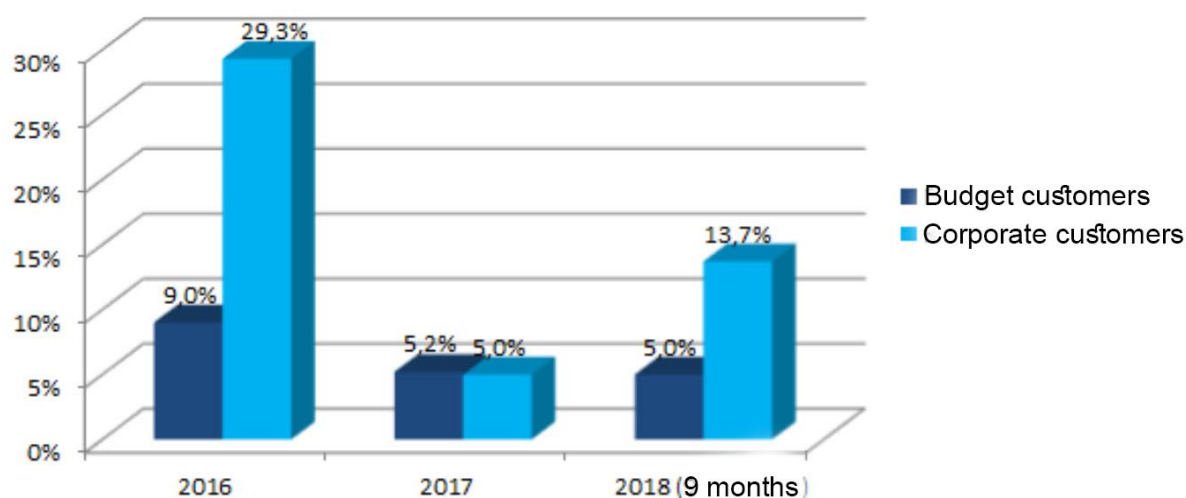
Contracts concluded on the basis of direct purchases or purchases from a single supplier are also posted on the information portal: <http://dxarid.uzex.uz/ru/adv/getadvlist/>.

Of course, a positive innovation of the existing e-procurement system, which increases the attractiveness of public procurement for the private sector and significantly reduces corruption risks in the execution of contracts, is the UZEX system guaranteeing full and timely financing of contract execution, based on reserving amounts payable to suppliers / contractors / consultants at the time of signing a contract, and automatic instant money transfer upon the performance of obligations under the contract.

Of course, a positive innovation of the existing system of electronic procurement, increasing the attractiveness of public procurement for the private sector and significantly reducing corruption risks in the execution of contracts, is the system UzRTSB guarantees full and timely financing of contracts, based on the reservation of amounts payable to suppliers/contractors/consultants at the time of conclusion of the contract, and automatic instant transfer of money for the performance of obligations under the contract.

Despite the positive and dynamic development of e-procurement, the statistics of e-procurement for the period 2016–2018 cause some concern due to a significant reduction in the share of e-procurement in 2017 (see the chart).

Fig. 5. The share of e-procurement



However, due to the adoption of the new public procurement law in 2018, an increase in e-procurement is expected. As indicated above, the NAPM was selected as an authorized body for the organization and conduct of state and corporate procurement as part of the implementation of investment projects of the Republic of Uzbekistan. Currently, the work is ongoing for the launch of a new electronic platform for public procurement, which will also allow for electronic auctions and tender bidding.

Further development of the system and the creation of a national resource directory harmonized with the CPA 2008 are envisaged. A draft Law “On the National Resource Directory” and corresponding draft regulatory acts are currently being developed.

However, the results of the application of the new electronic procurement system remain to be seen.

It is noted that UZEX in conjunction with the Training Centre of the Ministry of Finance conducts regular work on improving the skills of all participants in the state and corporate procurement process, using the online training website (bilim.uzex.uz), in order to prevent unintended errors associated with ignorance of the law and procurement practices.

It should be noted that in order to use the e-procurement system, contractors / suppliers / consultants must have an electronic digital signature (EDS), which can only be obtained if a company is registered as a taxpayer in Uzbekistan. This makes public procurement less competitive, and the acquisition of new technologies and goods more restricted.

In order to further expand the use of the e-procurement system and increase the competitiveness and efficiency of public procurement, it is recommended, in general:

- to develop and implement additional specialized modules covering all types of procurement provided for by law;
- to resolve the issue of the use of the e-procurement system by foreign suppliers / contractors / consultants without the need to obtain an EDS (or simplify the system for issuing EDS by a declarative procedure without the need to provide a TIN of the Republic of Uzbekistan);

- to entrust a state authority (for example, the authority responsible for ensuring competition) with the regulation of tariffs (commissions) for the use of the procurement platform of the UZEX. This is important, because UZEX in the market of public procurement through the electronic portal has, in fact, a monopoly position, which creates corruption risks. In addition, it is necessary to take into account not only the transaction costs, which are reflected in the price of the proposals and impose an additional burden on the budget, but also the fact that UZEX reserves on its accounts for a relatively long period substantial amounts of budget funds (fulfilment of obligations under the contracts), only in the first 9 months of 2018, the volume of transactions in public procurement amounted to 918 billion soms, which can generate additional income. At the same time, UZEX's shareholders are not only the state or enterprises with state participation, but also private individuals and enterprises;
- to consider returning to the budget the net profit earned by UZEX as a result of depositing budget funds (or other financial transactions) reserved by UZEX on its accounts from the moment of their transfer by the treasury to the moment of settlement with suppliers / contractors.

Procurement planning

In accordance with the Law, public procurement planning is carried out by a state customer and represents the systematization of procurement, ensuring the relationship between public procurement planning and planning in budget and investment processes. Planning for public procurement is carried out in parallel with the provision of a budget request to the Ministry of Finance in accordance with the Budget Code.

Based on the information provided, it appears that the planning and implementation of procurement in practice is carried out within one calendar year. For the sustainable development of the infrastructure of the Republic of Uzbekistan, it is necessary to consider the introduction of medium-term horizons (for example, three-year) planning in the field of procurement. A one-year planning constraint creates conditions for favouritism, unfair commercial gains, or direct contracting for large sums.

The introduction of medium-term planning will provide an opportunity to hold tenders for contracts, the implementation of which will take more than one year, and to organize tenders at any time during the year without undue pressure on the timing of completion of contracts. This approach will also create a platform for the effective implementation of large-scale investment projects and support the wider use of PPP-based projects. This kind of planning can be indicative. Undoubtedly, medium-term public procurement planning should be reflected and supported by the budget process.

Public Procurement Statistics

With regard to the quantitative indicators of public procurement, NAPM provided the following general statistics of procurement in the public sector.

Table 18. Public Sector Procurement Statistics, 2017

| 2017 | Quantity | Sum | Goods | Works | Services |
|----------------------------|----------------|-------------------|-------------------|------------------|------------------|
| | | (million soms) | (million soms) | (million soms) | (million soms) |
| Budget customers | 268,203 | 438,300 | 438,300 | - | - |
| Corporate customers | 13,494 | 364,700 | 364,700 | - | - |
| Budget customers | 42,070 | 59,500 | 59,500 | - | - |
| Corporate customers | - | - | - | - | - |
| Budget customers | 499,985 | 8,424,744 | 2,552,158 | 2,616,986 | 3,255,599 |
| Corporate customers | 1,492 | 924,062 | 280,619 | 562,289 | 81,154 |
| Budget customers | 2,198 | 264,483 | 26,613 | 231,966 | 5,904 |
| Corporate customers | 1,011 | 816,447 | 232,176 | 113,604 | 470,667 |
| Budget customers | 138,139 | 304,012 | 285,766 | 6,573 | 11,673 |
| Corporate customers | 15,693 | 7,175,119 | 4,823,384 | 994,705 | 1,357,030 |
| Budget customers | - | - | - | - | - |
| Corporate customers | 8,490 | 3,532,605 | 1,629,888 | 1,802,642 | 100,076 |
| Total | 990,775 | 22,303,972 | 10,693,104 | 6,328,765 | 5,282,103 |
| Budget customers | 950,595 | 9,491,038 | 3,362,337 | 2,855,526 | 3,273,175 |
| Corporate customers | 40,180 | 12,812,934 | 7,330,767 | 3,473,239 | 2,008,927 |

Table 19. Public Sector Procurement Statistics, 2018

| 2018 | Quantity | Sum | Goods | Works | Services |
|------------------------------|----------------|-------------------|-------------------|------------------|------------------|
| | | (million soms) | (million soms) | (million soms) | (million soms) |
| Electronic auction | 121,765 | 1,366,985 | 1,366,985 | - | - |
| Budget customers | 98,798 | 695,705 | 695,705 | - | - |
| Corporate customers | 22,967 | 671,280 | 671,280 | - | - |
| Electronic store | 399,351 | 593,758 | 562,189 | - | 51,699 |
| Budget customers | 320,960 | 406,229 | 374,660 | - | 31,569 |
| Corporate customers | 78,391 | 187,530 | 187,530 | - | 20,130 |
| | 165,729 | 12,824,645 | 3,072,362 | 6,393,472 | 3,358,811 |
| Budget customers | 163,136 | 12,291,385 | 2,712,278 | 6,272,306 | 3,306,801 |
| Corporate customers | 2,593 | 533,261 | 360,084 | 121,166 | 52,010 |
| | 2,350 | 2,615,499 | 682,266 | 1,255,876 | 677,357 |
| Budget customers | 1,353 | 634,180 | 7,066 | 431,338 | 195,775 |
| Corporate customers | 997 | 1,981,319 | 675,199 | 824,538 | 481,582 |
| | 121,676 | 4,401,588 | 3,653,317 | 63,136 | 685,135 |
| Budget customers | 109,933 | 992,999 | 645,288 | 55,477 | 292,233 |
| Corporate customers | 11,743 | 3,408,590 | 3,008,029 | 7,659 | 392,902 |
| Selection of the best offers | 7,333 | 6,140,632 | 3,636,187 | 1,029,488 | 58,666 |
| Budget customers | - | - | - | - | - |
| Corporate customers | 7,333 | 6,140,632 | 3,636,187 | 1,029,488 | 58,666 |
| Total | 818,204 | 27,943,108 | 12,973,306 | 8,741,972 | 4,831,669 |
| Budget customers | 694,180 | 15,020,497 | 4,434,997 | 6,759,121 | 3,826,378 |
| Corporate customers | 124,024 | 12,922,612 | 8,538,309 | 1,982,851 | 1,005,290 |

The above statistics show that the total amount of purchases is distributed approximately equally between the budget and corporate sectors (with the exception of 19 strategic enterprises). There is a very positive dynamic in the conclusion of contracts on a competitive basis. Thus, the share of direct contracts fell from 34 to 16 percent of total purchases. However, this procurement method still holds a significant place among corporate customers (26 percent), who also have a large proportion of contracts (48 percent) on the basis of a competitive, but very non-transparent selection of the best proposals.

It is necessary to continue stimulating the expansion of the use of transparent methods of competitive procurement following the example of budgetary customers, which should lead to a significant reduction of the basis for corruption. In relation to all government customers, it is necessary to strive for the implementation of evaluation using objective methods and evaluation criteria (not necessarily limited to price indicators), expressed in monetary form.

In relation to 19 strategic entities, no complete information was provided on the volume of their purchases. However, the information presented shows the importance of the regulation and control of procurement in this part of the economy of Uzbekistan.

Table 20. Procurement of strategic enterprises (2017-2018)

| Procurement method | Quantity | Sum | Share in the Total |
|------------------------------|---------------|-------------------|--------------------|
| | | (million soms) | (%) |
| Electronic auction | | | |
| 2017 | 466 | 99,587 | 0% |
| 2018 | 4,200 | 365,132 | 2% |
| E-store | | | |
| 2017 | 2 | 60 | 0% |
| 2018 | 270 | 1,532 | 0% |
| Competition | | | |
| 2017 | 377 | 17,474 | 0% |
| 2018 | 266 | 591,343 | 3% |
| Tender | | | |
| 2017 | 922 | 14,961,509 | 39% |
| 2018 | 1,014 | 1,029,743 | 6% |
| Direct purchase | | | |
| 2017 | 8,227 | 2,799,401 | 7% |
| 2018 | 9,098 | 5,346,007 | 31% |
| Selection of the best offers | | | |
| 2017 | 8,471 | 20,364,718 | 53% |
| 2018 | 7,899 | 9,776,801 | 57% |
| Total | | | |
| 2017 | 18,157 | 38,229,270 | 100% |
| 2018 | 22,747 | 17,128,557 | 100% |

Note. The amounts of contracts concluded in foreign currency are translated at the rate of 8.089 som / US dollar (2017) and 8,340 som / US dollar (2018).

As can be seen from the above data, the proportion of purchases through direct contracting is growing and is unacceptably high (31 percent), while there is also a large proportion (57 percent) of contracts awarded on the basis of a competitive, but highly non-transparent selection of the best offers.

A large proportion of contracts concluded both on a non-alternative basis and on the basis of a subjective assessment, undoubtedly leads to an inefficient use of funds and creates grounds for corruption.

Monitoring the implementation of contracts

In accordance with the Budget Code of the Republic of Uzbekistan, preliminary and current control over the execution of contracts is exercised by the Ministry of Finance.

Subsequent control is carried out by the Accounts Chamber of the Republic and the General Directorate of State Financial Control of the Ministry of Finance.

In addition to that, the control of contracts concluded on the basis of procurement procedures is carried out by the authorized body, the Ministry of Finance and the clearing chamber of the UzEx (operator).

As mentioned above, it is necessary to more broadly reflect the issues of contract execution and control in the public procurement Law and actively involve citizens, civil society institutions and non-governmental organizations in control over contract execution, as provided for in respect of control over the procurement procedures.

Review of public procurement

The fairness of the public procurement system should be ensured by the existence of an effective appeal mechanism for actions (inaction) of procuring entities and other parties to the procurement process. In accordance with the Law on public procurement, a permanently operating Public Procurement Complaints Commission has been established by the operator of a special information portal to ensure fair, efficient and effective consideration of complaints in the field of public procurement, the composition of which is approved by the Cabinet of Ministers of the Republic of Uzbekistan in coordination with the authorized public procurement body.

During the monitoring visit the commission consisted of seven members. Of these, two representatives of the NAPM (one of whom is the Chairman of the Commission), two representatives of the operator, a representative of the Ministry for the Development of Information Technologies and Communications, a representative of the State Committee for the Promotion of Privatized Enterprises and Competition, and a representative of the CCI.

The Commission acts in accordance with the Regulation on the procedure for handling complaints in the field of public procurement (approved by Agency order No. 180 dated May 1, 2018. Registration of the Ministry of Justice No. 3013 dated May 14, 2018). As part of its activities, it:

- bans unlawful actions, decisions or execution of illegal procedures by customers;
- partially or completely cancels the illegal decisions of customers, including if they violate the conditions of the public procurement documentation;
- makes decisions on completion of procurement procedures;
- decides on the inclusion of performers in the Unified Register of unscrupulous executors;
- considers complaints after the conclusion of a contract to verify its compliance with the requirements of the legislation on public procurement and suspend the execution of a contract for up to seven working days;
- submits proposals to the relevant authorities on bringing to justice of public officials and citizens for violating the Law on Public Procurement.

The Commission shall not consider the issues of settlement of disputes and disagreements within the framework of the execution of contracts concluded as a result of public procurement, they shall be resolved in the manner prescribed by law. The Commission meets twice a week in the operator's building.

A special electronic module is expected to be introduced in 2019 that will allow to quickly schedule meetings and notify the parties and members of the Commission about the date of consideration of complaints, make remote decisions by members of the Commission, publish these decisions on a special information portal, keep statistical records, etc.

The results of the consideration of complaints are published at <http://xarid.uz/home>. In 2018, 768 decisions were made and published.

It is recommended to expand the search capabilities in the database of published decisions using a machine-readable format for providing data, since the existing approach does not allow for an effective search for information in the system, significantly reducing its real openness.

Through resorting to the Commission or in court, it is possible to appeal:

- the results of public procurement in case of violation of procurement procedures;
- the decisions on inclusion in the Unified Register of unscrupulous executors;
- the decisions of the Public Procurement Complaints Commission; and
- the actions (inaction) of state customers, procurement commissions, the authorized body, the operator of a special information portal, in case of violation of the rights and legitimate interests of a participant.

Despite this, it is recommended to expand the range of issues to be appealed (or clarify the interpretation of the Law in this regard), including the choice of non-competitive procurement procedures (concluding a direct contract), since the information on direct contracts is published only after their conclusion.

In addition, it is advisable to supplement the relevant provision of the law on public procurement: to include in the Unified register of unscrupulous performers the performers found guilty by a court decision of crimes related to cartel agreements and other collusions of participants in procurement procedures, as well as performers who were held liable for corruption offenses, or leaders who were brought to such responsibility.

With regard to the consideration of unfair practices, by the decisions of the Special Commission on public procurement, 118 suppliers were considered and suspended from trading in 2016, and in 2017 – 15 companies.

From the moment of its establishment in August 2018 until the end of 2018, the Complaints Commission considered 128 cases and satisfied 118 complaints, 10 complaints were rejected.

The following decisions were taken on 118 cases:

- resumption of procurement procedures – 2;
- suspension of the competition – 1;
- closing of the procurement procedures and exclusion of a lot from the register of completed transactions – 86;
- cancellation of the previously adopted decision of the commission – 1;
- the customer is obliged to recognize the obligations under the contract fulfilled – 13;
- the customer is obliged to pay a fine in favour of the supplier – 2;
- entry of the contractor into the unified register of unscrupulous suppliers – 15;

In relation to the reviewed cases, it does not seem proper that under the Public Procurement Law, the Complaints Commission may be involved in the deliberation of disputes under economic agreements. It is recommended considering assigning such disputes to the jurisdiction of the courts. At the same time, undoubtedly, the Commission may consider

claims to verify their compliance with the requirements of public procurement legislation, namely, first of all, the compliance of their conditions with those that formed the basis of the procurement process.

Conclusion: Uzbekistan has largely implemented the previous recommendation No. 18 (paragraph 4 of the recommendation has not been fully complied with, all other paragraphs are complied with).

New Recommendation No. 28

1. *Adopt a separate law (or introduce relevant provisions in the current general law) on procurement for strategic enterprises and legal entities affiliated with them, primarily with the aim of increasing the share of competitive procurement procedures.*
2. *Improve the Law “On Public Procurement”, in particular, to order to broaden the use of economically objective evaluation criteria and achieve a wider coverage of contract execution issues.*
3. *Further improve the e-procurement system by introducing additional modules covering all procurement methods provided for by the Public Procurement Law, and opening it for the use by non-residents.*
4. *Ensure the regular publication of updated procurement information in the form of open data (machine-readable data), including information on procurement participants and procurement results, statistics on complaints and information about their consideration.*
5. *To improve the rules for the debarment of entities from public procurement in relation to cartel agreements and entities who were brought to liability for corruption offences.*
6. *Strengthen mechanisms for identifying and preventing conflicts of interest in public procurement (in particular, by expanding the provisions relating to affiliation, disclosure of information about the ultimate beneficial owners of procurement participants).*
7. *Procurement organizations should be encouraged to introduce mechanisms to prevent and combat corruption, so that in the medium term they can be certified according to ISO 37001 anti-corruption standard.*
8. *Introduce mandatory provision of anti-corruption statements by procurement bidders.*
9. *Adopt the Law on the Public-Private Partnership that provides for the broadest possible use of competitive procedures in concluding Public-Private Partnership agreements.*
10. *Intensify regular training for the private sector and procurement organisations on public procurement and integrity at the central and local levels, as well as for law enforcement agencies and public oversight organizations on public procurement procedures and the prevention of corruption.*
11. *Consider developing an Anti-Corruption Charter and having it signed by private sector enterprises, especially those participating in public procurement.*

2.6. Business integrity

Recommendation No. 23 of the Report on the third monitoring round of Uzbekistan

1. *Provide assistance to private sector enterprises in establishing appropriate internal control systems, including adoption of codes of business conduct and other measures contributing to compliance with anti-corruption legislation.*
2. *Involve private enterprises and the business sector as a whole in a dialogue with the State on simplification of business regulation and other measures to improve the business climate and prevent corruption in the country.*

State assistance in establishing internal control systems at private sector enterprises

In recent years, the state bodies of Uzbekistan have become more actively involved in working with enterprises of the private sector in the direction of enhancing the integrity in conducting their business activities. There may be many reasons for this, but certainly the state has faced the task of attracting potential investors. To do this, it is necessary to create favourable conditions, including the ability to conduct good business.

One such example was the work on improving the corporate governance system in joint-stock companies. Shortly before the adoption of the Report on the third monitoring round – on April 24, 2015, Presidential Decree No. VII-4720 “On measures to introduce modern corporate governance methods in joint-stock companies” was adopted⁴². This document approved the Programme of measures to improve the corporate governance system. One of the tasks set by this programme was to develop a Corporate Governance Code (hereinafter referred to as the Code).

To this end, the State Committee on Competition, together with international experts from Germany, has developed a Corporate Governance Code⁴³ containing recommendations that joint-stock companies follow voluntarily, thereby demonstrating their commitment to honest and transparent business.

Also, during the development of the Code, seminars and round tables were held with the participation of representatives of joint-stock companies, business circles, etc.

The Code was approved in December 2015 by the decision of the Interdepartmental Commission on increasing efficiency of joint stock companies and improving the corporate governance system.

This Code provides for the development by joint-stock companies of internal documents, including documents of an anti-corruption nature – the Regulation on internal control and the Regulation on the procedure for actions in case of conflict of interests. Standard provisions were developed in the form of a guide that can be used by joint stock companies. A questionnaire was also prepared on the basis of which a willing joint-stock company can undergo an independent assessment of its corporate governance system.

⁴² <http://chamber.uz/forum/viewforum.php?f=23>

⁴³ <http://chamber.uz/forum/viewforum.php?f=23>

In particular, as of October 1, 2018, 380 joint-stock companies passed such an assessment on a voluntary basis, with the following results:

- high level – in 45 JSCs;
- satisfactory level – in 295 JSCs;
- low level – in 34 JSCs;
- unsatisfactory level – in 6 JSCs.

Already in October 2018, methodological recommendations were developed, among other things, for the implementation of the internal control mechanism.

All these documents are no less important in the opinion of the Monitoring Group than the fact that it was the State that participated in their development together with experts and a representative of the private sector. This certainly sends a serious message to the business community.

Another example is the developed and approved Code of business ethics, which establishes the rules and norms of business ethics and behaviour, mutual respect and decency, promotion of honest and ethical business conduct, prevention of abuse and violations of the law.

This Code was posted on the website of the Chamber of Commerce and Industry (CCI) (<http://chamber.uz>) for extensive discussion by the business community and was developed taking into account the comments and suggestions from business entities, the State Competition Committee, the Centre for Corporate Governance at the Ministry of Economy, the Council of the Federation of Trade Unions and TSLU.

Conclusions

Expert assistance from the state is important in such initiatives, but political support for the introduction of such anti-corruption mechanisms is also important. Thus, Uzbekistan should develop methods to encourage those representatives of the private sector who are ready to introduce internal control programmes and other anti-corruption tools. Appropriate incentives include the introduction of preferences into government procurement practices and other programmes that provide for the use of government subsidies and privileges, as well as taking into account the existence and use of such programmes when deciding on the imposition of sanctions on legal entities for corruption offenses.

And if Uzbekistan wants to send a strong signal of its commitment to honest business, then support of various anti-corruption measures and instruments of the private sector should be systemic and possibly be further formalized.

The formation and enhancement of business integrity were included in the State Anti-Corruption Programme for 2017-2018, in particular, paragraph 36 provides for the introduction of effective anti-corruption mechanisms in non-governmental organizations through the adoption of anti-corruption measures by business associations and other associations of non-governmental organizations, including the establishment of appropriate internal controls, adoption of codes of business ethics and other measures to promote compliance with anti-corruption legislation.

This programme has expired and this practice should be continued and, moreover, representatives of the business community should be actively involved in the development of specific measures in the new Programme.

The monitoring group positively assesses the work done but believes that this is only the beginning and hopes that there will be more examples of assistance and they will become

systemic. Bearing this in mind, recommendation 23.1 has been mostly implemented by Uzbekistan.

Involvement of private enterprises in a dialogue with the state on simplification of business regulation

In Section 2.4., various tools are described in detail using modern technologies that have been developed by the government in order to establish a dialogue with citizens, representatives of the civil society and business.

Also in this section highlights various innovations aimed at facilitating business. For example, since the beginning of 2016, all types of registration, permitting and licensing procedures have been simplified, and an online application for registration of business entities is possible on the Single portal of interactive public services (SIPS).

A lot of other similar measures have been taken. The monitoring group is not aware of whether business representatives were involved at the stage of their development, testing, and clearly it is appropriate to involve them in the process of evaluating the effectiveness of these tools in order to improve them.

Business, for its part, should also take the initiative.

So, for the purpose of a broad discussion of draft regulations on entrepreneurship, the CCI organized 39 expert councils with the participation of business entities and representatives of ministries and departments.

These councils reviewed and discussed the draft resolution of the Cabinet of Ministers “On approval of some administrative regulations for the provision of public services”, resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On approval of the regulations on the procedure for testing the products sold and the formation of the unified information database on substandard products in order to protect the rights of consumers”, presidential decree “On the Concept of Reforming the Tax System of the Republic of Uzbekistan”, issues dedicated to the obstacles in the activities of entrepreneurs in the field of road transportation, natural gas fuelling stations, taxation and tax administration, tax control in the field of e-commerce, the further development of arbitration courts and international commercial arbitration, etc.

According to the representatives of the CCI, the received draft regulations are posted on the official website of the Chamber⁴⁴, as well as in the Telegram channel for a broad discussion of the provisions of these projects by business entities. Further, the proposals, recommendations and problematic issues presented by entrepreneurs are summarized and submitted for consideration to the state bodies – project developers.

Conclusions

The monitoring group welcomes such initiatives but would like to draw the attention of the state bodies of Uzbekistan to the importance of quality feedback. This was mentioned earlier in other sections of the report, but representatives of civil society and business said that they did not always know what was happening with their proposals.

⁴⁴ <http://chamber.uz/forum/viewforum.php?f=23>

Thus, **Uzbekistan has fully implemented Recommendation No. 23 of the Report on the third round of monitoring of Uzbekistan.**

Anti-corruption policy and private sector integrity

The formation and improvement of business integrity are included in the State Anti-Corruption Programme for 2017-2018. The General Prosecutor's office conducted a diagnosis and analysis of risks to integrity of business, which was reflected in the information-analytical report "The status and prospects of fighting corruption in Uzbekistan: problems and solutions". As a result, the following risks were identified:

- lack of openness and transparency of corporate governance, closeness of the process of developing and making management decisions;
- lack of an established anti-corruption culture and interaction with government bodies and other organizations;
- lack of approved indicators of corruption activity in business;
- public procurement system: obtaining favourable decisions in various ways, the impact on tender commissions, non-performance of contractual relations;
- conflict of interests;
- lack of common practice on identification and reporting of suspicious of corruption activities and transactions by accountable persons to authorized bodies;
- lack of a list of risks on indicators of suspicious of corruption transactions and deals;
- lack of a widespread practice of risk-oriented anti-corruption management in business management.

Since 2018, the OSCE project "Assistance to the Republic of Uzbekistan in combating corruption in the business sector" has been implemented jointly with the Chamber of Commerce and the General Prosecutor's Office. This project provides for risk assessment in the health sector, in particular in the private healthcare.

Every six months since 2017, the Republican Interdepartmental Commission in the framework of anti-corruption monitoring has been conducting an assessment of risks for the integrity of business and state bodies.

Also, within the framework of the project, in pursuance of the State anti-corruption programme, seminars and dialogues with the business sector were held in 2017 on: corporate responsibility in the field of anti-corruption; establishment of appropriate internal control mechanisms to facilitate compliance with anti-corruption legislation; and implementation of effective anti-corruption mechanisms.

In this regard, on the basis of the Academy of the General Prosecutor's Office, trainings with public health authorities and private medical institutions and pharmaceutical companies were conducted (November, 2018). The international practice of diagnosing corruption risks in the private sector was studied.

As the Regional Interdepartmental Commission is working on a new draft anti-corruption programme, it would make sense to involve representatives of business circles in the development of the relevant parts of this document.

Compliance programmes and other anti-corruption tools

In Uzbekistan, the practice of compliance in national companies and in small and medium businesses is not developed. Anti-corruption tools are being introduced either by multinational companies, companies with foreign capital or large state-owned enterprises. The same can be said about proper corporate governance policies.

Thus, in conjunction with the Asian Development Bank, Corporate Governance Rules⁴⁵ were developed for enterprises with state participation, which have been approved by the Interdepartmental Commission on increasing the efficiency of joint stock companies and improving the corporate governance system in April, 2018). Currently, work is underway to introduce the Rules into practice.

At the first stage, the Rules were implemented in 7 large JSCs (JSC Uzbekenergo⁴⁶, JSC Uzbek Oil and Gas, JSC UzChemicals, JSC Uzbekistan Railways, JSC Uzautoindustry, JSC Uzagrotech Industrial Holding and JSC Almalyk Mining and Metallurgical plant). From 1 January 2019, they will also be introduced in other enterprises with state participation.

Public companies

According to the information posted on the website of the State Statistics Committee www.stat.uz, the number of operating commercial enterprises and organizations as of June 1, 2018 amounted to 247,116, of which 71,314 were private enterprises, 13,248 – family enterprises, 155,162 – limited liability companies, 644 – joint-stock companies and 6,748 – other enterprises.

Of these, 2,144 enterprises were with a state share in the authorized capital, of which 1,384 were state unitary enterprises, 196 – joint-stock companies and 564 – limited liability companies.

22 large state-owned enterprises adopted anti-corruption compliance programmes.

In particular, in pursuance of the Law of the Republic of Uzbekistan “On combating corruption”, in 2017 the following actions were taken: Resolutions by the Board of JSC “Uzbekoilandgas” were adopted in accordance with which a Comprehensive action plan of JSC “Uzbekoilandgas” was developed to prevent and minimize corruption.

Pursuant to the Resolution of the Cabinet of Ministers No. 62 of March 2, 2016 “On approval of model rules for ethical conduct of employees of government bodies and local executive authorities”, Rules of ethical conduct of employees of JSC “Uzbekoilandgas” were developed, approved with the minutes of the Board of Governors of JSC “Uzbekoilandgas” in 2016.

Models of good business and / or anti-corruption plans for public companies have not been developed by the state.

⁴⁵<https://gkk.uz/ru/novosti/gki-news/11-novosti-komiteta/3777-vnedrenie-kodeksa-korporativnogo-upravleniya-v-aktsionernykh-obshchestvakh>.

⁴⁶<https://openinfo.uz/ru/facts/19301>.

From January 1, 2016, in accordance with the Cabinet of Ministers resolution No. 207 of July 28, 2015, key performance indicators (KPI) were introduced in enterprises with the state share.

In accordance with Article 106 of the Law “On Joint-Stock Companies and Protection of Shareholders' Rights”, a JSC is obliged to disclose information about the company in the manner and within the terms established by law.

According to Article 26 of the Law of the Republic of Uzbekistan “On Accounting”, the annual financial statements of business entities are open to interested banks, stock exchanges, investors, creditors, as well as other persons in accordance with the law.

JSCs, insurance companies, banks, public funds and other organizations, in accordance with the legislation, are obliged to publish annual financial statements together with the audit report not later than two weeks before the date of the annual general meeting of shareholders or other supreme governing body of an accounting entity.

Joint-stock companies are obliged to publish, on an ongoing basis, on their corporate websites up-to-date information about the main indicators characterizing the financial and business situation of the company and the dynamics of its development, analytical reviews of informational character about the company's activities.

Business Ombudsman

The institute of a Business Ombudsman of the Republic of Uzbekistan was established by Decree of the President of the Republic of Uzbekistan No. VII-5037 of May 5, 2017. The law “On the Commissioner under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities” was approved (on 29 August 2017).

According to the Law, the Commissioner under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities is an official providing guarantees for the protection of the rights and legitimate interests of business entities, the observance of these rights and legitimate interests by state bodies, including law enforcement and supervisory authorities.

The main tasks and activities of the Commissioner for the protection of the rights of entrepreneurs are:

- participation in the formation and implementation of state policy in the field of business development, protection of the rights and legitimate interests of business entities;
- control over the observance of the rights and legitimate interests of business entities by government agencies, including law enforcement and supervisory authorities;
- providing legal support to business entities during carrying out inspections of their activities;
- examination of practical implementation of norms and requirements of legislation on guarantees of freedom of entrepreneurial activity;
- assessment of the effectiveness of the adopted legal acts on entrepreneurial activities;
- preparation of proposals for the improvement of legislation aimed at strengthening the legal guarantees of business entities, stimulating their development.

The institution of a Business Ombudsman is still new in Uzbekistan, but as evidenced by the experience of other countries, it can be a very effective mechanism for protecting the rights of entrepreneurs.

Business associations

Business associations play an important role in promoting the principles of good business. Thus, the Association of banks of Uzbekistan on the basis of international experience developed and adopted:

Anti-corruption standard in the activities of commercial banks of the Republic of Uzbekistan;

- The standard of corporate governance in commercial banks of the Republic of Uzbekistan;
- The standard of quality management of bank personnel;
- The quality standard of the organization of internal audit in commercial banks;
- Code of ethics of employees of the Association of banks of Uzbekistan.

The Association of Banks of Uzbekistan constantly works on studying corruption risks, dissemination of good practices, raising awareness and training, creating effective mechanisms for reporting corruption, initiating and supporting collective actions by commercial banks.

The monitoring group believes that the experience of the Association of banks should be transferred to other areas of the business sector. The role of business associations in ensuring integrity in business needs to be supported. For example, business associations can take a leadership role in the study of corruption risks, the dissemination of practical positive experience of ensuring integrity, support outreach activities, professional training, effective mechanisms for informing about facts of corruption.

New Recommendation No. 29

1. *In a dialogue with the business community, develop a business integrity policy taking into account risk factors, for example, as part of an anti-corruption strategy or another national / sectoral or local policy.*
2. *Further develop the institution of a business Ombudsman. Provide and use reliable channels for reporting corruption.*
3. *Promote the development of compliance programmes, protect persons reporting offenses (whistle-blowers), promote business integrity throughout the entire supply chain.*
4. *Develop and exercise control over anti-corruption measures at enterprises with state or municipal ownership or control; consider the possibility of certifying such enterprises under the ISO 37001 anti-corruption standard.*
5. *Encourage collective anti-corruption business actions.*
6. *Assess the impact of business integrity measures and make necessary adjustments.*
7. *Ensure the centralized collection and publication of information on the beneficial owners of legal entities. Establish requirements for disclosing information on the composition of the boards of directors and the audit committees, on compliance systems for private and public enterprises.*

Chapter 3. Criminal liability for corruption and its enforcement

3.1. Criminal law against corruption

Recommendation No. 5 of the Report of the Third Round of Monitoring in Uzbekistan:

1. To introduce amendments to the Criminal Code, in accordance with which:

- a. subject of a bribery of an official of any entity, institution, organization, both in public and private sector, should be recognized as any undue advantages which include both tangible and intangible benefits;*
- b. the definition of a bribery should include providing / obtaining undue advantages not only for the official himself/herself, but also “for another person or entity” regardless the interests of a briber as required by the provisions of Articles 15 and 16 of the UN Convention against Corruption;*
- c. the promise and the offer of a bribe, as well as incitement to bribery by an official of any organization, entity or institution, both in public and private sector, are criminalized in accordance with the provisions of the UN Convention against Corruption;*
- d. introduce efficient and effective civil, administrative or criminal liability of legal persons for participation in the corruption offences, in line with the UN Convention against Corruption.*

2. Consider introducing amendments to the Criminal Code, in accordance with which:

- “concealment”, “abuse of functions”, “trading in influence”, “illegal enrichment” as defined in the UN Convention against Corruption are criminalized.*

After the Report on the Third Round of Monitoring was approved, a number of amendments to the national criminal legislation were adopted in Uzbekistan. The authorities of Uzbekistan laid special emphasis on the following:

- amendments to Article 168 of the Criminal Code (Fraud) as disposition and sanction are concerned were put into force by the Law of the Republic of Uzbekistan dated December 26, 2016 No. ZRU-416;
- abolition of a criminal sanction in the form of arrest and simultaneous enactment of “compulsory public works” to enforcement tools including criminal sanctions for corruption, put into force by the Law of the Republic of Uzbekistan dated March 29, 2017 No. ZRU-421;
- amending new articles to the Criminal Code: article 230-1. Falsification (forgery) of evidence; Article 230-2. Falsification (forgery) investigation findings put into force by the Law of the Republic of Uzbekistan dated 04.04.2018 No. ZRU-470.

Beyond that one should also mention a new law *On Countering Corruption* (2017), where a legal baseline of the concept of “corruption offense” was determined. The Uzbekistan authorities consider this law as laying a solid foundation for the improvement of criminal law in terms of criminalizing taking of bribes not only for an official himself, but also “for other legal entities or individuals”, and one can agree with this reasoning.

Nevertheless, the substantive appraisal of amendments to the Criminal Code of the Republic of Uzbekistan as such shows that, unfortunately, they do not in any way cohere with implementing recommendations from the previous round of monitoring of the Istanbul Anti-Corruption Action Plan for Uzbekistan. And therefore, the description and evaluation of the Report from the previous round of monitoring retained their relevance.

The Joint Order of the Ministry of Interior, the Prosecutor General’s Office, the State Security Service and the State Customs Committee of April 04, 2018 approved the Instruction, where corruption offences are specified in paragraph 26 as criminal behaviour provided for in Articles

167, 168, 192² – 192¹¹, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214 and 243 of the Criminal Code⁴⁷, as well as other actions committed by abuse of power or formal authority.

Of this list, only some of the offenses are in conformity with a generally accepted concept of a corruption offense and with the definition put in the Law of the Republic of Uzbekistan *On Combating Corruption*. Criminal offenses under Articles 167 – 168, 192⁹ – 192¹⁰, 210 – 214, 243 of the Criminal Code of the Republic of Uzbekistan can be classified as truly corruption crimes.

Object of bribe – undue advantage

As noted in the previous report, one of the important elements of bribery as legally defined crime according to international standards is an undue advantage, which covers the benefits of an intangible (i. e., benefits that are not a physical object and their value is not accurately measured) or non-monetary nature (i. e., non-money or not comprising of money).

At the same time, amended criminal law of Uzbekistan does not include the intangible benefit as a subject of bribe. This refers, in particular, to Article 210 of the Criminal Code “Accepting a bribe”, which includes only material values or property benefits: “knowingly unlawful acceptance by an official – personally or through an intermediary – of material values, or gaining material benefit for action or failure to act that the official had to or could have committed using his official position.” The same definition of the subject of a bribe is contained in Article 211 of the Criminal Code “Bribe giving”.

Bribery in favour of the third parties

The next necessary element of *corpus delicti* of bribery is the commission of the crime in the interests of the third parties. It means that the state must criminalize unlawful transfer of tangible or intangible benefits not only to the official himself, but also to any other natural or legal person, if this advantage is granted in exchange for action or inaction while performing his duties. At the same time, according to internationally accepted standards such beneficiaries – third parties can be any natural or legal persons, both close to the above official or not.

At present, the Criminal Code of Uzbekistan, as before, does not criminalize bribery in favour of the third parties, and considers as criminal offense only accepting a bribe by an official himself or giving a bribe to such a person. At the same time, the quotation from Articles 210 and 211 of the Criminal Code of the Republic of Uzbekistan cited in the past report, confirming this conclusion, is relevant for mentioning in the current document as well. According to *corpus delicti* mentioned

⁴⁷ Article 167 - Theft by misappropriation or embezzlement; Article 168 - Fraud; Article 192-2 - Violation of the procedure for conducting inspections and audits of financial and economic activities of business entities; Article 192-3 - Illegal suspension of activities of business entities and (or) operations on their bank accounts; Article 192-4 - Forced involvement of business entities in charity and other events; Article 192-5 - Violation of legislation on licensing and licensing procedure; Article 192-6 - Unlawful refusal, non-use or obstruction in the application of benefits and preferences; Article 192-7 - Unjustified delay in providing of funds to business entities and other organizations; Article 192-8 - Unlawful demand to provide information on the availability of funds on business entities' accounts; Article 192-9 - Commercial bribery; Article 192-10 - Bribing an employee of a non-state commercial or other non-governmental organization; Article 192-11 - Abuse of power by officials of non-state commercial or other non-governmental organizations; Section 205 - Abuse of power or authority; Article 206 - Excess of power or authority; Article 207 – Negligence by officials; Article 208 – Failure to use authority; Article 209 - Official forgery; Article 210 - Taking a bribe; Article 211 - Bribe giving; Article 212 - Mediation in bribery; Article 213 - Bribery of a government official, of an employee of an organization with state participation or a local self-government body; Article 214 - Illegal receipt by a government official, by an employee of an organization with state participation, or of a local self-government body of material values or material benefits; Article 243 - Legalization of income derived from criminal activities.

in these articles, accepting a bribe is “knowingly illegal acceptance of tangible valuables or acquisition of pecuniary benefits by a government official, of an employee of an organization with state participation or of a local self-government body, personally or through an intermediate person”. Whereas giving a bribe is “knowingly illegal provision of tangible valuables or of pecuniary benefits, to a government official or to an employee of an organization with state participation or of a self-government body personally or through an intermediate person”.

While filling up the questionnaire, representatives of Uzbekistan authorities, as in the previous time, provided a list of Judgments of the Plenum of the Supreme Court of Uzbekistan, where they referred, among other things, to the Supreme Court’s judgment *On judicial enforcement in anti-bribery cases*. It should be noted in this regard that this decision has not been ever amended. Therefore, the experts' conclusions made during the previous round of assessment, with reference to Article 4 of the Criminal Code of the Republic of Uzbekistan, as well as the *Courts Act*, of the Republic of Uzbekistan, remain fair and reasoned in the opinion of the monitoring group. The clarification specified in clause 5 of the above-mentioned judgment by the Plenum of the Supreme Court does not apply to the cases described above, and therefore cannot be considered as clarifying the issue of criminalization of bribery in favour of the third parties.

Moreover, this conclusion is confirmed by examples of the practical implementation of these articles by law enforcement agencies and the courts of Uzbekistan, which were provided as the answers to the questionnaire. It should be noted that in none of the criminal cases described, the issue was not about situations when the subject of a bribe was transferred to a third party, who would not be an intermediary on the part of the briber or the person receiving the bribe. In other words, such a person has always acted as an intermediary and was not an independent third party in whose favour the subject of the bribe was transferred.

Promise and offer of a bribe, acceptance of promise and offer

The recommendations of the previous report described in a comprehensive manner some other international standards stipulated for by the three main international documents: the OECD Anti-Bribery Convention, the Council of Europe Convention on Criminal Liability for Corruption and the UN Convention against Corruption. What is meant is that there are constituent elements of active bribery, which should include a deliberate proposal, promise or provision of unlawful benefits to a public official. It should be noted that all above Conventions stipulate the need to criminalize such actions as separate completed crimes. In the same way, the request of an undue advantage and the acceptance of a proposal / promise of such an advantage as such should be criminalized as completed and autonomous actions.

The relevant amendments to the Criminal Code of Uzbekistan have not been made. While filling up the questionnaire and during on-site visit by the monitoring group the Uzbekistan representatives confirmed that the issue of criminalization of the above elements has not been resolved to date.

In the context of the above, it should be expressly indicated that the constituent elements criminalizing bribery in the private sector, introduced in the Criminal Code of Uzbekistan by the Law of August 20, 2015 (liability for commercial bribery, bribery of an official of the non-governmental commercial or other non-governmental organization) do not contain all elements provided for in Article 21 of the UN Convention. This issue was brought to notice in the previous report, which focused on the fact that, in accordance with international standards, the composition of bribery in the private sector should, like similar crimes in the public sector, include the same elements: promise and proposal – for an active bribery; request and acceptance of offer / promise –for a passive bribery; undue advantage in intangible and non-monetary form; beneficiary – is the third party. However, this issue has not also been resolved as for today.

When making the appropriate amendments, it is important that they cover the formal components of the bribe not only when “officials” are concerned, but also employees of a government body, of an organization with state participation or of a local self-government body. Only in this case

will the Criminal Code meet the standards regarding the definition of the country officials, which should not be limited to employees performing certain functions or bearing certain powers.

Liability of legal entities

Uzbekistan has not made any tangible progress in implementing this recommendation. Nevertheless, the experts recognize as a positive step the inclusion in the new *Law on Combating Corruption* of the provision that legal entities are liable to criminal sanctions if they commit corruption offenses (Article 27).

It should also be added that, representatives of the Uzbekistan authorities while answering the questions in questionnaire mentioned the Decree of the President of the Republic of Uzbekistan PP-No. 3723 of May 14, 2018, which approved the Concept of key improvements of the system of criminal and criminal procedure legislation.

Although this document is of quite general nature, its positive feature is that it provides for not selective changes only, but aims at the development of new Criminal and Criminal Procedure Codes, and contains at the same time specific deadlines for their preparation - December 1, 2019. An Interdepartmental Commission headed by the Prosecutor General was formed to implement the tasks set, and, according to the Uzbekistan sources, the commission is actively working on relevant projects. A study of international best practices in the field of criminal and criminal procedure law is planned as a part of the tasks assigned.

The experts positively assess this initiative and urge the Uzbekistan authorities to conduct a comprehensive reform in accordance with international anti-corruption standards and to take into account the recommendations that have been given in this area to Uzbekistan in the monitoring reports under the Istanbul Action Plan.

Other corruption-related offences and their constituent elements

As to the other corruption-related offences, i. e. “concealment”, “abuse of official position”, “abuse of influence”, “illegal enrichment”, which were recommended to Uzbekistan authorities to consider their criminalization in follow up of the Third Round of Monitoring, it should be noted that no significant progress was achieved in this field. While answering the questions of the questionnaire, the Uzbekistan representatives again referred to the document already mentioned above – *The Concept for the Improvement of the Criminal and Criminal Procedure Legislation of the Republic of Uzbekistan*. The experts of the Monitoring Group, call upon in this regard the Uzbekistan authorities to consider and positively resolve these issues in the framework of implementing the Concept.

It should be noted that a number of ultimately corruption-related acts are included in the **Administrative Offences Code** of the Republic of Uzbekistan. These cover bribing of an employee of a non-state commercial or other non-governmental organization (Article 61-1 of the Administrative Offences Code), bribing an employee of a government agency, of an organization with state participation or of a self-government body, as well as unlawful acquisition by above employee of tangible valuables or of pecuniary benefits (Articles 193-1 and 193-2 of the Administrative Offences Code). Administrative liability for such acts is contrary to international standards, which require the criminal liability for their commission. The constituent elements of above offences should be removed from the Administrative Offences Code and included in the Criminal Code (without the requirement of administrative prejudice).

Abuse of power or authority

We should specially focus on criminalization of abuse of power or authority provided for by Article 205 of the Criminal Code of Uzbekistan. Analysis of this statutory provision indicates that abuse of power or authority is a corruption inspiring. What is meant here is that there is no definition of the “substantial harm” concept, which is one of the mandatory elements of *corpus delicti* of the kind. The experts in the course of the on-site visit did not receive an unequivocal answer to the question of what is meant by material harm and how law enforcement authorities

determine it. The representatives of Uzbekistan confirmed that this element is an estimate made at discretion, however, there are no problems with when applied. This approach according to the experts, bears a corruption risk that can be both in holding responsible without sufficient grounds and in avoiding the responsibility by the offender.

Similar conclusions were made in monitoring the progress of the Istanbul Anti-Corruption Action Plan in other countries. The problematic nature of individual elements of the abuse of power was also given attention to in the Final Report on the Results of the Third Round of Monitoring of the IAP⁴⁸.

Trading in influence

Trading in influence is not criminalized in Uzbekistan to date. According to the UN Convention against Corruption, criminalization of this act is optional. But monitoring of the Istanbul Action Plan does not deal with the provisions provided for in the UN Convention only, with its mandatory provisions in particular. IAP monitoring is based on a wide range of standards, and the UN Convention is only one of them. Criminal liability for trading in influence, for example, is obligatory for the member states in accordance with the Council of Europe Criminal Law Convention on Corruption (Article 12).

As noted in other IAP reports (see, for example, reports on Kazakhstan), trading in influence should be criminalized in all IAP countries, including in Uzbekistan since the IAP monitoring mechanism is not formally limited to any particular convention and carried out on the basis of broad international anti-corruption standards.

It is also taken into account that such elements of crimes as fraud, abuse of official authority or excess of power / authority does not cover all aspects of *Abuse of influence for mercenary purposes*, as provided for in Article 18 of the UN Convention against Corruption.

New Recommendation № 30

- 1. To amend the Criminal Code, providing that:**
 - b. any undue advantage, including intangible and non-monetary benefits, are recognized as a bribe of any persons in both the public and private sectors;**
 - a. all mandatory elements of bribery offences in both the public and private sectors are criminalised, including the promise and offer of a bribe, a request, acceptance of a promise / offer of a bribe, a bribe in favour of a third party, “personally or through an intermediary”;**
 - b. trading in influence is criminalised according to international standards;**
 - c. provisions on abuse of power or official authority are amended to define the meaning of the term “substantial harm” by setting criteria separately for material and non-material harm.**
- 2. To ensure that all bribery offences, including those provided for in the Administrative Liability Code, are covered by the Criminal Code.**
- 3. To establish and ensure implementation in practice of the dissuasive and effective liability of legal entities for corruption crimes in accordance with international standards. Conduct training and provide investigators, prosecutors and judges with practical guides and explanations on the effective application of the liability of legal entities.**
- 4. Consider establishing criminal liability for illicit enrichment.**

⁴⁸ See: OECD Summary Report (2016). Anti-Corruption Reforms in Eastern Europe and Central Asia. Progress and Challenges, 2013 – 2015, p. 106 – 107. Available at <https://www.oecd.org/corruption/acn/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-RUS.pdf>.

Money laundering

Liability for legalization of income derived from criminal activities is established by Art. 243 of the Criminal Code of Uzbekistan⁴⁹. Certain aspects of this rule of law administration are explained in the resolution of the Supreme Court of the Republic of Uzbekistan dated February 11, 2011 No. 1 *On some issues of judicial practice in cases of money laundering*⁵⁰.

Uzbekistan has provided statistics that indicate how this rule of law is administered, and the data are commendable and distinguish Uzbekistan from other IAP countries. Although the number of cases prosecuted and judgments delivered decreased in 2018.

Table 21. Statistics of criminal prosecution of money laundering

| Years | Number of cases prosecuted | Number of cases dismissed by the prosecutor | Number of cases going to trial | | Number of cases with Court Judgment |
|--------------------|----------------------------|---|-----------------------------------|--|-------------------------------------|
| | | | with indictment or a charge sheet | On the basis of Amnesty Act or conciliation of Parties | |
| 2016 | 22 | | 22 | | 22 |
| 2017 | 14 | 1 | 13 | | 13 |
| 2018 (9 months) | 8 | | 7 | | 6 |

At the same time, the experts note that *corpus delicti* of money laundering is connected to prior proving a predicate offense with the source of income subject to legalization. Uzbekistan, like many other countries in the region, does not apply this rule of law autonomously. In practice, the prosecution for money laundering is triggered only simultaneously or after a predicate offense is proved. It does not conform to international standards.

This is facilitated by the very formulation of *corpus delicti*, where the words “criminal” and “criminal activity” are commonly used in the title and in the text, and this can be regarded as an indication of a need to prove the predicate offense. The same formulations are used in the ruling of the Plenum of the Supreme Court.

It is recommended therefore in the Criminal Code of Uzbekistan to explicitly provide for liability for money laundering separately from the criminal prosecution of a predicate crime (see examples of legislation of Ukraine and Tajikistan).⁵¹

⁴⁹ "Legalisation of income derived from criminal activity, that is, giving a legal form to the origin of property (money or other property) by transferring it, transforming it or exchanging it, or hiding or hiding the true nature, source, location, method of disposal, movement, genuine rights in relation to money or other property or its affiliation, if money or other property is received as a result of criminal activity, - is punished with imprisonment from five up to ten years."

⁵⁰ Available at: <http://www.lex.uz/acts/1766551>.

⁵¹ In Tajikistan, Article 262 of the Criminal Code specifically stipulates (Note 9) that criminal liability for money laundering of illegally obtained revenues occurs regardless of whether the offender was prosecuted for the main (predicate) crime, which resulted in illegally received funds. In Ukraine, the concept of “cash or other property obtained as a result of a socially dangerous unlawful act, which preceded the legalization of income (money laundering) is used. Money laundering is therefore a part of the relevant crime (Art. 209 of the Criminal Code)”. Besides, the Criminal Procedure Code of Ukraine (Article 216) was amended in 2015 to explicitly provide that liability for money laundering is carried out without prior or simultaneous criminal liability for the predicate crimes, in particular in cases where: 1) predicate offense is committed outside Ukraine, and money laundering - in

New Recommendation № 31

1. *Establish directly in the criminal law the possibility of bringing to liability for money laundering without the need of prior or simultaneous conviction for the predicate act.*
2. *To conduct training of investigators, prosecutors and judges on effective prosecution of money laundering cases, including on the autonomous nature of such liability according to international standards.*
3. *Explain in the resolution of the Plenary Assembly of the Supreme Court and in other guidelines for the investigating authorities, the prosecutor's office and the courts the need to conduct a financial investigation and the autonomous nature of the crime of money laundering with a view to its more active use in practice.*

Foreign bribery

According to Section VIII of the Criminal Code of Uzbekistan, the definition of a foreign official is included in the general definition of an official, which means:

- a person appointed or elected permanently, temporarily or having discretionary power performing the functions of a representative of an authority or performing organizational, administrative and economic functions in government bodies, self-government bodies of citizens, in enterprises, institutions, organizations, regardless of forms of ownership and authorized to commit legally binding actions, as well as a person performing these functions in an international organization or in a legislative, executive, administrative judicial or judicial body of a foreign state.

From this definition it follows that a foreign official is a person performing only the functions of a representative of authority or organizational, administrative and economic functions in an international organization or in a legislative, executive, administrative or judicial body of a foreign state. At the same time, the element “appointed or elected permanently, temporarily or having discretionary power” does not apply to foreign officials.

Such a definition is not in full conformity with international standards.

“Foreign public official” is defined in the UN Convention (Art. 2) as any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or a public enterprise.” “Official of a public international organization” means an international civil servant or any person who is authorized by such organization to act on behalf of that organization”. A similar definition is also found in the *OECD Convention on Combating Bribery of Foreign Officials*.

The definition in the Criminal Code of Uzbekistan is much narrower than that stipulated in the conventions, since it does not contain the element “holding a legislative, executive, administrative or judicial office of a foreign country”, restricting public functions to “organizational, administrative and economic ones”. The definition in terms of officials of a public international organization does not somewhat meet the standards as well.

As specified in the Final Report on the Third Round of Monitoring of IAP the definition of a foreign public official in accordance with international treaties should include the following groups:

1. Persons holding a legislative, administrative or judicial position in a foreign state (regardless of whether the person is elected or appointed; whether he/she holds his/her

the territory of Ukraine; 2) the fact of committing a socially dangerous unlawful act, which preceded the legalization of income (money laundering), is established by the relevant procedural judgments of the court.

- position permanently or temporarily; whether his/her work is paid or not; regardless of whether he/she holds high – ranking position or not)⁵²;
2. Officials and agents of international public organizations (including those authorized by such organizations to act on their behalf)⁵³;
 3. Persons performing public functions (e. g., for a public agency or public enterprise)⁵⁴;
 4. Members of parliamentary assemblies of international and supranational organizations⁵⁵;
 5. Persons holding judicial positions or officials of an international court⁵⁶;
 6. Persons providing public services (such as notaries, lawyers and auditors)⁵⁷;
 7. Arbitrators of national and foreign arbitration courts (tribunals of arbitrators)⁵⁸ and
 8. Jurors in the judicial system of another country⁵⁹.

As noted on numerous occasions in the IAP Reports, the IAP monitoring mechanism is not formally limited to any particular convention and covers broad international anti-corruption standards. It is recommended therefore, that Uzbekistan should bring the definition of a foreign official and an official of an international organization in compliance with international standards to the fullest. Autonomous definitions of these concepts should also be included in the Criminal Code, without mixing them up with the definition of a national official. These changes should also be reflected in *corpus delicti* of corruption cases, which should be extended to such persons.

Legal precedents. One criminal case was initiated against bribing a foreign official under Article 211 of the Criminal Code (bribery) according to the information provided by Uzbekistan for the period of 2016 – 2017 and 9 months of 2018. Mr. Akhmedov A.A., a citizen of the Republic of Uzbekistan, during his stay in the Russian Federation, was stopped on May 19, 2015 by an inspector of the patrol service for violating traffic rules while driving and attempted to give 500 roubles to the police officer as a bribe when drawing up a protocol on administrative offense. By a court sentence of April 27, 2017, Mr. Akhmedov A.A. was found guilty of committing a crime, under Part 1 of Art. 25 and Art. 211 of the Criminal Code. Mr. Akhmedov A.A. was sentenced to 2 years imprisonment and then released from penalty due to the act of amnesty.

See new recommendation below.

⁵² OECD Convention Against Corruption, Article 1.4 (a); EU Convention Against Corruption Articles 1 and 6, Explanatory Report, §28; UN Convention Against Corruption (UNCAC), Article 2 (a), (i), (b).

⁵³ OECD Convention against Corruption, Article 1.4 (a); UNCAC, Article 2 (c).

⁵⁴ OECD Convention against Corruption, Article 1.4 (a); UNCAC, Article 2 (a), (ii), (b).

⁵⁵ CE Convention on Criminal Liability for Corruption, Article 10. The Council of Europe Convention contains a qualifying characteristic, namely that a country should be a member of such international or supranational organization. However, the OECD Convention does not provide for such a limitation.

⁵⁶ CE Convention on Criminal Liability for Corruption, Article 11; Explanatory Report to the CE Convention, §63. The Council of Europe Convention contains a qualifying characteristic, namely that a country should recognize the jurisdiction of such a court. If we consider the international court "international organization", the OECD Convention does not provide for such a limitation.

⁵⁷ UNCAC, Article 2 (a), (ii). Note that the idea of a person rendering "public service" is a public official is included in the definition of "public official" in the UNCAC, but is not explicitly included in the definition of "foreign public official" in the UNCAC.

⁵⁸ Additional Protocol to the CE Criminal Law Convention on Corruption, Articles 1, 2 and 4; Explanatory Report to the Additional Protocol, §9.

⁵⁹ Additional Protocol to the CE Criminal Law Convention on Corruption, Article 6; Explanatory Report to the Additional Protocol, §37.

Jurisdiction of Uzbekistan

As jurisdiction issue over corruption crimes is concerned, international standards share one view on the following:

- first, any state, without prejudice to the norms of general international law, in accordance with its domestic law, can establish any jurisdiction as criminal liability in relation to corruption offenses is concerned;
- second, each state is obliged to establish jurisdiction at least over corruption offense committed in the territory of the state or on board a ship that carried the flag of that state at the time of the crime, or on board an aircraft registered in accordance with the legislation of that state.

Furthermore, the *UN Convention against Corruption* (Article 42 § 2 – 4) states that there is a need to establish jurisdiction in relation to corruption offenses committed: against a citizen of a state or the state itself; by a citizen of the state or a stateless person who usually lives in its territory; by a person outside the territory of the state in order to commit any corruption offense in its territory; by a person who is in its territory and at the same time the state does not extradite such person for any reason, including on the grounds that he is one of its citizens.

There are some issues which should be placed at the higher standards: these are establishment of jurisdiction in respect of crimes committed by foreign citizens or stateless persons in the territory of another state in complicity with citizens of the state in question (Part 1, Article 17 (c) of the *Council of Europe Criminal Law Convention on Corruption*) as well as offences against foreign officials committed outside the territory of the state (Part 2 of Article 4 of the *OECD Convention against Corruption*).

Considering the legislation of Uzbekistan from the perspective of these standards, we should specify the high degree of compliance achieved by the Uzbekistan in this sphere.

In particular, Uzbekistan has established jurisdiction to date on two main principles - territorial and subjective.

At the same time, an extended model of the territorial principle has been applied in Uzbekistan. In particular, according to Article 11, a crime committed in the territory of Uzbekistan should be recognized as an act, which: a) has been initiated, completed or interrupted in the territory of Uzbekistan; b) committed outside Uzbekistan, and the criminal result came to its territory (“objective territoriality”); c) committed in the territory of Uzbekistan, and the criminal result has come beyond its borders; d) forms, as a whole or along with other acts, a crime, part of which is committed in the territory of Uzbekistan.

As subjective criterion is concerned, in accordance with Part 1 of Article 12 of the Criminal Code of Uzbekistan, citizens of the Republic of Uzbekistan as well as stateless persons permanently residing in Uzbekistan, are subject to liability under Criminal Code of Uzbekistan for crimes committed in the territory of another state if they were not punished by a court of the state in whose territory the crime was committed.

In the same way, foreign citizens, as well as stateless persons who do not reside permanently in Uzbekistan, in accordance with the provision of the same article (Part 3 of Article 12 of the Criminal Code of Uzbekistan) are liable for crimes committed outside the country only if it is stipulated by international treaties or agreements.

It should be noted that the experts did not receive an answer to the question of whether the UN Convention against Corruption can be regarded as the international treaty referred to in Article 12 Part 3 of the Criminal Code of Uzbekistan, on the basis of which Uzbekistan can exercise jurisdiction over corruption crimes committed outside of Uzbekistan by foreigners or stateless persons who do not reside permanently in Uzbekistan. Nevertheless, experts note, as a positive, the existence of this norm and call on the Uzbekistan authorities to develop their position and to expand the jurisdiction of Uzbekistan to universal.

This will be consistent with the best practices of other countries that have established universal jurisdiction for corruption offenses. For example, according to Article 7 of the Criminal Code of Lithuania, the list of crimes that are provided for in international treaties, including active bribery, is covered by universal jurisdiction, which means that Lithuania has the jurisdiction to prosecute active bribery in criminal proceedings regardless of citizenship and / or residence of the accused, regardless of where the crime was committed and regardless of whether responsibility is established for such a crime in the country where it has been committed.⁶⁰

Besides, the experts welcome the statements of the Uzbekistan authorities about their intention to consider expansion of jurisdiction, as recommended by *UN Convention against Corruption*, within the framework of the implementation of the Concept for Improving Criminal and Criminal Procedure Law.

The progress in these issues is very important because it allows the state to provide additional protection of the rights of its citizens, as well as their interests in cases of corruption in the territory of other states. Moreover, it helps to prevent situations where the state is gas in possession of the evidence base or there is a probable criminal on its territory, but it cannot take measures to bring him to criminal liability due to the lack of jurisdiction.

New Recommendation № 32

1. *To include in the Criminal Code autonomous definitions of a foreign public official and an official of an international organisation and bring them in line with international standards.*
2. *To conduct training of investigators, prosecutors, judges, representatives of the diplomatic missions of Uzbekistan on the effective detection, investigation, prosecution and adjudication of criminal cases concerning foreign bribery.*
3. *To provide in the Criminal Code the jurisdiction of Uzbekistan in cases of corruption crimes committed in the territory of another state: a) against a citizen of Uzbekistan or a state of Uzbekistan, by defining relevant criteria; b) committed by foreign citizens or stateless persons in complicity with the citizens of Uzbekistan.*
4. *Consider establishing a universal jurisdiction for cases of foreign bribery bribing and other corruption crimes, namely establishing jurisdiction over such crimes regardless of the nationality of the person who committed the crime or the place of its commission.*

Sanctions for corruption offences

Sanctions for corruption-related offences must be effective, proportionate and restraining as provided for by international standards. You should also keep in mind that there is a close connection between sanctions and international legal assistance, in particular extradition of the suspect, as well as transfer of a person accused of having committed or convicted of corruption crimes. In both cases (legal aid (extradition) / transfer), the type and amount of the sanction play an important role, since they are key factors for requesting the extradition or transfer of a person.

Most conventions, as well as the practice of concluding bilateral treaties on legal assistance and transfer of convicted persons for further serving of sentences, show that negotiating countries, as a rule, contacting internationally on extradition / transfer of persons adhere to the principle of comparison of the type and amount of punishment provided for legislation of the respective countries. Uzbekistan, for example, is a State Party to the *Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases* (concluded in Minsk on January 22, 1993). Article 56 of the Convention states that “extradition for criminal prosecution is carried out for such

⁶⁰ OECD Working Group, 2017, Stage 1, Report on Lithuania, §69, available at: <https://www.oecd.org/corruption/anti-bribery/Lithuania-Phase-1-Report-ENG.pdf>.

acts which, according to the laws of the requesting and requested Contracting Parties, are liable to punishment and for which the punishment is imprisonment of at least one year or more. Extradition to execute a sentence is made for such acts which, in accordance with the law of the requesting and requested Contracting Parties, are liable to punishment and for which the person whose extradition is required has been sentenced to imprisonment for at least six months or more.”

In view of this, considering sanctions for corruption provided for by the Criminal Code of Uzbekistan, from the perspective of the above provisions, Article 192-10 “Bribing an employee of a non-state commercial or other non-governmental organization”, Part 1 of Article 213 “Bribing an employee of a state body, organization with State participation or self-government body”, Part 1 of Article 214 “Illegal receipt by an employee of a state body, an organization with state participation or a self-government body of material values or property benefits” does not fully meet international standards, since, in principle, they do not provide for punishment of imprisonment.

Moreover, the negative aspect of the presence of the so-called “administrative prejudice” as a basis for criminal liability should be noted which also does not contribute to international legal assistance and raises additional questions about to what extent this element should be taken into account when comparing *corpus delicti* provided for by the Laws of Uzbekistan and of other countries. As noted earlier, corruption behaviour should be covered by criminal law and, accordingly, after the abolition of such *corpus delicti* in the Administrative Liability Code, the rules on administrative prejudice should be eliminated.

New Recommendation No. 33

Amend sanctions provided for in Article 192-10, part 1 of Article 213, part 1 of Article 214 of the Criminal Code of Uzbekistan, to include an alternative punishment in the form of imprisonment for a term of not less than one year.

Uzbekistan is partially compliant with previous Recommendation No. 5.

Recommendation No. 6 of the Report of the Third Round of Monitoring in Uzbekistan:

Promote training of representatives of the academic community in international standards and best practices of countering corruption, in order to foster effective law-making process in terms of bringing anti-corruption legislation into full compliance with international standards.

In order to prove that this recommendation was implemented, Uzbekistan provided information on a number of events that were held during 2015 – 2018 where representatives of the academic circles took part (various round tables, seminars, training courses, etc., including those with international experts participating).

A practical study aimed at legal aspects of legal entities brought to criminal, administrative and civil liability for committing corruption crimes was carried out at the Centre for Advanced Training of Lawyers. The work was financed by grant No. П3-20170928486 given by the Ministry of Innovation Development of the Republic of Uzbekistan on January 4, 2018. The grant provided for publication of findings of the work financed as well and on the basis of this study a training toolkit *Institutionalization of the liability of legal entities for corruption crimes in post-Soviet countries* was issued.

The experts of monitoring group distinguished numerous events held after analysing the information provided, and this indicates, in their opinion, that Uzbekistan’s significant efforts in this sphere are welcome. At the same time, only a part of the activities directly related to the recommendation; there is also no information on the use of the experience gained as a result of these activities in the legislative process.

Keeping the above in mind and recognizing the positive trend, experts called on the authorities of Uzbekistan to continue this practice, as well as to use positive experience in the legislative process.

Uzbekistan is largely compliant with the previous Recommendation No. 6

Confiscation

Recommendation 7 of the Report of the Third Round of Monitoring of Uzbekistan

1. Take measures to enable regulations providing for confiscation of proceeds of crime derived from the corruption-related offences to be in line with the international standards, including as follows:

- *Provide for a legal definition of the term “confiscation”;*
- *Adopt provisions that enable confiscation in all situations of:*
 - *proceeds of crime that have been transformed or converted, in part or in full, into other property;*
 - *proceeds of crime that have been intermingled with property acquired from legitimate sources;*
 - *income or other benefits derived from proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled;*

2. Consider adopting a provision that requires an offender to demonstrate the lawful origin of the alleged proceeds of corruption offences or other property liable to confiscation.

Recommendation No. 8 of the Report of the Third Round of Monitoring of Uzbekistan

Regularly collect and analyse statistical data on the use of confiscation in corruption-related cases and use these analysis findings to improve legislation and practice

In the course of the previous round of monitoring, the experts analysed in reasonable detail to what extent the legislation of Uzbekistan comply with international standards as confiscation is concerned. In particular, it refers to the obligations of the State Parties to the *UN Convention against Corruption* to make it possible to confiscate the proceeds of corruption (or property of equivalent value) and the tools used to commit a crime (Art. 31 of the Convention). In addition, the same Article refers to the need to ensure the confiscation of the proceeds of crime, which were:

- transformed or converted, in part or in whole, into other property;
- added to property acquired from legal sources (to the extent that corresponds to the assessed value of the income included); and
- added to profits or other benefits derived from such proceeds of crime, from property into which such proceeds of crime were transformed or converted, or from property to which such proceeds of crime were added.

Significant changes in the legislative regulation of confiscation since the previous round of monitoring, unfortunately, did not take place. As in the previous rounds, similar extracts from the Criminal Code and the Criminal Procedure Code of Uzbekistan were quoted by the authorities as their responses to the questionnaire, and this is to confirm that only a portion of the issues related to confiscation are covered currently by the legislation of Uzbekistan.

The Criminal Procedure Code although does not containing a definition of the concept of “confiscation”, regulates anyway how this procedure is to be applied (Article 211 paragraph 1 and 5, Article 289). From this perspective, only the instruments of crime and money as well as other valuables acquired in a criminal way are still subject to confiscation.

The authorities of Uzbekistan referred to the amendments to paragraph 1 of Article 211 of the revised version of the Criminal Procedure Code which was set out by the law of October 16, 2017. However, after analysing these amendments, the experts came to the conclusion that these provisions were outside the framework of extending possible purview of confiscation and aimed to increase guarantees of the rights of legal owners of property that are illegally used to commit a

crime. In turn, the provisions of paragraph 5 of Article 211 and Article 289 of the Criminal Procedure Code of Uzbekistan remained unchanged.

Consequently, under circumstances where there is no legislative definition of the term “confiscation” for the purposes of the Criminal Procedure Code, the problem identified by experts during the Third Assessment Round continues to be relevant at the time of the current monitoring. In paragraph 5 of Article 211 of the Criminal Procedure Code the fuzzy wording “money and other values” is used; there is no legislative definition of the concept of an “object of crime”. These gaps do not allow us to say that the legislation of Uzbekistan includes all elements of confiscation, as provided for by international standards, which refer to assets of any kind, whether tangible or intangible, movable or immovable, expressed in things or rights, as well as legal documents or acts confirming the ownership of or interest in such assets.

Uzbekistan did not provide information whether the issue was considered of possible confiscation in civil cases, and whether a provision on “shifting the burden of proof” is adopted whereby the offender will have to prove the legality of the origin of the alleged proceeds from the crime or other property subject to confiscation. In the latter case, the authorities of Uzbekistan referred to the fact that this issue will be considered within the framework of the implementation of the *Concept of Improving the Criminal and Criminal Procedure Law of the Republic of Uzbekistan*, approved by the Decree of the President of the Republic of Uzbekistan *On Measures to Improve the System of Criminal and Criminal Procedure Law* dated May 14, 2018.

It is worth mentioning as a positive sign the efforts undertaken by Uzbekistan with regard to confiscation provided for in Article 243 of the Criminal Code of Uzbekistan *Legalization of income derived from criminal activities*. According to the Uzbekistan authorities, when resolving the issue of confiscation in this category of cases, the courts apply, along with the provisions of the *Code of Criminal Procedure*, the provisions of Article 3 of the *Law on Countering the Legalization of Proceeds from Crime and Financing of Terrorism*. It is this act that contains the definition of income derived from criminal activities, which is interpreted as cash and other property obtained in consequence of the commission of a crime, as well as any profit or benefit derived from the use of such property, as well as transformed or converted in full or in part to other property or added to property acquired from legitimate sources.

As confiscation of assets of the third parties is concerned, the Uzbekistan authorities while giving answers to the questionnaire referred to (as previously) Part two of Article 285 of the Criminal Procedure Code of Uzbekistan, according to which, if the property that was the subject of the crime was found to belong to the third parties, withdrawn and returned to the true owner, the money, things and other valuables acquired by the defendant through the sale of this property, according to the verdict of the court, are turned into state ownership. The *bona fide* acquirer of the property returned has the right to file a lawsuit in civil proceedings against the convicted person for compensation for damage caused by the withdrawal of this property.

After analysing this statutory provision, the experts, as before, consider it impossible to assess it as sufficient. This norm of law, in their opinion, applies to cases of seizure of the third-party items of crime, which are subject to be returned, that is, illegally dropped from property, and is not confiscation from third parties as such. Such a conclusion, according to the experts, is confirmed by the fact referred to by the Uzbekistan representatives that there is a problem with the use of confiscation in corruption cases where the property is registered in the name of the third parties, as well as where there is no law-enforcement practice that refutes this information.

In the context of the above, importance of the previous Recommendation No. 8, should be emphasized which stresses the need for Uzbekistan to conduct regular collection and analysis of statistical data on confiscation when corruption cases are concerned and – most important – on exploiting the outcomes to improve legislation and practice.

It should be emphasized that Uzbekistan made a progress in this field. It concerns, at a minimum, the fact that it opened the way to maintaining such statistics. The Uzbekistan authorities during on-site visit of the monitoring group provided information for the last three years, (see Table

below) and gave a general idea of the amount of arrested and confiscated property and money in the framework of investigating corruption crimes.

See Annex to the Report where statistics on confiscation in consequence of corruption crimes is presented.

Besides, Uzbekistan authorities noted that the General Prosecutor's Office compiles and analyses such statistics on a monthly basis.

The experts were not provided with any evidence of the use of these insights in practice or in legislative process, however, but noted the progress is made by the Uzbekistan authorities in implementing Recommendation No. 8 of the Report on the Third Round of Monitoring and call for this work to continue on the basis of achievements in the implementation of the *Concept of Improving the Criminal and Criminal Procedure Law of the Republic Uzbekistan*, approved by the Decree of the President of the Republic of Uzbekistan *On measures for the fundamental improvement of the Criminal and Criminal Procedure Law*.

Conclusions

The Criminal Law of Uzbekistan still does not contain a definition of confiscation, as well as of all its elements in accordance with international standards. Statutory provisions of the Criminal Procedure Code, which to one degree or another deal with confiscation, are spread over the Code, and this also makes it difficult to interpret them systematically and use them in all relevant cases. Statutory provisions dealing with confiscation as of the date of the Report of the Fourth Round of Monitoring, did not undergo significant changes. At the same time, Uzbekistan showed some progress in collecting statistics on confiscation.

Uzbekistan is partially compliant with Recommendation No. 7 and is largely compliant with Recommendation No. 8

New Recommendation No. 34

1. *Take measures that allow effective application of the confiscation of proceeds from corruption crimes in accordance with international standards, in particular:*
 - 1) *Include in the criminal/criminal procedure law a legal definition of the terms "confiscation", "proceeds and other valuables acquired by criminal means";*
 - 2) *Extend, in the criminal/criminal procedure law, confiscation regime to:*
 - *proceeds from crime that have been converted or transformed, in whole or in part, into other property;*
 - *proceeds from crime that were added to property acquired from legitimate sources;*
 - *profits or other benefits derived from the criminal proceeds, from property into which such criminal proceeds were converted or transformed into, or from property to which such criminal proceeds were added.*
2. *Consider the introduction of extended confiscation if a person was convicted for corruption crime.*
3. *Regularly collect and analyse statistics on confiscation in corruption cases and use such analysis to improve legislation and practice, as well as ensure publication of such statistics and analysis.*

Asset recovery

Recommendation No. 9 of the Report of the Third Round of Monitoring of Uzbekistan:

4. *Take measures to enable direct recovery of property in accordance with the procedure provided for in Article 53 of the UNCAC, including:*

1. *measures to permit another State Party to initiate civil suits in its courts to establish title to or ownership of the property acquired as consequence of committing any of offences established as an offence in accordance with the UNCAC;*

2. *measures proved necessary to permit domestic courts to order those who have committed offences established in accordance with the UNCAC to pay compensation or damages to another State Party that has been harmed by such offences;*
 3. *measures proved necessary to permit domestic courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as claim of a legitimate owner of property acquired through the commission of an offence established in accordance with the UNCAC.*
5. *Consider adopting provisions that enable confiscation of crime proceeds without a criminal conviction in cases where the offender cannot be prosecuted by reason of death, concealment or absence or in other appropriate cases.*
6. *Take measures to enable the return and disposal of assets as it is established by Article 57 of the UNCAC.*

During the previous round of monitoring, two of the three clauses included in the first item of the recommendation were considered by the experts as compliant on a certain condition (the condition was that the relevant legal precedents were in place), while the third was considered as not compliant. In view of this during the Fourth Round of monitoring, the experts considered compliance of the first two clauses, as well as measures taken by Uzbekistan to implement all three clauses of the first item as a whole.

As Clauses “a” and “b” of Article 53 of the UN Convention (the first two clauses included in Item 1) are concerned: the Uzbekistan representatives while giving answers to the questionnaire mentioned only one case when the money derived from corruption became the property of the foreign state (Kazakhstan). However, no other details (legal grounds, procedures applicable, etc.) were specified. As the other issues of the Convention are concerned, the Uzbekistan authorities referred to the national law that have not changed since the previous round insisting that they are in full conformity with the Convention.

They referred, in particular, to Articles 9 and 79 of the Civil Code of Uzbekistan (hereinafter - the Civil Code) providing that the State participates in the relations covered by the Civil Law on equal basis with other participants of these relations (Article 79 of the Civil Code). Moreover, the State as well as citizens or legal entities, at its discretion, disposes of the right to protect its civil rights (Article 9 of the Civil Code). Government authorities and other bodies specifically authorized by them (Article 79 of the Civil Code) participate in such relations on behalf of the State by delegating the rights to their representatives.

In turn, participation in civil proceedings of foreign citizens and organizations is governed by Section 3 of the Civil Procedure Code. In particular, foreign organizations have the right to appeal to the courts of the Republic of Uzbekistan and enjoy civil procedural rights to protect their interests as provided for in Article 359 of the of Civil Procedure Code

Keeping the above in mind, Uzbekistan authorities believe that the law does not exclude the filing of a claim by a representative authorized by a foreign state or its competent authority when that state suffered harm from a crime.

Further, the Uzbekistan representatives also refer to Articles 56 and 275 – 286 of the Criminal Procedure Code. The above statutory provisions cover the recognition as a civil claimant of a person, enterprise, institution or organization, if property damage has been caused by a crime, as well as the procedure in which the proceedings are carried out. Moreover, the Uzbekistan representatives refer to the Resolution No. 26 of the Plenum of the Supreme Court of the Republic of Uzbekistan *On Judicial Practice on executing Laws providing for Compensation of Property Damage Caused by a Crime*, adopted on December 27, 2016.

After analysis of the above provisions of the legislation has been made the experts nevertheless consider them to be insufficient, since, first, in all the provisions of the Civil Code and the Criminal Procedure Code the concept of “foreign state” is not mentioned, as well as the “state bodies of a foreign state” as the subjects or participants of the legal procedure. Second, there is no relevant court practice, which was determined during the Third Round as a condition to recognize that Uzbekistan is compliant to the recommendation.

Given the above, the national legislation of Uzbekistan still requires appropriate amendments.

The experts took into account information on organizational measures taken by the Prosecutor General's Office, which continues to conclude agreements (memorandums) with the much the same offices of foreign countries on cooperation on combating money laundering of proceeds from crime, financing of terrorism, and asset recovery⁶¹. This practice is positive and should be continued.

As the second paragraph of the recommendation is concerned (adoption of legal norms providing for confiscation of proceeds of crime without sentencing ...) and the third paragraph of the recommendation (to take measures to ensure return of assets and disposal of them in the manner provided for in Article 57 of the UN Convention), it should be noted that new clauses to Uzbekistan's national legislation were not adopted yet. There is also no information provided on such amendments to be adopted in future. This implies, that no new information was provided in comparison to the previous round of monitoring.

Uzbekistan is partially compliant with previous Recommendation No. 9, and it remains in effect as a new Recommendation No. 35.

Immunities

Recommendation 10 of the Report of the Third Round of Monitoring of Uzbekistan

1. *Adopt a simple, clear and transparent procedure for depriving immunity of those categories of persons for whom such procedure is not provided by law.*
2. *Limit the categories of officials benefiting from immunity, as well as the frames of inviolability, so that immunity of officials only applies to acts committed by them when performing their official duties.*
3. *Provide clear regulations of possible investigative and / or criminal proceedings against persons benefiting from immunities before their immunity is deprived so that the immunities do not impede effective investigation and prosecution of corruption-related cases.*

Information provided by the Uzbekistan authorities in their response to the questionnaire shows that there are no amendments to the law since the Report of the Third Round of Monitoring Uzbekistan has been presented, that would be relevant in assessing the extent of implementing Recommendation 10.

Same as before, officials with immunities include: deputies, members of the Senate of the Oliy Majlis of the Republic of Uzbekistan (senators), Commissioner for Human Rights of the Oliy Majlis of the Republic of Uzbekistan (Ombudsman), Commissioner under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities, judges and prosecutors (Article 223 of the Criminal Procedure Code).

Persons with immunity cannot be detained, taken to law enforcement, prosecuted, arrested or subjected to administrative penalties.

The procedure for initiating a criminal case, depriving immunity, obtaining consent for criminal prosecution, detention, imprisonment and certain investigative actions is regulated by various legislative acts.

For example, according to the *Law On the Ombudsman of the Oliy Majlis (Ombudsman)*, the ombudsman enjoys immunity and cannot be held criminally liable, detained, arrested or subjected to an administrative penalty in a legal procedure, without the consent of the Oliy Majlis chambers of the Republic of Uzbekistan.

⁶¹ The Uzbekistan representatives informed about 17 agreements (memorandums) concluded as for today with financial intelligence authorities (or similar bodies) of other countries.

| | | | | | | | | |
|--|--------------------|----|----|--|----|--|---|---|
| | Investigator | 1 | 1 | | 1 | | | |
| | Ombudsman | | | | | | | |
| | Business ombudsman | | | | | | | |
| | Total | 33 | 32 | | 30 | | 1 | 1 |

Uzbekistan authorities informed the experts in the course of the on-site visit about a new draft law *On amendments to some legislative acts of the Republic of Uzbekistan*. This draft law, according to them, provides for adoption of a simple, transparent procedure for withdrawing immunity from some categories of persons, as well as the procedure for regulating certain criminal proceedings against persons who have immunities before their immunity is withdrawn.

After examining provisions of the draft law, the experts believe that the draft submitted can indeed be an important step towards the implementation of the recommendation. However, there are some doubts about Article 591-5 of the draft law providing termination of criminal cases in accordance with paragraph 4 of Article 83 of the Criminal Procedure Code in case the relevant authorities of Uzbekistan⁶² decline the appeal to withdraw the immunity of a person referred to in paragraphs 1-5 of Article 591-1 Code.

According to experts, this approach restricts the possibility of making potential perpetrators liable, because in case of unmotivated voting against withdrawal of immunity, closed proceedings cannot be reopened due to the provisions of paragraph 5, paragraph 1 of Article 84 of the Criminal Procedure Code of Uzbekistan.

Uzbekistan is partially compliant with previous recommendation No. 10, and it remains in effect as a new recommendation No. 36.

Statute of limitations

Statute of Limitations set forth in the Criminal Code are sufficient to ensure the effective prosecution of corruption according to the authorities of Uzbekistan. In accordance with Article 64 of the Criminal Code of the Republic of Uzbekistan, Statute of Limitations is suspended if the person who committed the crime and is brought to criminal responsibility will abscond from the investigation or from the court proceedings. Also, Statute of Limitations period is discontinued if, before the expiration of the period specified in Article 64 of the Criminal Code, a person who has committed a serious or gravest crime commits a new intentional crime.

Information on Statute of Limitations provided for by various articles of law on corruption in the Criminal Code of Uzbekistan is listed below.

Table 23. Statute of Limitations on criminal offences

| Criminal Rule of the Republic of Uzbekistan | Time limitations | | | | |
|---|--|---------|---------|---------|----------|
| | Parts of the Criminal Rules providing for corruption | 2 years | 4 years | 8 years | 14 years |
| 167 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 168 | p. 1 | | | | |

| Criminal Rule of the Republic of Uzbekistan | Time limitations | | | | |
|---|--|---------|---------|---------|----------|
| | Parts of the Criminal Rules providing for corruption | 2 years | 4 years | 8 years | 14 years |
| 207 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 208 | p. 1 | | | | |

⁶² This draft provision is about chambers of the Oliy Majlis of the Republic of Uzbekistan or its Kengash, Zhokargy Kenes of the Republic of Karakalpakstan, the Kengash of people's deputies or their leaders, the Constitutional Court of the Republic of Uzbekistan, the Plenum of the Supreme Court of the Republic of Uzbekistan or the Plenum of the Supreme Economic Court.

| | | | | | |
|--------|------|--|--|--|--|
| | p. 2 | | | | |
| | p. 3 | | | | |
| | p. 4 | | | | |
| 184 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 192-2 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| | p. 4 | | | | |
| 192-3 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 192-4 | p. 1 | | | | |
| 192-5 | p. 1 | | | | |
| | p. 2 | | | | |
| 192-6 | p. 1 | | | | |
| | p. 2 | | | | |
| 192-7 | p. 1 | | | | |
| 192-8 | p. 1 | | | | |
| 192-9 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| | p. 4 | | | | |
| | p. 5 | | | | |
| 192-10 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 192-11 | p. 1 | | | | |
| | p. 2 | | | | |
| 205 | p. 1 | | | | |
| | p. 2 | | | | |
| 206 | p. 1 | | | | |
| | p. 2 | | | | |
| 209 | p. 1 | | | | |
| | p. 2 | | | | |
| 210 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 211 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 212 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 213 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| | p. 4 | | | | |
| 214 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 230-1 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| 230-2 | p. 1 | | | | |
| | p. 2 | | | | |
| 243 | p. 1 | | | | |
| 301 | p. 1 | | | | |
| | p. 2 | | | | |
| | p. 3 | | | | |
| | p. 4 | | | | |
| 302 | p. 1 | | | | |
| | p. 2 | | | | |

There is also a problem that Statute of Limitations in Uzbekistan is calculated before entry of the court verdict into legal force. This gives multiple opportunities to a defence team to delay criminal proceedings until the expiration of the statute of limitations in order to avoid criminal responsibility, especially in cases involving many persons on trial⁶³.

As noted in the IAP Final Report, the Third Round of IAP Monitoring revealed that Statute of Limitations for prosecution extending 2 years or less is insufficient. The Report recommended that in order to ensure that the time needed to investigate and prosecute corruption offenses is sufficient, the Statute of Limitations is to be at least 5 years (and in special cases it should be possible to interrupt / suspend it).⁶⁴ The report also welcomed the practice of countries to exclude

⁶³ Here is an example of another approach to regulation: In Latvia, the Statute of Limitations is calculated from the moment a criminal act was committed before the person was charged or from the date the accused officially notified about the extradition request, if the accused is abroad and wanted, and then the Statute of Limitations ceases (Criminal Procedure Law of Latvia, Article 56).

⁶⁴ GRECO and OECD Working Group on bribery also came to the conclusion that 3-year Statute of Limitation is not enough. See references on the Reports and reasoning: OECD (2016), Final Report, p. 149, available at: <https://www.oecd.org/corruption/acn/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-RUS.pdf>.

statute of limitations clauses for corruption crimes (for example, Kazakhstan, Kyrgyzstan) or to establish a single long term regardless of the severity of the corruption offences (Georgia).⁶⁵

Statistics provided by Uzbekistan (see below) shows that application of the Statute of Limitations is problematic in practice. Although the number of cases terminated for this reason is not many when individual articles are concerned the total number reaches 36 of corruption-related cases dismissed over the last three years. This number may increase due to rise of corruption investigations in last two years, including complex cases with an international element.

Table 24. The number of criminal corruption cases terminated due to expiration of the statute of limitations

| Period | Criminal Rule | | | | | | | | | | | | | | | Total | | | | |
|------------------|---|---|-------|--------|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|-----|-----|-----|----|
| | 167 (public servants and executive officers) | 168 (public servants and executive officers) | 192-9 | 192-10 | 192-11 | 205 | 206 | 207 | 208 | 209 | 210 | 211 | 212 | 213 | 214 | | 243 | 301 | 302 | |
| 2016 | 3 | | | | | | | 1 | | 1 | 3 | | | | | | | | | 10 |
| 2017 | 1 | 2 | | | | 1 | 1 | | | 5 | 2 | 3 | | | | | | | | 16 |
| 2018 9 months | 2 | | | | | 1 | | | | | 1 | | | | | | | 2 | | 10 |
| Total | 6 | 2 | | | | 2 | 1 | 1 | | 6 | 6 | 3 | | | | | 2 | | | 36 |

It is recommended to Uzbekistan to increase the Statute of Limitations or eliminate its possible negative impact on the effective criminal prosecution of corruption in a different way, including by establishing the interruption of the statute of limitations by certain actions⁶⁶.

See new recommendation below.

Effective regret as a ground for exemption from liability

According to Article 66 of the Criminal Code, a person who has committed a crime for the first time, who does not pose a great public danger, or who has committed a less serious crime, can be discharged from liability if it turned oneself in, sincerely repented, actively promoted the detection of the crime and mitigated the harm done. In cases specifically mentioned in the relevant article of the Special Part of the Criminal Code, the person who committed the crime shall be released from liability due to effective regret.

Several articles of the Criminal Code (Articles 192-9, 211, 212, 213) provide for discharging from liability for active bribery, if a bribe was extorted by a bribe taker, and if a bribe giver within 30 days after the commission of criminal act he voluntarily informed about the offence, sincerely repented and actively contributed to solving the crime.

According to the Uzbekistan authorities, this provision can be applied to a person who committed the crime only in case all the conditions specified in these articles give grounds for discharging from liability. Interrogating officer or investigator, prosecutor or judge can take a decision on

⁶⁵ There is an example of another approach to the issue: the term of the Statute of Limitations in Latvia begins at the date of criminal offence committed and lasts up to bringing a charge against the person accused or to the date an official notice on extradition of the person accused is issued in case this person is abroad and put on the wanted list. Than the Statute of Limitations is terminated (Criminal Procedure Code of Latvia, Article 56).

⁶⁶ See examples of possible judgments in OECD Final Report, op. cit., p. 150.

discharging a person from criminal liability at the stage of pre-investigation check, inquiry, preliminary investigation and court hearings, subject to all the above conditions are met.

In accordance with Part Two of Article 84 of the Criminal Procedure Code, when the case was dismissed on the grounds specified in the above articles, the proceedings can be continued in a general manner if the accused, defendant or close relatives of the deceased accused or of the defendant insist on this.

In accordance with the criminal procedural legislation, each decision of the investigator to terminate a charge or case is subject to mandatory examination as the circumstances of the termination of the charge or case are concerned (Art. 382 – 385 of the Criminal Procedure Code).

Chapter 16 of the Criminal Code (Offenses against Justice) provides for criminalization of the abuse of such unlawful acts.

In the Joint Order of the Heads of Law Enforcement Agencies dated June 23, 2014 *On Measures for Providing Strict Compliance with the Requirements of the Law, when examining applications and appeals, investigating and examining corruption cases in courts*, prosecutors were instructed to establish strict supervision, and courts are to bring under a strict control the relevancy of withdrawing from liability or from punishment on the grounds indicated.

According to representatives of law enforcement of Uzbekistan, withdrawal from liability on the above grounds does not occur automatically (this is inconsistent with international standards). The decision is made at the investigation stage and is confirmed in court by taking a decision to terminate part of the criminal case due to non-rehabilitating circumstances.

Below is the statistics of the application of these provisions, which indicates their active use in cases of giving a bribe to government officials.

Table 25. Statistics on the grounds for discharging from liability

| Period | Criminal Rule | | | |
|------------------|-------------------------|-----------------------|-----------------------|-----------------------|
| | Part 6 Article 192-9 | Part 4 Article 211 | Part 4 Article 212 | Part 5 Article 213 |
| 2016 | 2 | 63 | | |
| 2017 | 1 | 44 | | |
| 2018 9 months | 1 | 14 | | |
| Total | 4 | 121 | | |

The above clauses on discharging from liability are problematic as their conformity with international standards is concerned⁶⁷:

4. There is no direct reference that information on giving a bribe should be made before it became known to law enforcement agencies from other sources;
4. There are no grounds for setting a 30 days limit for submitting information on bribery. This period is too long and in practice it can be difficult to establish at what time this period starts. Such a long period for filing information may lead to a situation when the bribe giver will declare giving a bribe only in case of an unsatisfactory solution for him of the issue in question. The best option would be to establish a requirement to report the extortion of giving a bribe before giving or at the first opportunity after giving a bribe, but no later than the moment when it became known to law enforcement agencies;

⁶⁷ (2016), OECD Final Report, op. cit., p. 153 – 157: <https://www.oecd.org/corruption/acn/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-RUS.pdf>.

5. The concepts “sincerely repent” and “actively promoted the detection of the crime” are not well articulated either in the Criminal Code nor in the ruling of the Plenum of the Supreme Court, and therefore can be arbitrarily applied in practice;
6. The above provisions can be applied in case of giving a bribe to a foreign official – this is not in conformity with the standards, formulated by the OECD Working Party (see the description in the OECD Final Report).

In addition to the application of grounds for exemption from liability provided for in the articles of the Special Part of the Criminal Code, common Article 66 of the Criminal Code on active repentance may also be applied to corruption offenses (see text above). So, this provision in accordance with Article 211 of the Criminal Code (bribery) was applied to 12 persons in 2016 – 2018. The general rule of active repentance in Article 66 of the Criminal Code also does not meet the standards for the above reasons.

New Recommendation No. 37

1. *Extend statutes of limitations and change the procedure for their calculation or completely abolish limitation period as a ground for exempting from liability for corruption crimes.*
2. *Bring provisions on the discharge from liability for corruption offences due to effective regret in accordance with international standards.*

3.2. Procedures for investigation and prosecution of corruption offences

Recommendation No. 12 of the Report of the Third Round of Monitoring in Uzbekistan:

Introduce a statutory definition of certain types of investigating measures in order to fully comply with the UN Convention against Corruption.

The Law of the Republic of Uzbekistan On Operational Search Activities at the time when previous round of monitoring was carried out provided only a list of types of investigative measures, without specifying each of them, and this is contrary to the principle of legal certainty and could contribute to the commission of corruption offenses. Due to this as well as to the fact that compliance with the provisions of the UN Convention of the concepts “controlled delivery”, “operational observation” and other investigating measures could hardly be established, the experts recommended to introduce a statutory definition of such measures.

In accordance with the Law of the Republic of Uzbekistan of April 25, 2016⁶⁸, the definitions, among others, of operational observation, operational implementation, and undercover operations were specified, which indicates a significant progress in implementing the recommendation.

At the same time, the definition of “controlled delivery” given in accordance with this Law does not fully comply to the provisions of paragraph 4 of Article 50 of the UN Convention, since it does not include such methods as intercepting goods or funds and leaving them intact or their seizure, or replacement, in whole or in part.

The latest interim report of the authorities of Uzbekistan stated that the General Prosecutor’s Office is working to bring the legislative definition of “controlled supply” in line with paragraph 4 of Article 50 of the UN Convention against Corruption. However, no amendments to the law were made to date.

Uzbekistan is largely compliant with Recommendation No. 12.

Detection of offences

⁶⁸ <http://lex.uz/docs/2937149?ONDATE=26.04.2016%2000#2938348>

The grounds for initiation of a criminal case are as follows: statements of persons; reports of enterprises, institutions, organizations, public associations and officials; media reports; discovery of evidence and facts indicating a crime, directly by the inquirer, investigator, prosecutor, as well as the body carrying out the pre-investigation check; an admission of guilt; and results of investigating activity. The grounds for initiating a criminal case are data indicating the presence of evidence of a crime.

Table 26. Statistics on information sources used to detect corruption-related crimes

| Period | Number of criminal corruption-related cases initiated | Types of sources of information used for detection of corruption-related crimes | | | | | |
|---------------|---|---|-------------------------------------|--|---------------|---------------------|-------|
| | | By probing of personal statements | Carrying out investigating activity | Discovering of evidence and facts indicating a crime, directly by the inquirer, investigator, prosecutor, as well as the body carrying out the pre-investigation check | Media reports | Statements of guilt | Other |
| 2016 | 2159 | 614 | 380 | 1122 | | 2 | 41 |
| 2017 | 1916 | 533 | 535 | 815 | 1 | | 32 |
| 2018 9 months | 940 | 314 | 219 | 391 | | 2 | 14 |
| Total | 5015 | 1461 | 1134 | 2328 | 1 | 4 | 87 |

At the same time, Article 323 of the Criminal Procedure Code provides for that a message unsigned or signed by a fake signature or a letter, statement or other anonymous report about a crime written on behalf of a fictitious person shall not be a reason for initiating a criminal case.

Apart from that, in accordance with the Law of the Republic of Uzbekistan *On Appeal by Individuals and Legal Entities*, anonymous messages are not allowed to initiate an investigation of a criminal case. Anonymous, in accordance with the provisions of this Law, are appeals that do not specify the last name (first name, second name) of an individual, information about his place of residence or the full name of a legal entity, information about his location (postal address) or false information about them, and also not confirmed by signature (electronic digital signature).

These statutory rules do not comply with Article 13 of the UN Convention against Corruption, which provides that each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public, and provide access to such authorities to report to them, including anonymously, about any cases that may be considered as constituting any crime recognized as such according to the Convention.

Anonymous messages can be a useful source of information about an impending or committed corruption-related crime or a crime in progress that is hard to identify because of its nature. Therefore, it is worthwhile to establish the possibility of commencing criminal proceedings for corruption-related crimes based on such messages. The condition for their consideration may be an indication in the message of facts that can be checked. You should also expand the channels for receiving such messages, including via Internet.

See new recommendation below.

Information from the financial monitoring authority

On the basis of Article 9 of the Law of the Republic of Uzbekistan *On Counteracting the Legalization of Incomes Derived from Criminal Activities and Financing of Terrorism*, a specially authorized state authority requests and receives free of charge information, including from automated information and enquiry systems and databases, necessary to implement measures to counter money laundering and financing of terrorism.

As per Article 18 of the above Law, the procedure for providing information related to countering the legalization of income derived from criminal activities and the financing of terrorism to a specially authorized authority was established by Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 272 of October 12, 2009 *On Improving the Procedure for Providing information related to countering money laundering and terrorist financing*.

The Directorate for Combating Economic Crimes at the General Prosecutor's Office of the Republic of Uzbekistan has been designated as a specially authorized state body to counter the legalization of income derived from criminal activities and the financing of terrorism. The organizational structure of the Department delimits the functions in countering legalization of criminal proceeds and other functions, including investigation activities.

The Department has the right to send to organizations written requests for additional information and copies of documents certified in due way which refer to any given operation in the following cases:

- when it is necessary to check credibility of the information received;
- when there is information on the possible activities concerned with legalization of proceeds from criminal activities and the financing of terrorism;
- in the course of fulfilment of obligations of the Republic of Uzbekistan under international treaties in the sphere of countering legalization of income derived from criminal activities and financing of terrorism.

The number of cases (proceedings) on corruption crimes initiated during 2016 – 2018 based on reports about suspicious transactions submitted to the financial monitoring authority is: 7 cases – in 2016, 9 cases – in 2017, 7 cases – in 2018 (9 months).

The above statistics is a sign of the low efficiency of using financial monitoring information as grounds to initiate corruption-related criminal cases.

Definition of political agents (Politically Exposed Persons)

According to the *Internal Control Rules for Counteracting the Legalization of Incomes Derived from Criminal Activities and the Financing of Terrorism in Commercial Banks* (Reg. No. 2886 dated May 23, 2017) public officials – i. e. persons appointed or elected permanently, temporarily or by special authority, who perform organizational and administrative functions in state bodies and authorized to perform legally significant actions, as well as persons who perform these functions in an international organization or in a legislative, administrative or judicial authority or in an executive agency of a foreign state.⁶⁹

This definition does not meet international standards (for example, the FATF recommendations), according to which public (political) leaders are deemed senior officials (head of state, head of government, ministers, deputies, and so on). On the one hand, it is too broad, since it includes all persons appointed or elected permanently, temporarily or under special authority, performing organizational and administrative functions in state bodies and authorized to perform legally bound actions. This definition covers too wide a range of public servants and imposes on banks

⁶⁹ <http://lex.uz/docs/3212192>.

and other subjects of financial monitoring excessive burden to monitor in-depth of such persons, and this give rise to doubts about effectiveness of such monitoring.

On the other hand, this definition does not cover persons associated with such officials, other than relatives. The definition also does not cover CEOs of public companies and leaders of political parties.

In the above *Rules of internal control* terms “close relatives” and “family members” of public officials are mentioned alternately. None of these terms is defined and it is not clear how do they relate.

To achieve compliance with international standards, it is necessary to:

- a) extend the definition of politically exposed persons (PEPs) in the anti-money laundering legislation to any national persons who perform important public functions;
- b) broaden the definition of politically exposed persons having incorporated in it heads of public companies, political parties and members of the family and close (related) persons of such public officials.

New Recommendation No. 38

- 1. Establish in the law the obligatory consideration of anonymous reports about possible corruption crimes that are verifiable.**
- 2. Bring the concept of politically exposed persons (PEPs) in the legislation on countering the laundering of criminal proceeds in line with international standards.**
- 3. Raise the effectiveness of the use of financial monitoring information for initiating criminal cases on corruption, ensuring a wider use of financial monitoring data in criminal prosecution of such crimes. Conduct additional joint training on these issues for the staff of investigating authorities and the financial monitoring body.**

Access to information

In accordance with Article 9 of the Law of the Republic of Uzbekistan *On Bank Secrecy*, information subject to bank secrecy is provided to prosecution authorities, investigators and inquiry officers when a criminal case against a client (correspondent) of the bank is initiated in order to ensure recovery of damage impaired or arrest his property imposed by a reasoned decision of the investigator or inquiring officer with the sanction of the prosecutor.

Article 10 of the abovementioned law also provides that information constituting bank secrecy is provided to the court upon receiving of its written request for cases against the client (correspondent) of the bank that are in the court proceedings.

As to information regarding legalization of income derived from criminal activities and financing of terrorism:

- According to law enforcement agencies, these provisions of the *Law on Bank Secrecy* is difficult to use in practice because financial information is provided only for the persons against whom the criminal case was initiated and is not provided for other persons, even if this information is necessary for conducting an inquiry or investigation.
- Law enforcement agencies conducting legal inquiry or preliminary investigation have access to tax and customs information prior to the initiation of criminal proceedings.

For example, in accordance with the decrees of the President of the Republic of Uzbekistan *On measures to further ensure the food security of the country* of January 16, 2018 No. UP-5303 and *On measures to fundamentally improve the efficiency of the use of budgetary funds and further develop mechanisms for combating economic crimes* of May 23, 2014 No. UP-5446 the Department at the General Prosecutor’s Office is put online to the database of relevant ministries and departments, including the database of the tax and customs services, where information is

available prior to the formal initiation of criminal proceedings for the purpose of financial monitoring and investigation. Such access, however, is not available to other investigating agencies.

See new recommendation below.

Register of bank accounts

Recommendation No. 13 of the Report of the Third Round of Monitoring in Uzbekistan:

... 2. To consider adding to the General Register of Bank Accounts information on beneficial owners provided that it will be available to investigating authorities.

Uzbekistan did not provide information whether adding of bank accounts any information on beneficial owners to the General Register and ensuring that it will be available to investigating authorities was ever considered.

According to the anti-laundering and counter terrorism financing rules of internal control at commercial banks as approved with the resolution of the Governing Board of the Central bank, while running checks on their clients, banks identify such client's beneficiary owners. The beneficiary owner is deemed to be the person that has the ultimate right of ownership or effectively controls the client, in whose interests any transactions, cash or otherwise, are performed. They also verify the identity and power of authority of the client and any persons on whose behalf the client is acting. This information should be incorporated in the register of bank accounts.

In order to obtain information on bank accounts, the investigating authorities may forward requests to the tax authorities, the Central Bank, which maintains a centralized register of accounts or obtain information through a financial intelligence unit. According to investigating authorities, there is no problem with obtaining this information in practice, but fast track in obtaining information would contribute to the effective conduct of financial investigations.

Uzbekistan has not complied with this part of recommendation No. 13. See new recommendation below.

Imitation of a bribe

According to the Uzbekistan authorities, the procedure for controlled purchase is regulated by the *Law on Investigating Activities*, as well as by the Criminal Procedure Code (Article 16 of the Criminal Procedure Code).

The *Law on Investigating Activities* refers to a "controlled purchase", which means an event consisting in making a simulated transaction, that is, acquiring goods, currency values, substances and other items without the purpose of consumption or marketing them and to establish and record the fact of violation of the law. The *Law on Investigating Activities* also provides for such an event as "controlled delivery" (an event consisting in tacit control over the movement (transportation, shipment, transfer) of goods, currency values, substances and other items, the free realization of which is prohibited or circulation restricted or these goods, currency values, substances and other items being targets, objects or instruments of crime, in order to solve the tasks of investigating activities); but this event, by its nature, has nothing to do with imitation of giving or receiving a bribe.

The closest to imitation of a bribe is an event called a "sting operation" defined in the *Law on Investigating Activities* as a procedure involving creating an environment for a certain event to happen, which is completely administered and controlled by investigating body in order to expose and identify those who has committed or is preparing to commit unlawful acts.

According to Article 16 of the *Law on Investigating Activities*, the operational experiment is conducted on the basis of a resolution approved by the head of the investigating body, that is without the consent of the prosecutor. At the same time, article 17 of this Law prohibits to investigating bodies, among other things, "to incline and provoke citizens to commit offenses".

According to the experts, these provisions are not enough to distinguish between the permitted imitation of a corrupt act with the aim of revealing it and unacceptable provocation of a bribe.

The law should directly establish that during the preparation and conduct of imitation of a corruption offense it is prohibited to incite a person to commit a crime in such a way that a person commits a crime that he or she would not have committed without such incitement. This should include a ban on inducing a person by violence, threats or blackmail. The detailed procedure and tactics for carrying out imitation of a criminal action shall be regulated by a by-law, and this should be indicated in the Code. At the same time, such an event or investigative action as an imitation of a criminal act should be authorized by the prosecutor. It is also necessary to approve detailed guidelines for investigators and prosecutors regarding the planning and implementation of a bribe imitation, guaranteeing the rights of the suspect, distinguishing from a prohibited provocation.⁷⁰

New Recommendation No. 39

- 1. Provide direct access for investigative bodies engaged in financial investigations to databases of tax and customs authorities, property registries subject to due protection of personal data.**
- 2. Ensure that investigative authorities have a direct access to the centralised register of bank accounts which will contain, among other things, the information established by the banks on beneficial owners of their clients, and persons with the right to sign accounts, in order to quickly identify the bank accounts during financial investigations.**
- 3. In order to guarantee human rights and ensure the admissibility of the evidence collected, regulate in detail in the law the procedure for planning and carrying out bribery imitation, clearly distinguishing the permissible imitation and the prohibited bribe provocation. Approve detailed guidelines on the issue for operative officers, investigators and prosecutors, as well as conduct appropriate training.**

International co-operation

Recommendation 11 of the Report of the Third Round of Monitoring of Uzbekistan

- 1. To consider adopting provisions that allow taking testimony of a witness or expert by video conference in accordance with Article 32 of the UNCAC.**
- 2. To consider becoming a State Party to the CIS Chisinau Convention on Mutual Legal Assistance and Legal Relations in Civil, Family Matters and in Criminal Cases.**

Uzbekistan did not provide information on complying with paragraph 1 of Recommendation No. 11. A testimony of a witness or an expert via video link cannot be presented in Uzbekistan same as before. The existing provisions of the Criminal Procedure Code are not enough to provide effective mutual legal assistance in corruption cases.

It is necessary in particular to define in more detail the procedure for conducting interrogation at the request of the competent authority of a foreign state, including by means of video or telephone conference; a procedure providing for search, arrest and confiscation of property; the order of initiating and performance of joint investigation teams and so on.

Uzbekistan should also consider becoming a State Party of the *Council of Europe Convention on Laundering, Detection, Seizure, Confiscation of the Proceeds from Crime and the Financing of Terrorism* signed in 2015.

As paragraph 2 of the Recommendation is concerned, a draft law *On the accession of the Republic of Uzbekistan to the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Chisinau, October 7, 2002)* was developed. The draft law has been submitted to

⁷⁰ See discussion on respective standards in (2016) OECD Final Report, op. cit., pp. 182 – 183.

the Cabinet of Ministers on June 07, 2018 No. 16-22-2380/1 to be further presented as a legislative initiative to the Legislative Chamber of the Oliy Majlis (Parliament). By so doing Uzbekistan complied with this part of the Recommendation.

Statistics

In 2016, the General Prosecutor's Office sent 2 requests to law enforcement authorities of foreign countries, 5 requests – in 2017, and 3 requests – in 2018 (9 months) for legal assistance in corruption-related criminal cases.

The number of incoming requests from other countries corruption-related criminal cases was 2 requests – in 2016, 6 requests – in 2017 and 5 requests – of 2018 (9 months).

During this period, there were no examples of the provision of legal assistance in corruption-related cases concerning the liability of legal persons, confiscation or return of assets.

Uzbekistan is partially complying with recommendation No. 11.

New Recommendation No. 40

1. *Expand the provisions of the Criminal Procedure Code on international cooperation in criminal matters, including by regulating the procedure for conducting interrogation at the request of law enforcing authority of a foreign state, including by means of a video or telephone conference, on the procedure for tracing, arresting and confiscating assets, on the procedure for creating and operation of the joint investigative teams, providing grounds for refusal to provide mutual legal assistance.*
2. *Adhere to the Chisinau Convention of CIS countries on legal assistance and legal relations in civil and family matters and in criminal cases.*
3. *Consider accession to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism signed in 2005.*

3.3. Enforcement of corruption offences

A due practice in application of main components of *corpus delicti* in corruption-related crimes as they are currently defined in the Criminal Code of Uzbekistan was examined by the experts in the framework of the Fourth Round of Monitoring. In this regard, the questionnaire contained a relevant proposal for the Uzbekistan authorities to provide examples of real cases where successful investigations were carried out, in particular, in connection with commercial bribery, use of intermediaries, as well as receiving / giving bribes by senior officials.

It should be noted with satisfaction that the Uzbekistan authorities provided at least two examples, for each of the requested types of cases, confirming therewith existence of relevant practice and generally the correct approach to the qualification of actions taken.

In addition, experts have considered certain practical aspects in particular:

- Is it necessary for a prosecution / conviction for bribery to prove that a bribe has affected the civil servant's behaviour?
- Is it necessary to prove the criminal intent or other elements of the subjective side of a corruption offense using direct evidence or is it possible to derive such an intention from objective factual circumstances?

When answering the first question, the Uzbekistan representatives informed, with reference to the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan *On judicial practice in cases of bribery* dated September 24, 1999, that the bribe giver will be held responsible for giving a bribe regardless of whether behaviour of the bribe taker was affected to achieve the result desired by the bribe giver. At the same time, the court must find out and reflect in the verdict, for

what actions or inactions in the interests of the bribe giver, the official received a bribe. It must be borne in mind furthermore that the responsibility for bribery occurs regardless of whether the bribe was predetermined in advance or whether any actions were carried out in the interests of the bribe giver.

While answering the second question, it was mentioned about inability of using circumstantial evidence, referring to Article 95-1 of the Criminal Procedure Code of Uzbekistan, according to which factual data obtained from the testimony of the victim, witness, suspect, accused, defendant during the inquiry or preliminary investigation, which did not find their confirmation in court with a set of available evidence, as well as received from an unknown source or from a source that cannot be established during the criminal proceedings is deemed inadmissible as evidence. At the same time, during the on-site visit, the Uzbekistan authorities assured that there are no restrictions on the use of circumstantial evidence and that there are many examples of corruption cases where such evidence was used and *corpus delicti* of the corruption offense was proved not on the basis of the fact of bribe transfer recorded by operative methods but on the basis of financial documents.

As criminal prosecution of top officials for corruption, Uzbekistan cited the following examples:

1) Chairman of the Tashkent City Criminal Court Mr. Abdujabarov M. A. being an official, organized a criminal group of judges and other persons devoted to him and aimed at unlawful enrichment. As a leader of the criminal group he made unlawful rulings on leaving to the criminal defendants the property subject to confiscation, and also exerted pressure on the judges subordinate to him forcing them to pass unlawful judgments in favour of the criminal defendants, receiving bribes from them in the form of various material values (for a total of \$ 620,000).

By the verdict of the Judicial Board of the Supreme Court of the Republic of Uzbekistan on criminal matters of November 05, 2018. Mr. Abdujabarov M. A. was found guilty of committing crimes, provided for by paragraphs “a”, “b” of Part 3 of Article 167, paragraphs “a”, “b” of Part 3 of Article 210, Part 2 of Article 231, Part 2 of Article 236, paragraph “A” of Part 3 of Article 177, Article 243 of the Criminal Code. He was sentenced to imprisonment for 16 years with deprivation of a certain right for a term of 3 years;

2) Mr. Sadikov A. M., a chief of the Main State Inspectorate for Plants Quarantine at the Ministry of Agriculture and Water Resources of the Republic of Uzbekistan, extorted from private company *Sh. P. Akhmedov* a bribe of USD 700 for issuing an authorization for import of 600 saplings of trees. He was detained red-handed on the same day while receiving the above money. By the verdict of the Yakkasaray District Court of Tashkent city dated September 08, 2017 Mr. Sadikov A. M. was found guilty of committing a crime under Part 1 of Article 210 of the Criminal Code and on the basis of Article 62 of the Criminal Code he was sentenced to a fine of 30 minimum wages.

Uzbekistan also provided the following statistics on convicted senior officials under Article 167 (Plundering by misappropriation or embezzlement), Article 205 (Abuse of position or of official powers), Article 210 (Taking bribes) and Article 243 (Legalization of proceeds from criminal activities) of the Criminal Code.

Table 27. Statistics on convicted high-ranking officials

| Article of the Criminal Code | Period | Heads of ministries, Committees, state agencies and bodies of state administration | Deputy Heads of ministries, Committees, state agencies and bodies of state administration | Deputies of Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan | Members of the Senate of the Oliy Majlis of the Republic of Uzbekistan | Judges | Prosecutors | Heads of local Administrations |
|------------------------------|---------------|--|---|--|--|--------|-------------|--------------------------------|
| 210 | 2016 | | | | | 8 | 6 | |
| | 2017 | 2 | 1 | | | 2 | 1 | |
| | 2018 9 months | | | | | | 2 | |

| | | | | | | | | |
|-------|------------------|---|---|--|--|----|---|---|
| 205 | 2016 | | | | | | | 1 |
| | 2017 | | | | | | | 2 |
| | 2018 9 months | | | | | | | 1 |
| 167 | 2016 | | | | | | | |
| | 2017 | | | | | | | |
| | 2018 9 months | | | | | | | 1 |
| 243 | 2016 | | | | | | | |
| | 2017 | | | | | | | |
| | 2018 9 months | | | | | | | |
| Total | | 2 | 1 | | | 10 | 9 | 5 |

Statistics cited above and examples of specific cases in general indicate a low number of criminal cases on corruption-related crimes against high-ranking officials, most of them being judges and prosecutors (there is no information about the level of their positions).

The Annex to the Report also contains general statistics on corruption crimes without regard to the subjects of liability.

Statistics

Recommendation No. 13 of the Third Round of Monitoring of Uzbekistan:

... 4. Provide public access to regularly updated statistics on criminal and other corruption offences, in particular, to the number of applications on such violations, the number of reported cases, the results of the investigations, and operational investigative measures used in the process of criminal prosecution and litigation (specifying sanctions and categories of the accused depending on their positions and employment).

According to official sources, information on trends in corruption-related crimes, criminal statistics and facts of such corruption-related crimes are regularly published and disseminated on internet news sites. Criminal statistics on corruption offenses are also regularly reviewed.

In accordance with the tasks set for the Directorate of methodological support to investigation of the General Prosecutor's Office, the department carries out a systematic analysis of the situation in areas where there is a negative trend in corruption. The outcomes of the analysis are presented to state bodies, public associations and officials calling for the elimination of violations of the law, as well as causes and conditions they contribute to.

The results of the analysis of such statistics are published in the Informational and Analytical Reports of the Republican Interdepartmental Commission on Combating Corruption which is engaged in accomplishing of the *State Programme on Countering Corruption of the Republic of Uzbekistan for the first half of 2017 and 2018*. This analysis is prepared with technical support of the Organization for Security and Cooperation in Europe (OSCE) in Russian, Uzbek and English.

These reports are distributed among state and public bodies, diplomatic missions, international organizations and international non-government organizations, in electronic form as well.

According to the Decree of the President of the Republic of Uzbekistan *On measures to fundamentally improve the system of criminal law statistics and increase the effectiveness of systems analysis of crimes* dated October 31, 2018 No. UP-5566, the Unified Information System *Electronic Criminal Law Statistics* should be developed and put into practice. The system provides for:

- maintaining a unified record of information on criminal cases, materials of pre-investigation check, results of court proceedings of cases and execution of court decisions,

as well as on participants involved as an accused and a victim, by creating electronic forms of statistical cards;

- EoI on preliminary investigation and inquiry between the prosecution authorities, courts and other state bodies, including through the integration of information systems and databases;
- optimising procedure of compiling criminal law statistics and the exclusion of the human factor in the process of its tailoring.

The General Prosecutor's Office is responsible for launching of a full-fledged version of the system on March 1, 2019.

The decree also provides for establishing the Department of Criminal Law Statistics as structural unit of the Prosecutor General's Office, and the Units of Criminal Law Statistics in the prosecutor's offices of the Republic of Karakalpakstan, the regions and the City of Tashkent. Their main tasks are defined as follows:

- collection, compilation, maintenance, processing, accumulation and provision of criminal law statistics;
- overseeing compliance in criminal law statistics, as well as completeness and accuracy of information input into the Unified Information System;
- statistical analysis of crime, including by territories and by types of crimes.

In such a manner, collecting and compiling of the criminal law statistics were transferred from the Ministry of Interior to the General Prosecutor's Office.

Centre for Systems Analysis and Research on the Causes of Crimes as a structural unit of the Academy under General Prosecutor's Office, was created by the same Decree with the following tasks:

- study and diagnosis of the causes and conditions of the commissioning of crimes, analysis of prevention of offenses, including the prevention of certain types of crimes;
- criminological forecasting of changes in criminality, as well as methodological and consultative support of activities for the prevention of offenses;
- development of scientifically substantiated proposals and recommendations on preventing and eliminating offenses, as well as monitoring of these proposals' implementation;
- conducting academic and practical research on types of crimes, of offender's and victim's identity.

The experts consider as positive the steps taken in reforming the system of registration and statistics on criminal offenses. The introduction of an electronic system provided for by the Presidential Decree will improve the collection, compilation, maintenance, processing, accumulation and presenting of criminal law statistics.

While keeping records and compiling statistics on corruption, Uzbekistan uses a list of crimes, some of which are not essentially corruption⁷¹ (see the beginning of this Chapter). This leads to a distortion of statistical data and a misrepresentation of the results of the work on countering corruption. According to experts, this list should be revised.

At the same time, Uzbekistan did not provide any information on the implementation of this recommendation regarding public access to regularly updated statistics on criminal and other corruption offenses. Reporting on individual criminal investigations cannot be considered as

⁷¹ The list was approved by the Instruction on the procedure for recording crimes, their perpetrators, the procedural decisions of the bodies carrying out the pre-investigation check, inquiry and preliminary investigation, as well as the court.

providing regular statistics. The recently adopted Presidential Decree also does not address this issue. Thus, Uzbekistan is not compliant to this part of the recommendation.

New Recommendation No. 41

1. *Ensure collection, summarising and publication on the Internet of regularly updated statistics on corruption crimes (with the breakdown by separate offences), in particular, regarding the number of reports on such crimes, the number of cases started, the results of investigation, criminal prosecution and court proceedings (indicating the penalties imposed and the categories of the accused depending on their position and place of work). Statistical data should be accompanied by an analysis of trends in corruption offenses.*
2. *Revise the established list of corruption crimes used for statistical purposes.*

3.4. Specialised anti-corruption law enforcement authorities, courts

Recommendation No. 13 of the Report of the Third Round of Monitoring Uzbekistan:

1. *To provide for more in-depth specialization of law enforcement and prosecution authorities on anti-corruption activities. To strengthen independence of the structural unit of the Prosecutor General's Office in charge of investigating and prosecuting corruption cases.*

Anti-Corruption Specialization of Law Enforcement Agencies

In accordance with Article 7 of the Law of the Republic of Uzbekistan *On Countering Corruption*, the state bodies directly involved in countering corruption are the General Prosecutor's Office, the State Security Service, the Ministry of Interior, the Ministry of Justice of the Republic of Uzbekistan and the Department for Combating Economic Crimes under the General Prosecutor's Office of the Republic of Uzbekistan.

Thus, Department for Combating Organized Crime and Corruption and its units in the regional prosecutor's offices, the city of Tashkent and the Republic of Karakalpakstan are the parts the prosecution bodies.

The Department on Combating Economic Crimes and Corruption was established as a structural part of the Directorate for Combating Economic Crimes of the General Prosecutor's Office of the Republic of Uzbekistan by Decree of the President of the Republic of Uzbekistan *On Measures to Radically Improve the Efficiency of Using Budget Funds and Improving the Mechanisms to Combat Economic Crimes* dated May 23, 2018 No. UP-5446.

There is a special anti-corruption unit subordinate to the Department of Investigations of the Ministry of Interior. It is the Department for Investigating Crimes against the Order of Governance.

These structural units are responsible for identifying and investigating corruption crimes committed by government officials.

While describing the measures taken to implement the previous recommendation the authorities of Uzbekistan informed that changes were made to the activities of the Department for Combating Organized Crime and Corruption provided by the Decree of the President of the Republic of Uzbekistan of February 15, 2018 and aimed at strengthening investigative activities of the department, granting it relief from unrelated to the investigation tasks.

In particular:

- the Department is exempt from unusual tasks of supervising investigation and pre-investigation checks carried out by units for combating organized crime and corruption of lower-level prosecutor's offices;
- the need to conduct a regular analysis and generalization of the state of prosecutorial supervision in the field of combating corruption is abolished;

- the Department is exempt from organizational support of the activities of the Republican Inter-Agency Commission for Combating Corruption;
- positions of the prosecutors in the Department who were in charge of supervising criminal cases of lower-level investigative units are abolished, as well as methodological, informational and analytical support for lower-level units are no more within competence of the Department (at present, Staffing Chart of the Department investigators, senior investigators, investigator of major cases and senior investigators of major cases).

These functions were entrusted to the Department of Methodological Support of Investigations established in accordance with the above Decree of the Presidential.

Tasks, functions and powers of the Department of Combating Tax and Currency Crimes and Money Laundering at the General Prosecutor's Office of the Republic of Uzbekistan were revised after Decree of the President of the Republic of Uzbekistan *On measures to fundamentally improve the efficiency of using budget funds and improving mechanisms for combating economic crimes* was issued⁷². Previous activities of the Department did not fully meet the current realities of economic development, support for entrepreneurship, and the fight against economic crimes and corruption.

In order to further create favourable conditions for doing business and attracting investments, to prevent embezzlement and irrational use of budget funds, as well as to make the fight against economic crimes and corruption more effective Department of Combating Tax, Currency Crimes and Legalization of Criminal Incomes under the General Prosecutor's Office has been transformed into the Directorate for Combating Economic Crimes at the General Prosecutor's Office of the Republic of Uzbekistan.

One of the tasks of the Department is to counteract economic crimes and corruption in the fuel and energy, transport and construction sectors, in banking and finance, as well as in taxes and social sphere, to eliminate their consequences, as well as the causes and conditions that contribute to them.

In respect thereof, a Department for countering economic crimes and corruption was established as a structural operating unit of the Directorate for Combating Economic Crimes was established. This was formed on the basis of relevant divisions: for Combating Tax Offenses, for Combating Currency Offenses and the Unit for Protection of the Consumer Market, a Unit for the Protection of Rights of Entrepreneurs and for Countering Corruption.

The Directorate ensures on a systematic basis that its operational units make findings of corruption facts, bureaucratic obstacles and cases of abuse of official authority by employees of state bodies and organizations operating in export-import sphere in order to take measures stipulated by law.

The Department has the right:

- to request and receive from the Central Bank and the Ministry of Finance of the Republic of Uzbekistan information on movement of state assets on bank accounts and on the single treasury account;
- to initiate, relying on the results of operative and investigative activities conducted in accordance with the set procedure, inspections in state organizations and enterprises with a government share in authorized capital, as well as in other economic entities, regardless of the form of ownership. The subject of the above inspections is expenditure of budget funds and state specially allocated funds Of the Republic of Uzbekistan, or foreign grants provided within the framework of the agreements concluded by the President of the Republic of Uzbekistan and the Government of the Republic of Uzbekistan with donor countries, international, foreign governmental and non-governmental organizations, as well as of foreign loans, raised against the guarantee of the Republic of Uzbekistan;

⁷² <http://lex.uz/ru/docs/3743203>.

- to demand from state organizations and enterprises with a government share in authorized capital, as well as from other economic entities, regardless of the form of ownership, information and explanations necessary to identify the facts of inappropriate use of budget funds, abuse and corruption in their distribution;
- to receive, summarize, analyse, verify and store information in connection with countering legalization of income derived from criminal activities, financing of terrorism and financing of proliferation of weapons of mass destruction, and also – if there are sufficient grounds – to send prescriptions to suspend for a period not exceeding thirty working days operations with money or other property imposing this function exclusively on the Unit for Countering the Legalization of Incomes Received from criminal activity and the financing of terrorism;
- to get access to the database of state bodies and organizations for the purpose of implementing the tasks imposed on the Department.

The Directorate of Combating Economic Crimes at the General Prosecutor's Office is an independent specialized law-enforcement body at the General Prosecutor's Office, carrying out criminal intelligence and surveillance activities, pre-investigation check and inquiry operations in connection with economic and corruption crimes, revealing facts of money laundering, financing of terrorism and proliferation of weapons of mass destruction, as well as providing for compensation for economic damage caused by the above crimes.

Total payroll of the Department is 1,076 people, according to the Decree of the President, of which 97 people are in the central office.

Ministry of Interior: In order to improve prevention of corruption-related offenses, Directorate for the Prevention of Offenses was set up in the Ministry of Interior, as well as Department of Combating Corruption and Economic Offences as a structural unit of the Directorate for Criminal investigations and Department for Investigating Crimes against the Order of Governance within Investigation Committee.

The State Security Service: The Law *on the State Security Service*⁷³ was adopted, defining the legal status and main areas of activity of the Service, the basic principles, rights and obligations governing the interaction of the Service with government agencies and other organizations, etc.

The law provides for to countering corruption in state bodies and other organizations that pose a threat to state interests and security as one of the activities of the State Security Service. An appropriate department has been established and its statutes have been approved.

Investigative jurisdiction, transfer of cases

In accordance with the criminal procedural law, the investigation of a criminal case is carried out in the form of an inquiry or preliminary investigation (Article 320-3 of the Criminal Procedure Code). The system of investigative bodies of Uzbekistan consists of: the State Security Service, the Ministry of Interior, the prosecution authorities and their local units. The inquiry is made by the internal affairs authorities, the Directorate for Combating Economic Crimes at the General Prosecutor's Office, the Bureau of Compulsory Execution at the General Prosecutor's Office, the State Customs Committee and their local offices.

The procedure for investigative jurisdiction is provided for in Articles 345, 381-2 of the Criminal Procedure Code. Preliminary investigations in cases involving crimes provided for, inter alia, Articles 205 – 212 of the Criminal Code (the main *corpus delicti* of corruption crimes), as well as cases of crimes of certain categories of officials specified in the law, are carried out by investigators of the prosecution authorities.

⁷³ <http://lex.uz/ru/docs/3610937>.

The preliminary investigation of criminal cases provided for Parts 3 and 4 of Article 213, Parts 3 and 4 of Article 214, and Article 243 is carried out by the investigators of the internal affairs authorities. For Parts 1 and 2 of Articles 213 – 214 an inquiry is made.

If a new crime is established in the course of the investigation that is already carried out by another preliminary investigation body, the investigation can be fully completed by the preliminary investigation authority that is handling the case, only with the consent of the relevant prosecutor.

When the criminal cases under investigation of different preliminary investigation bodies are combined in one proceeding, the prosecutor assigns the investigation to the body to which the criminal case of a more serious crime belongs, and with an equal nature and degree of public danger of the crimes - to the body that investigates the criminal case for a longer period.

As per Article 345 of the Criminal Procedure Code, the General Prosecutor of the Republic of Uzbekistan or his deputies, in order to ensure the comprehensiveness, completeness and objectivity of an investigation, have the right to transfer, by a reasoned decision, a criminal case from one preliminary investigation body to another regardless of the rules of Investigative Jurisdiction in the following cases:

1. if the crime has not previously been reported by the investigating body to which the criminal case belongs as per rules prescribed by Investigative Jurisdiction;
2. if the head of the investigative body to which the criminal case belongs as per rules of Investigative Jurisdiction, or his close relative is recognized as a victim, suspect or accused, a civil plaintiff or a civil defendant in the case;
3. in case when a knowingly innocent person is named as a defendant or knowingly unlawful initiation of a legal request is made for of a preventive measure of restrain to be detention or home detention;
4. in case torture and other cruel, inhuman or degrading treatment during the preliminary investigation is applied;
5. when there is a non-compliance with the Criminal Procedure Code requirements, which may adversely affect the results of the investigation and a legal decision to be adopted on the case.

Table 28. Statistics on corruption-related cases transferred by prosecutors from one investigator (investigative body) to another

| Body | Period | Number of criminal cases transferred from one investigating officer to another | Number of criminal cases transferred from one investigating body to another |
|------------------------|------------------|--|---|
| Prosecutors office | 2016 | 117 | 55 |
| State Security Service | | 19 | 25 |
| Ministry of Interior | | | 7 |
| Prosecutors office | 2017 | 103 | 43 |
| State Security Service | | 6 | 11 |
| Ministry of Interior | | | 4 |
| Prosecutors office | 2018 9 months | 77 | 53 |
| State Security Service | | 1 | 42 |
| Ministry of Interior | | | 4 |
| Total | | 323 | 244 |

Expert comments

1. In terms of strengthening anti-corruption specialization, setting up of the Directorate for Combating Economic Crimes at the General Prosecutor's Office as an independent law enforcement body should be welcomed. However, the Directorate is vested with powers that are limited to investigative activities, pre-investigation checks and inquiries. From the other hand, its jurisdiction covers not only corruption, but also a large list of economic crimes. Moreover, as noted above, the definition of the list of crimes of corruption is excessively wide, which erodes the specialization of the relevant authorities.

The Directorate itself, despite its status as an independent body, cannot be considered to meet the standards of independence of anti-corruption agencies. This is due, primarily, to the limited real independence of the prosecution authorities (see the section on the integrity of the prosecutor's office in this report). Secondly, the Directorate is headed by a person appointed and dismissed by the President of the Republic of Uzbekistan on the proposal of the Prosecutor General. The appointment takes place by political decision; there are no guarantees against arbitrary dismissal from office. Thirdly, the functions of the Directorate are limited, since investigation is further entrusted to a separate structural unit within the General Prosecutor's Office and local prosecutor's offices (the Office for Combating Organized Crime and Corruption and its departments in the regional prosecutor's offices, the City of Tashkent and the Republic of Karakalpakstan).

The authorities of Uzbekistan, in their written responses, state that the specialization of prosecutors in supervising investigations of corruption crimes has been introduced into the system of prosecution authorities in 2018 by setting up of the Department for methodological support of investigation within the Prosecutor General's Office. However, the Department is in charge of supervising the conduct of pre-investigation checks and investigative actions not for corruption crimes only.

2. The experts also note that, the functions of conducting active search measures, investigating, supervising and presenting cases on corruption crimes in court are concentrated in the prosecution authorities. Combining investigation activities and their supervision in one state body can lead to a conflict of interest. Thus, under procedure currently in effect in the General Prosecutor's Office of Uzbekistan, the Department of Investigating Corruption Crimes and the Department of supervision of such investigations are subordinated to the same Deputy Prosecutor General.

An issue should be considered on allocating the function of investigating corruption offenses out of the prosecution authorities, for example, by further enhancing the autonomy of the Directorate for Combating Economic Crimes.

3. There is no specialization in Uzbekistan of prosecutors presenting of corruption cases in court's hearings.

4. It is a problem to carry out active search measures in corruption cases by the state security bodies, whose functions should not include countering economic and corruption crimes. This is due to the fact that the activities of the security services, as a rule, are non-transparent due to their specifics, and there is no effective public control over them. Empowering the security services to combat criminal offenses can lead to abuse and creates in itself significant corruption risks.

5. As independence of the prosecution authorities in conducting anti-corruption investigations is concerned, a provision of the Criminal Procedure Code (Art. 170) should also be noted, that refer implementation of the decision on wiretapping exclusively to the competence of the State Security Service. Such a monopoly on wiretapping may reduce the effectiveness of anti-corruption investigations. Consideration should be given to granting of such powers and technical resources to a specific subdivision of the prosecution authorities, for example, within Directorate for Combating Economic Crimes.

6. As transferring of cases is concerned, according to the experts, statistics provided indicate a large number of corruption cases transferred from one investigator or investigating authority to another. This raises a question about the grounds for such a transfer in practical sense, as provided

for in Article 345 of the Criminal Procedure Code. Although the grounds themselves are formulated rather narrowly (except for paragraph 5 of the List of the Grounds), their widespread use may indicate unreasonable interference in the investigation of corruption crimes. This has a negative effect on independence of anti-corruption investigations and of the authorities conducting them.

Uzbekistan is partially compliant with the recommendation regarding strengthening of the specialization.

Authority for tracing and management of seized assets

There is(are) no body(ies) or division(s) in Uzbekistan that would hold responsibility for identifying, searching and managing criminal proceeds to be confiscated, including abroad. These functions are carried out by investigators on the pre-trial stage of investigation.

Such bodies (departments) are considered a standard in the countries of the European Union and the best practices of other countries. The pre-trial investigation authorities and other institutions, as a rule, do not have experience, special knowledge and time to effectively search for assets, and provide for arrest and subsequent efficient management of assets during the term the property is under seizure and after the confiscation decision is made. This is especially true if it is necessary to identify and search for assets abroad.

According to Article 31 of the UN Convention against Corruption, each State Party shall take such measures as may be necessary to ensure identification, tracing, freezing or seizing the means of committing corruption offenses and proceeds thereof for the purpose of subsequent confiscation. Each State Party shall, in accordance with its domestic law, take such legislative and other measures as may be necessary to regulate the management by authorized bodies of frozen, seized or confiscated property.

According to FATF Recommendations 4 and 38, countries should take measures, among other things, to: identify, search and evaluate property liable for confiscation; freeze and seize the assets; create mechanisms for effective management and, if necessary, disposition / deliverance of the property that has been seized or confiscated. These mechanisms should relate to both national procedures as well as implemented on requests from foreign countries⁷⁴.

New Recommendation No. 42

- 1. Ensure that law enforcement agencies dealing with corruption cases are operationally and structurally independent.***
- 2. Ensure an effective specialisation in the investigation and prosecution of corruption crimes in accordance with international standards.***
- 3. Consider excluding functions of combating economic and corruption crimes from the mandate of the state security bodies.***

⁷⁴ FATF (2012), *International Standards on Combating Money Laundering and Financing of Terrorism and Proliferation*. Rev. in February 2018, Recommendations 4 и 38, Explanatory Notes to Recommendations 4 and 38. Available at: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>. See also: (2012), *Chief officers of FATF. Best Practices on Confiscation (Recommendations 4 and 38) and Framework for Ongoing Work on Asset Recovery*. Available at <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/bestpracticesonconfiscationrecommendations4and38andframeworkforongoingworkonassetrecovery.html>; *G8 Best Practices for the Administration of Seized Assets (2005)*; European Union Decision 2007/845/JHA concerning cooperation between asset recovery offices of the member States for tracing and identification of proceeds of a crime; Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime.

4. Create (or designate) an authority or unit responsible for identifying, tracing, seizing and managing the assets subject to confiscation, including abroad.

“3. Train investigators and prosecutors on investigative and prosecution techniques when complex financial crimes are concerned ...”

Training

The authorities of Uzbekistan provided the following information:

Based on the Action Plan of the Academy of Public Prosecutor’s Office for 2018, a short-term course on *Current issues of countering corruption and fighting it* was held to train the staff dealing with combating organized crime and corruption in the Republic of Karakalpakstan, in the provinces and in the City of Tashkent.

The curriculum provides for further training on various topics of countering and combating corruption of investigating officers who are directly involved in anti-corruption activities.

For example, on June 18 – 29, 2018, the practical training was held on legal cases and hypothetical exercises; seminars, round tables and other events took place with the participation of international and foreign experts in the field of countering and the fight against corruption, as well as national experts and members of the Expert Group of the Republican Interdepartmental Commission for Combating Corruption.

The Academy, together with the *NGO Regional Dialogue*, organized a conference with the participation of experts from the United States who have extensive experience in the investigation of criminal cases related to corruption crimes, as well as of judges handling cases in this area.

In the course of the conference, the participants took part in dealing with hypothetical criminal cases prepared by foreign experts on the basis of the American experience.

In August 2018, the Academy of the Prosecutor General’s Office of the Republic of Uzbekistan held a round table on *Improving the Rule-Making Process as an Important Component of the Anti-Corruption System: the Experience of Uzbekistan and Slovenia*, where Mr. Goran Clemencic, the Minister of Justice of the Republic of Slovenia shared experience of anti-corruption reforms in Slovenia.

About three thousand employees of the Prosecutor's Office, the Department, the Bureau of Compulsory Enforcement and the Agriculture Inspectorate under the General Prosecutor's Office are trained every year at the Academy of Prosecutor's Office.

Curricula provides for two – three hours of training on anti-corruption depending on specifics of the audience. So, 488 students of the Higher Educational Courses of the Prosecutor General’s Office studied in the Academy in 2016, 1026 students – in 2017 and 598 students – in 9 months of 2018.

The following events were held at the Academy of the Ministry of Interior in February 2018 as a part of advanced training course for investigating and inquiry officers of the internal affairs bodies of the Republic of Uzbekistan: A set of lectures on timely detection, suppression, elimination of the consequences of corruption as well as the causes and conditions that contribute to it; an academic and practical conference entitled “*Anti-Corruption is a national task*”.

“... allocate the necessary human and financial resources, including for accounting, forensic and information technology expertise and research”

According to Article 187-3 of the Criminal Procedure Code, specialists of the Department for Combating Economic Crimes at the General Prosecutor’s Office, the State Tax Service, the Ministry of Finance of the Republic of Uzbekistan and territorial financial bodies may act as experts appointed for an audit.

In this context, a number of organizational measures aimed at strengthening human and financial resources, as well as at increasing the effectiveness of the fight against economic crimes and corruption, were taken in these government bodies.

In particular, the Department under the General Prosecutor's Office was transformed into the Directorate for Combating Economic Crimes, by Decree of the President of the Republic of Uzbekistan *On Measures to Radically Improve the Efficiency of Using Budget Funds and Improving the Mechanisms to Combat Economic Crimes* dated May 23, 2018 No. UP-5446. Economic and social status of the Department's staff has been enhanced. The total number of professional personnel of the Department is 1076 people.

Within the Directorate of the Prosecutor General's Office there is now a Department of Documentary due Diligence, which conducts audits and financial checks on behalf of the department. There is also an IT and Information Department at the General Prosecutor's Office.

49 investigators of internal affairs bodies were trained in the second half of 2017 at the Courses of the Academy of the Ministry of Interior on investigation of financial crimes, on forensic and information technology expertise and research.

Weekly training sessions on advanced training in the field of financial and tax crimes were organized at the Tax Academy of the State Tax Committee and the Training Centre at the Ministry of Finance – 232 territorial employees of the Department at the General Prosecutor's Office were trained there during 2017.

According to representatives of the law enforcement bodies of Uzbekistan, there are no problems with the involvement of experts during the pre-trial investigation.

The country is compliant, in general, with the recommendation in terms of training and allocation of resources.

Overall, **Uzbekistan is partially compliant with previous recommendation No. 13.**

Witness protection

In accordance with the Law of the Republic of Uzbekistan *On Criminal Intelligence*, in the event there appears a real threat to life, health or property of persons assisting the enforcement agencies, as well as to their family members, the above authorities are to take special protective measures towards them in accordance with the procedure established by the Cabinet of Ministers of the Republic of Uzbekistan (Article 23). A normative act establishing such a procedure is of an official nature.

In order to create state guarantees for the physical and social protection of victims, witnesses and other participants in the criminal process, including those who reveal corruption offenses, a draft law *On Protection of Victims, Witnesses and Other Participants in the Criminal Procedure* was worked out. It provides for state guarantees of physical and social protection of victims, witnesses and other participants in the criminal process, including those who reveal corruption offenses.

The draft law has been adopted for consideration by the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan and is reviewed at the first reading.

New Recommendation No. 43

- 1. Continue regular practical training of investigators and prosecutors in conducting investigations and prosecutions of complex financial crimes, on the use of ICT and various sources of information, including abroad, in conducting investigations.**
- 2. Ensure adoption and implementation of an effective law on the protection of witnesses and other participants in criminal proceedings, allocate sufficient funding for its enforcement.**

Chapter 4. Preventing and prosecuting corruption in the tax administration of Uzbekistan

4.1. Overview of the state tax service system

Sector overview, spread and risks of corruption

Under the Tax Code of Uzbekistan, the state tax service bodies – State Tax Committee of Uzbekistan, state tax departments of the Republic of Karakalpakstan, provinces and Tashkent city, and state tax inspectorates of districts and towns – are authorized, jointly with other bodies, to collect taxes.

The State Tax Committee (STC) is a central governance body for control of compliance with the tax law, protection of economic interests and property rights of the state.

In pursuing its activities, the State Tax Committee reports to the Cabinet of Ministers of Uzbekistan.

The State Tax Committee system includes the Central Office; state tax departments of the Republic of Karakalpakstan, provinces and Tashkent; state tax inspectorates of districts (towns); Interregional State Tax Inspectorate for large taxpayers; subordinated organizations; training institutions.

Duties and taxes administered by the state tax service bodies of Uzbekistan accounted for 75.4% of the total state budget revenues in 2015, 76.6% in 2016, 76% in 2017 and 72.8% in the first half of 2018⁷⁵.

Table 29. Tax receipts of the state budget of Uzbekistan

| Item | Receipts (in billion som) | | | |
|-----------------|---------------------------|----------|----------|------------------|
| | 2015 | 2016 | 2017 | 6 months of 2018 |
| Total receipts | 27 530.2 | 31 428.5 | 37 750.9 | 24 138.4 |
| including: | | | | |
| Profit tax | 1 180.5 | 1 215.1 | 1 475.5 | 1 743.4 |
| Property tax | 1 393.0 | 1 659.2 | 2 129.7 | 1 238.7 |
| Value added tax | 6 210.5 | 6 958.1 | 8 634.1 | 5 977.6 |

* Receipts are net of customs and other duties collected by custom authorities, and other receipts.

Source: Answers to a questionnaire provided by the Government of Uzbekistan in November 2018.

As of September 1, 2018 there were 358,609 operating corporate taxpayers and 228,226 private entrepreneurs.

Individuals:

- income tax payers – 4,545,217;
- property tax payers – 5,686,217;
- land tax payers – 5,002,270.

The total tax service staff is 11,410 including 257 at the STC central office.

The expenditures of the state tax service (in sum):

- 2016: 408.8 billion;
- 2017: 478.1 billion;
- 2018: 631.6 billion.

⁷⁵ As reported by the Ministry of Finance of Uzbekistan (<https://www.mf.uz>).

By virtue of their activities, state tax service bodies are government bodies which are in close contact with individuals, especially business entities, only to make especially high requirements to their integrity and efficiency.

The leaders of Uzbekistan have identified the tax sector as one of the problem points in terms of the spread of corruption and announced a need for profound reform.

Over the last three years, the Uzbek authorities identified a number of sectors including the tax service where corruption was mainly manifested and tended to grow according to the public opinion.

The statistics of different corruption crimes prosecuted under criminal law shows that of 1929 officials charged with corruption crimes in 2017, eighty-six were tax service staff, an indicator second only to police and banking staff.

Polls conducted across the country show that the State Tax Committee bodies have been on the list of sectors most affected by corruption and bribery over the last four years. Moreover, this negative rating is rising with the years.

According to a public opinion poll conducted by the Izhtimoyi Centre in 2018, 12.2 per cent respondents said that corruption and bribery were widespread or occurred from time to time at tax bodies.

A corruption risk analysis conducted by the Republican Interagency Commission placed the tax sector among the most corrupt along with higher and secondary vocational education, land management, state procurement and state-owned companies Uzavtosanoat, Uzpakhtasanoat and Uzdonmakhsulot.

As reported by Uzbekistan, in the course of an assessment of corruption risks regarding taxes and activities of Uzbekistan's tax service bodies, the STC has identified a number of shortcomings. The most widespread corruption risks for the STC staff included the following:

- control procedures;
- drafting and taking decisions to postpone the payment of taxes;
- consideration of administrative offense etc.

The most widespread corruption crimes committed by the STC staff were: theft by misappropriation or embezzlement (art. 167 CC); abuse of authority or office duty (art. 205 CC); bribe taking (art. 210 CC); mediation in bribery (art. 212 CC).

Policies to reform the taxation system and tax service bodies

The last few years have been marked by extensive efforts to reform the public sector in Uzbekistan, in particular, taxes.

The 2017-2021 Strategy for action in priority development areas in Uzbekistan provides for a phased simplification of the tax system and lower tax burden by expanding the taxable base. In furtherance of the Strategy, as well as to introduce modern tax administration methods for higher collection ratio of taxes and other duties, Decree of the President of the Republic of Uzbekistan No. VII-5116⁷⁶ "On Measures for Radical Improvement of Tax Administration and Higher Collection Ratio of Taxes and Other Duties" was adopted on July 18, 2017.

Decree of the President of the Republic of Uzbekistan No. VII-5468 "On the Guidelines for Improvement of Tax Policies in Uzbekistan" as of June 29, 2018 identifies the thrust of the country's tax policy improvements⁷⁷.

⁷⁶ <http://lex.uz/docs/3271161>.

⁷⁷ <http://lex.uz/docs/3802374>.

Resolution of the President of the Republic of Uzbekistan No. IIII-3802 “On Measures for Radical Improvement of Activities of the State Tax Service Bodies” as of June 26, 2018⁷⁸ lays down a programme of measures to improve the activities of the state tax service and tax administration.

In furtherance of the programme, the State Tax Committee is currently developing relevant regulations⁷⁹. The draft Tax Code of Uzbekistan (new version) is nearing completion, with the draft 2019-2023 Strategy of the Tax System Reform in Uzbekistan being completed.

Expert comments

1. The STC accounts for nearly 75% of tax and other budget revenues, controls and provides services to over 15 million taxpayers and has a staff of more than 11 thousand and a full range of exclusive legal powers, only to make it not only a key government agency but also subject to high risks including the risk of corruption.

The best tax administration practices have a so-called feedback between the efficiency (tax collection ratio) and extent of corruption within the tax service since only the tax services trusted by the public can efficiently collect taxes.

To do this, the tax service has to possess the qualities of a modern tax administrator, in particular:

- know how to plan its activities in the long run;
- manage tax risks on a systematic basis;
- exercise adequate risk-based control of taxpayers;
- be customer focused;
- provide quality services mainly e-services;
- advise of the tax payment procedure;
- have a skilled staff.

The draft 2019-2023 Strategy of the Tax System Reform in Uzbekistan envisages serious objectives to bring about qualitative changes of the tax policy, improve tax administration and business environment, improve self-compliance by taxpayers, and implement other necessary steps. These objectives include:

- creating an enabling environment for voluntary tax compliance;
- establishing an inclusive system to monitor tax administration efficiency and preferences;
- reducing shadow turnover;
- streamlining tax administration costs;
- improving the investment climate;
- automating tax administration processes;
- improving staffing strategies and practices etc.

Reforms of such extent and their expected progress could have a positive impact on both tax collection while at the same time reducing corruption.

However, experts believe that a strategic approach and governance of the STC (absent in the available draft) is needed for the proposed reforms to achieve a real and systematic effect.

At present, the available draft 2019-2023 Strategy of the Tax System Reform in Uzbekistan looks more like a document intended for short-term use. For example, it is not clear what problems will be addressed by the proposed objectives, how they were evaluated and, importantly, how the priorities were identified. Thus, while aiming at “reducing the shadow sector”, the draft strategy clearly lacks adequate measures to achieve this; its size and impact were not measured.

⁷⁸ <http://lex.uz/docs/3796086?ONDATE=27.06.2018%2000#3802145>.

⁷⁹ <http://lex.uz/docs/2509057>.

The experts believe that for the reform to advance and achieve its objectives, the STC should approve the strategic governance and planning procedure. It should specify all main steps and elements of strategic planning: period, proposing objectives, assessing risks, proposing tasks, planning activities, measuring and assessing outcomes, persons and divisions in charge, resources, IT support. Mandatory types of measuring the achievement of strategic objectives should include public opinion polls on taxpayers' trust in the tax service, satisfaction with service delivery, perception of corruption etc.

According to the information provided by Uzbekistan in their comments to this draft report, the draft Strategy had been amended and amplified based on the comments and suggestions offered as part of the technical cooperation with the IMF mission. The authorities informed in particular that the definition of goals had been improved, the planned actions, mechanisms and deadlines had been amended, and indicators had been offered in order to assess the outcomes and effectiveness of measures taken.

Uzbekistan authorities claim that the revised draft strategy encompasses the recommended areas and provides for the objectives as proposed in the recommendation. They have also informed that the draft strategy was at the stage of being endorsed by ministries and agencies.

Experts welcome cooperation with the IMF in this area and are confident it will help Uzbekistan comply with the recommendations of this report. However, with no opportunity to study the updated text of the draft strategy, they remain hopeful that this report's recommendations would serve as further benchmarks for this and later strategic documents, given that they have a broad application and extend to all strategic documents to follow.

Going forward, Uzbekistan ought to look at the standards and practices developed by the OECD and IMF in the area of tax administration and governance, as well as consider and start taking steps to remove the shortcomings to be identified by the IMF Fiscal Affairs Department (IMF FAD). As reported by Uzbekistan, this work has already started, and based on the earlier arrangements there is a team of experts from the IMF and World Bank working at the State Tax Committee since January 2019.

2. A tax risk management plan (Compliance Strategy) should be developed as part of the said strategic plan. It normally covers a period of one or more years, with the strategy for the next year to be developed with participation of a majority of tax service divisions involved in tax administration.

Once assessed in terms of quality and quantity, all possible tax risks should be prioritized. This work is followed by a risk management plan which includes measures of control, information, provision of extra services to taxpayers etc.

A single division – normally the one responsible for tax risk analysis – should be in charge of the plan drafting process. The plan should specify the persons in charge, delivery dates, performance indicators, resources, communication.

It would be useful to review the experience of other countries such as the UK, Sweden, Netherlands, Lithuania, Latvia and Estonia which efficiently use this tool. It would equally useful to consider other guidelines developed by the European Commission, IMF and OECD on this issue⁸⁰.

⁸⁰ See, in particular: European Commission Directorate-General Taxation And Customs Union, Guidelines for a Model for A European Taxpayers' Code https://ec.europa.eu/taxation_customs/sites/taxation/files/guidelines_for_a_model_for_a_european_taxpayers_code_en.pdf; Current challenges in revenue mobilization: improving tax compliance, The Staff Report prepared by IMF staff, January 2015, <https://www.imf.org/en/Publications/Policy-Papers/Issues/2016/12/31/Current-Challenges-in-Revenue-Mobilization-Improving-Tax-Compliance->

New Recommendation No. 44

1. *Introduce the strategic tax service management for the long and medium term to ensure systematic and consistent resistance to interrelated corruption and tax risks. The strategic plan should identify the objectives and ways to achieve them, include performance measurement system based on key performance indicators, identify persons in charge and allocated resources.*
2. *Introduce a tax risk management methodology (Compliance Strategy) as part of strategic tax administration governance. The compliance strategy should identify the main fiscal risks assessed by the methodology for systemic and cyclical IT risk analysis. Control (minimisation) methods should include the means of control, service delivery, information, cooperation, etc.*

4.2. Sectoral anti-corruption policy and specialised units

Sectoral anti-corruption policies

Provisions of the Anti-Corruption Law and the 2017-2018 State Anti-Corruption apply to the state tax service. The STC is one of the Programme's implementing agencies while the STC Chairman is a member of the Republican Interagency Anti-Corruption Commission.

As required by the State Anti-Corruption Programme, the STC is under a duty to annually develop anti-corruption documents for internal use.

In 2017, it was a Plan for execution control of the "anti-corruption and preventive action plan" of the Framework for macroeconomic development, structural change and foreign investment of the Cabinet of Ministers of Uzbekistan approved by the STC Chairman on May 15, 2017.

In 2018, it was an Action Plan for prevention of official misconduct and other crimes among the tax service staff, as well as corruption, and for tougher agency control and observance of good conduct rules within the state tax service approved by the STC Chairman on January 12, 2018.

The internal security department is under a duty to develop action plans for preventing corruption within the tax service.

Once every six months, the STC will report anti-corruption performance to the Republican Interagency Commission. The internal coordinator (officer of the internal security department) will collect, summarize and report the relevant data and assume general responsibility for coordination of organizational and analytical work performed by the STC to fight corruption.

As reported by Uzbekistan in 2017, the STC received one of the highest anti-corruption ratings in the course of anti-corruption performance monitoring. The policies implemented by the STC were included into the annual report of the Republican Interagency Commission published in the form of the Information and Analysis Report "Execution of the State Anti-Corruption Programme in 2017" (a hard copy publication).

According to Uzbekistan, the corruption risks identified in the tax sector as result of assessment were outlined in Resolution of the President of the Republic of Uzbekistan No. IIII-3802 "On Measures for Radical Improvement of Activities of the State Tax Service Bodies" as of June 26, 2018 and are taken into account in annual anti-corruption plans developed by the STC.

The experts have no information on any involvement of the public in sectoral anti-corruption policies being developed.

Expert comments

1. The experts believe that the 2017-2018 State Anti-Corruption Programme does not make an adequate focus on the sector identified by the government as the worst affected by corruption.

Thus, the STC is co-implementing agency for 8 out of 51 programme items while the policies it is responsible for are mainly general in their essence. The experts also doubt whether, for example, the issue such as “taking practical steps for anti-corruption training of the police and court staff” will effectively impact the corruption practices in the tax sector (item 41 of the State Programme) and whether this measure is efficient in reducing corruption in the tax sector.

Uzbekistan will need to identify anti-corruption priorities and, since the tax sector is one such priority, clearly indicate this in the programme.

The next anti-corruption policy document should clearly state that the tax sector is a priority, what outcomes are expected to result from the reform in this sector, what special measures are envisaged and how their performance will be assessed.

2. The experts noted that the quality of agency plans grew over the last year.

Before 2018 they were often too general and formal in their content.

Thus, the 2017 Plan included 15 items often composed of the actions that the STC had to perform by law anyway, such as anti-corruption review of regulations and their drafts (item 1), compliance with the Law “On the Government Transparency” (item 10) etc. Also, it included the activities which the experts believe to have no direct relation to anti-corruption. For example, item 13 envisaged “prevention of crime related to wage accrual and payment, abuse of the plastic card rules” or “based on review of the crimes in the area of electricity (gas) consumption, construction of standard buildings, develop and make proposals to the General Prosecutor on how to prevent the factors which cause these crimes” (item 15).

In 2018, the Action Plan includes 18 items. Its quality is much better than that of the previous one since its activities were largely developed on the basis of risk analysis findings.

For example, in order to remove the risk related to the exercise of control it is proposed to:

- Reinforce preventive action targeting the staff involved in control activities by way of debriefing, receiving subscription from them, and maintaining personal files on such activities (item 8).
- Analyse the performance of functional divisions to identify corruptive factors and conduct office reviews and inspections based on the findings. Should gross misconduct be identified, refer them for legal assessment to prosecutor offices (item 13).
- Analyse the findings of offsite control to improve its performance, prevent and fight crime in this area (item 15).

The experts emphatically recommend continuing these practices.

Moreover, it would be useful to complement such plan with the tools enabling its efficient monitoring. A lack of measurable indicators to assess the progress of achieving the set tasks means that performance of the existing programmes is not properly assessed while the outcome of anti-corruption policies in the tax sector is not identified.

It is recommended to develop measurable performance indicators for each policy or a set of policies. This will allow to monitor the outcome of measures being taken and adjust them in the course of their implementation, as well as take into account the performance of particular policies in developing further plans.

3. For proper anti-corruption action within the state tax service, specially allocated and trained staff is needed with functions restricted to these particular tasks. The experts doubt whether the internal security department is capable of organizing efficient work in this area, especially in the long run, given its current setup (see the section “Internal Security Department”).

4. The experts believe it necessary to involve the public, business and research community in drafting further sectoral anti-corruption plans. This will at least serve to build up trust in tax authorities and also help to look at the situation from a tax service user perspective and complement the expertise of the anti-corruption policy developers.

Internal security department

The internal security department of the State Tax Committee operates on the basis of STC Order No. 646 of October 9, 2017.

As reported by Uzbekistan's authorities, the department assumes the following functions:

- taking preventive action to avoid misconduct;
- identifying corruption within the tax service bodies, taking steps to fight it, organizing relevant action;
- protecting officers in performance of their functional duties and ensuring its own security and that of sensitive facilities;
- preventing misconduct on the part of the tax service staff, abuse of authority, interference with business activities, covering up business activities, as well as assessing the staff misconduct from a legal perspective, taking preventive and disciplinary action as necessary;
- identifying and analysing the conduct by the tax service staff to exert pressure and illegal action on taxpayers;
- summarizing and analysing data related to the identified corruption cases within the tax service bodies and taking preventive action;
- screening candidates to be employed by the tax service bodies, identifying corruption and criminal linkages, analysing and assessing candidates to be employed by the tax service, and performing other functions.

While the State Tax Committee has the internal security department, regional tax service offices have their own internal security divisions;

The head and the staff of the STC internal security department as well as the heads of regional security departments are appointed and dismissed (removed from office) by the STC Chairman order. The staff of the regional internal security divisions are appointed and removed from office by the order of the regional tax department's head approved by the STC internal security department.

The internal security department has achieved the following outcomes. Petitions considered: 920 in 2016; 1,224 in 2017; 879 over 8 months of 2018.

Moreover, 1,460 inspections were conducted in 2016, 1,575 in 2017, 673 over 9 months of 2018, with 1,349 findings referred to judiciary authorities in 2016, 1,459 in 2017, and 607 over 9 months of 2018.

The internal security officers are expected: to carry out preventive events involving the staff; offer individual preventive talks; brief the personnel responsible for tax control and assigned to off-site business trips; offer training to the staff; look into the operations of various structural units; make inquiries into petitions from businesses or individuals alleging corruption; vet candidates for the service; sum up and analyse actions taken to follow up on facts of corruption in the tax service.

With regard to preventive events, individual preventive talks and guidance, in 2017 there were 8902 workshops, 28405 individual talks, 121484 briefings, and 131 classes. In 2018 there were 5588 workshops; 29482 individual talks; 82470 briefings and 85 classes.

The total internal security staff is 96 including 7 employed at the central office.

Expert comments

1. The internal security staff is largely focused on internal reviews to identify misconduct. They have no responsibility for specific business lines. The focus on assessing and minimizing corruption risks is not adequate.

The information provided on a huge number of preventive events does not allow to judge about their quality or effectiveness; neither the aim nor contents of the many thousands of briefings or individual talks are known. Overall, it is doubtful that, given the existing strength of the personnel, so many events could make any realistic impact on the integrity of the service.

To prevent corruption and conflicts of interest, the STC will need to use a number of interrelated and efficient policies. This includes administrative arrangements, methodological guidance, staff debriefing and training, internal control system to create an adequate environment and minimize staff misconduct.

According to the authorities, the STC decree of 6 June 2015, No 198, "On Establishing a special commission of the State tax Committee" created a commission composed of 17 executive managers and officers of the STC. The commission is expected to look into facts leading to corruption; work to prevent the identified factors or corruption offences, sanction the staff, develop anti-corruption plans and monitor their implementation, among other things.

The monitors did not have an opportunity to examine in detail the operations or achievements of this commission. In general, there should be a permanent commission at the STC to monitor corruption risks in the service, perform the oversight of the agency's corruption risk management system and assume responsibility for monitoring anti-corruption plans to be implemented.

The STC internal security department will need to develop and update on a permanent basis a register of corruption risks at the STC across business lines and structural divisions, collect the data on and assess anti-corruption policies, develop and monitor the implementation of action plans, as well as report on the progress of action plans at least twice a year. Following an assessment, the STC's anti-corruption action plans should be adjusted to reflect the current information on the misconduct being identified over the previous period. The procedure for assessing and managing corruption risks should be governed by STC bylaws and binding on all staff.

Moreover, it is crucial to integrate corruption risk management into the STC's overall risk management system to make sure that the risks are identified, and risk assessment methods and processes applied on a uniform basis.

Following a risk assessment, the STC internal security department will need to develop a list of duties and functions most affected by the risk of corruption.

Moreover, corruption risks should be assessed and described, and their minimization plans drafted by specially trained staff not responsible for other business lines. This will enable the trained staff to fully focus on analysing corruption risks. As may be necessary or if there is a lack of knowledge to assess the details of a function, the responsible officer should be introduced to the work of the structural division on site to identify the relevant risks.

2. The experts believe that internal security divisions should become more independent. To do this, it is necessary to introduce a clear list of grounds for dismissal of division heads, and to oblige internal security divisions to report findings directly to law enforcement authorities without seeking any approval from and even giving any prior notification to the STC senior management.

3. The experts believe that the number of internal security staff available at the central level is not sufficient for efficient performance of functions. It is equally necessary to analyse the amount of wages of the internal security staff from a perspective of adequacy in view of the nature of their functions related to control action and high corruption risks.

4. For better performance to identify corruption and other misconduct, as well as related vulnerabilities, it is necessary to introduce modern analytical methods (including software-based) to analyse data sets and identify suspicious conduct, corruption risks and abnormal actions. It is likewise necessary to maintain reported data on possible misconduct to be further used for various

purposes (including to investigate violations, identify the trends of misconduct and plan preventive action as necessary).

5. Internal security divisions should use new information channels (including in the form of anonymous reports) for reporting possible corruption misconduct and violations of anti-corruption law. Although internal security divisions have no duty to consider anonymous reports under current legislation, they can use them to signal possible misconduct if such reports contain verifiable facts. New reporting channels may include online tools.

6. Authorizing internal security divisions to perform investigations and inquiries would also improve the efficiency of control functions.

New Recommendation No. 45

1. *Clearly prioritise the tax sector in the next national anti-corruption policy document, identify specific measures to prevent and fight corruption in this sector, their performance indicators and assessment mechanisms.*
2. *Create an efficient system to assess and minimise corruption risks within the tax service as a part of its overall risk management system including:*
 - a) *develop and regularly update a register of corruption risks and a list of tax service positions and functions most affected by the risk of corruption;*
 - b) *ensure efficient operation of a corruption risk management commission responsible for the regular assessment of corruption risks, planning and implementing measures to remove such risks;*
 - c) *assign specific functions among the staff to assess and manage corruption risks;*
 - d) *train the tax service staff in assessing corruption risks and planning mitigation actions;*
 - e) *involve the civil society and experts in the risk assessment exercise;*
 - f) *regularly poll the tax service staff on corruption to analyse and identify possible risks, plan and adjust the effective action plan.*
3. *Ensure adoption and implementation of the action plans to prevent and fight corruption in the tax administration based on risk assessment and measurable performance indicators, developing such plans through meaningful consultations with a wide range of stakeholders representing business, civil society and research community.*
4. *Strengthen independence and effectiveness of internal security units within the tax service, in particular, by:*
 - a) *making it a duty of internal security units to directly report uncovered corruption offences to law enforcement authorities;*
 - b) *introducing modern ICT-based data analysis methods;*
 - c) *expanding the channels for reporting possible misconduct including through verification of anonymous reports or reports submitted via online tools;*
 - d) *considering authorising internal security units to perform operative and detective measures.*

4.3. Corruption prevention policies

Legal status of the Tax Service staff

Under Article 8 of the Law of Uzbekistan “On the State Tax Service”, officers of the state tax service in performance of their duties are considered to be government representatives.

No one is authorized to interfere with legitimate activities of the state tax service staff. Obstructing the performance of duties, assaulting the dignity of the tax service staff, resisting, threatening, using violence or endangering their life, health or property in connection with performance of their duties will entail a liability envisaged by law.

Employment with the tax service is contract based. Tax service heads are not political officers.

Under the State Tax Service Employment Regulation of Uzbekistan approved by Cabinet of Ministers Resolution No. 677 as of August 28, 2017, the President of the Republic of Uzbekistan is authorized to appoint and remove from office the following staff:

- STC Chairman as proposed by the Prime Minister of Uzbekistan;
- STC Senior Deputy Chairman, Deputy Chairmen, heads of the state tax departments of the Republic of Karakalpakstan, regions and Tashkent.

The following officers are appointed by the STC Chairman order under the formal procedure: officers of the STC central office, deputy heads of the state tax departments of the Republic of Karakalpakstan, regions and Tashkent, heads of the state tax divisions of the Republic of Karakalpakstan, regions and Tashkent, heads of the district (town) state tax inspectorates.

The staff not listed above will be appointed by the head of the state tax service body in question.

Wages

Wages are calculated as per staffing table.

Wages payable to the tax service staff are regulated by:

- Cabinet of Ministers Resolution No. 147 “On the Wage Scale for Civil Servants, Judiciary Staff and Public Notaries” of April 12, 1996;
- paragraph 19, Resolution of the President of the Republic of Uzbekistan No. IIII-3802 “On the Measures for Radical Improvement of Activities of the State Tax Service Bodies” as of June 26, 2018;

Monthly supplements to wages of the state tax service staff for special degree or seniority are regulated by Cabinet of Ministers Resolution No. 677 “On Further Improvement of Legal Regulation of the State Tax Service Bodies” as of August 28, 2017.

The procedure for bonus payments, compensations, financial support and their sources are determined by the State Tax Committee.

Actual wages: the average wage (sum, 2017) is 1.8 million compared to the average wage in the public sector of 1.2 million (as reported by the State Statistics Committee).

Average wage over 9 months of 2018: 2.6 million compared to the average countrywide wage of 1.8 million (as reported by the State Statistics Committee).

In 2017, the average wage (as reported by the State Statistics Committee) was:

- STC Chairman – 4,194.7 thousand sum, over 9 months of 2018 – 5,823.6 thousand (average growth of 38.8%)
- STC Deputy Chairman – 4,037.1 thousand sum, over 9 months of 2018 – 5,549.1 thousand (average growth of 37.4%);
- head of a territorial tax service department – 2,515.5 thousand sum, over 9 months of 2018 – 3,473.2 thousand (average growth of 38.1%);

- tax inspector at the State Tax Committee – 3,067.4 thousand sum, over 9 months of 2018 – 4,529.7 thousand (average growth of 47.7%)
- tax inspector at a territorial tax service department – 1,729.6 thousand sum, over 9 months of 2018 – 2,350.5 thousand (average growth of 35.8%);
- head of the STC internal security department – 3,196.6 thousand sum, over 9 months of 2018 – 4,422.1 thousand (average growth of 38.3%).

Wage structure of the state tax service staff (as reported by the STC): wage – 41.2%, supplements – 36.8%, bonus payments – 22.0%.

Uzbekistan’s Cabinet of Ministers Resolution No. 43 of January 23, 2018 has approved a Regulation on the procedure for penalizing and incentivizing the senior management and officers of financial and tax bodies for compliance with indicators of forecasted budget revenues and identification and collection of extra revenues. Under paragraph 12 of the Resolution, while compliance with the budget revenue target will give rise to incentives, a failure to do so will give rise to penalties applicable to the tax service senior management⁸¹.

Under Resolution of the President of the Republic of Uzbekistan “On Measures for Radical Improvement of Activities of the State Tax Service Bodies” as of June 26, 2018, it was established that the state tax service staff will be incentivized at the expense of the Special Fund for financial support, social protection, development and contingencies of the State Tax Committee of Uzbekistan (“Special Fund”) in the amount of up to 10 percent of:

- collected taxes and other duties identified by offsite control;
- tax paid by the taxpayer as identified by time studies and certification over one month;
- taxes collected as a result of onsite inspections.

Moreover, the amount of allocations to the Special Fund grew from 25 to 40% of the fines for violation of the tax law and penalties for administrative misconduct, with extra funds being used for personal bonus payments to the staff.

The procedure for bonus payments approved by STC Order No. 426 of September 18, 2018 envisages up to 10% of the amounts collected in the course of offsite control, onsite inspections, time studies and certification to be used for incentivizing the state tax service staff.

Under the STC order, the state tax service is setting up a special commission to consider incentivizing of staff following offsite control, onsite inspections, time studies and certification. The commission will include the STC senior staff and heads of responsible divisions (department of risk analysis and offsite control, tax misconduct prevention department, tax control department, state budget revenue accounting and monitoring department, tax enforcement department, value added tax administration department, internal audit department, financial management and technical support department, legal department). On similar principles, special commissions are established at territorial tax departments.

Employment procedure

Employment and service with the tax service are regulated by the Tax Service Employment Procedure approved by Cabinet of Ministers Regulation No. 677 “On Further Improvement of Legal Regulation of the State Tax Service Activities” as of August 28, 2017.

Citizens of Uzbekistan are employed with the state tax service irrespective of age, ethnic origin, sex, social background, property and office status provided that they have adequate professional competence, business, personal and moral qualities, education and health to achieve the tasks assumed by the state tax service bodies.

⁸¹ <http://lex.uz/docs/3519620>

The staff is promoted on the basis of professional, moral and business qualities demonstrated in the course of practical work.

All higher positions within the state tax service are filled on a competitive basis.

The inspector positions within the state tax service are filled on a competitive basis by those who have at least secondary vocational education and special training in economics and law (at structural divisions responsible for ITC deployment and development – in computer technology and IT).

Senior positions at the state tax service except those to be appointed by the President of Uzbekistan are filled on a competitive basis by those who have higher education and special training in economics and law.

The procedure for competitive selection, employment, transfer to another permanent job is established by the STC in accordance with the law.

In particular, candidates for the state tax service are selected on the basis of STC Order No. 22 as of January 18, 2016 “On Improving the Procedure for Competitive Staff Selection and Transfer to Another Job”.

The main steps of selecting candidates to positions:

- selecting candidates on the basis of applications or CVs;
- initial screening of a candidate;
- special screening of a candidate;
- staffing commission (interview), testing;
- allocating candidates to particular positions⁸².

The information on recruitment, requirements to candidates, privileges and benefits available to the tax service staff is available in the STC official website at soliq.uz and my.soliq.uz⁸³. The website also has a CV section which a candidate may fill in to directly send his or her CV to a tax service body⁸⁴.

Role of the State Tax Committee in promoting integrity

Resolution of the President of the Republic of Uzbekistan No. IIII-3802 “On Measures for Radical Improvement of Activities of the State Tax Service Bodies” as of June 26, 2018 makes it a personal responsibility of the STC Chairman to:

- create a principally new system for selecting, allocating and incentivizing the tax service staff in order to retain skilled workers possessing high moral and ethical qualities;
- achieve a radical change of the staff’s attitude to the service, create an atmosphere of intolerance to any manifestation of misconduct, promote a healthy climate among the staff.

The STC management will ensure the tax service staff’s compliance with the rules of good conduct.

Article 21 of Uzbekistan’s Anti-Corruption Law provides for the policies to prevent and settle conflicts of interest.

In particular, the state tax service staff in performance of their office or service duties should avoid any personal interest which could or will result in a conflict of interest.

⁸² STC Order No. 22 “On Improving the Procedure for Competitive Staff Selection and Transfer to Another Job” of January 18, 2016.

⁸³ <https://soliq.uz/ru/about/vacancy>.

⁸⁴ <https://my.soliq.uz/main>.

In the event of a conflict of interest, the state tax service workers shall promptly advise their direct supervisor. A supervisor advised of a conflict of interest shall take timely steps to prevent or settle it.

Compliance with the rules for settling a conflict of interest is monitored by special units (commissions) for public service ethics.

The state tax service staff and their supervisors will be liable under the law for a failure to comply with the rules for preventing or settling a conflict of interest.

Cabinet of Ministers Resolution No. 62 “On Approving the Standard Rules of Good Conduct for Workers of Government Bodies and Executive Authorities at the Local Level” as of March 2, 2016.

With regard to the staff he is in charge of, a supervisor shall give an example of high professionalism, integrity and equity, promote an enabling moral and psychological climate at the state body or structural (territorial) division thereof; he shall not require from the staff to perform any instruction going beyond their office duties not induce them into any misconduct.

The supervisor shall not select or allocate the staff on the grounds of kinship, community or personal allegiance. He shall strictly suppress any manifestation of nepotism, sectionalism, favouritism and other negative factors in the process of performance of his office duties.

The supervisor shall take timely steps to prevent and settle any conflict of interest, prevent corruption; ensure efficient staff management, treat the property and funds entrusted to him with care and economy. The supervisor shall be liable for a failure to prevent any action (failure to act) by his subordinate staff which is contrary to the principles and rules of good conduct.

The STC Chairman shall approve a plan of anti-corruption action and monitor the execution thereof.

The STC system does not identify a list of jobs affected by high risks of corruption.

However, an Instruction approved under STC Chairman Order No. 676 “On Measures to Prevent and Identify Corruption and Other Criminal Misconduct at the State Tax Service Bodies Including Awareness Work with the Staff” as of October 23, 2017 provides for monitoring of all personnel of the state tax service bodies.

The dissemination of this document which is for official use only is restricted under the STC order.

The rules for protecting corruption whistle-blowers apply to the state tax service staff. These provisions are envisaged by the following general regulations.

In particular, under Article 28 of the Anti-Corruption Law of January 3, 2017, any person who reports corruptive behaviour shall be protected by the state. Prosecution of persons reporting corruptive behaviour shall incur a liability under this law.

Moreover, under Article 23 of the Law “On the Criminal Intelligence and Surveillance Operations”, where there is a real threat to the life, health or property of persons (their families) assisting the criminal intelligence bodies, the bodies in question shall take specific steps to protect these persons as provided for by the Cabinet of Ministers of Uzbekistan.

Also, under paragraph 9 of the Standard Rules of Good Conduct for Workers of Government Bodies and Executive Authorities at the Local Level (approved by Cabinet of Ministers Resolution No. 62 as of March 2, 2016), managers of government bodies shall make sure that no one is dismissed or prosecuted as a result of reporting violations of the law or providing opinions and criticism in their reports, as well as for any other form of criticism.

A similar provision is contained in paragraph 10 of the Rules of Good Conduct of the state tax service staff of Uzbekistan.

Code of conduct, conflict of interest, gifts, other restrictions

The Rules of Good Conduct of the State Tax Service Staff of Uzbekistan are approved by STC Order No. 155 as of April 15, 2016.

Under Cabinet of Ministers Resolution No. 677 as of August 28, 2017, any appointment to a staff position with the state tax service shall comply with the requirements whereby close relatives or those next to kin with officers of the state tax service (parents, brothers, sisters, sons, daughters and spouses, as well as parents, brothers, sisters and children of spouses) shall not serve at the same tax service body where they are directly subordinated to or controlled by one another.

Under the Rules of Good Conduct of the State Tax Service Staff of Uzbekistan approved by STC Order No. 155 as of April 15, 2016:

- in performing their duties, the tax service staff shall avoid any personal interest which will or could result in a conflict of interest;
- a conflict of interest shall arise in a situation where the tax service staff have a personal interest that will or can affect an objective and impartial performance of their duties.

A personal interest includes any profit or advantage to be gained by the tax service staff for themselves or their close relatives, as well as for other persons they maintain close personal or business contacts with.

In the event of a conflict of interest, the state tax service staff shall promptly advise their supervisor.

A supervisor advised of a conflict of interest shall take timely steps to prevent or settle it.

The state tax service workers are not allowed to be engaged in business activities.

The state tax service workers shall not engage in any activity or hold an office incompatible with due performance of their duties or prejudicial to them.

In any circumstances, the state tax service workers shall not derive illegitimate personal benefits from their office.

The state tax service staff shall advise their supervisor of any stake in the capital of business entities to take steps for preventing a conflict of interest.

When appointed to a position and performing his office duties, the state tax service worker shall report any personal interests (or possible personal interest) which will or could affect due performance of his office duties.

Under paragraph 8 of the Standard Rules of Good Conduct for Workers of Government Bodies and Executive Authorities at the Local Level (approved by Cabinet of Ministers Resolution No. 62 of March 2, 2016), unless otherwise provided for by law, public servants are not allowed to accept any financial values or other gains from individuals or legal entities in connection with performance of their duties.

Under paragraph 26 of the Regulation for Employment with the State Tax Service of Uzbekistan approved by Cabinet of Ministers Resolution No. 677 as of August 28, 2017, valuable gifts worth more than USD 200 received by office holders in performing representative functions at international and interstate symposiums, conferences and other business (official) meetings, except personal prizes awarded at sport events, shall pass to the state budget as officially provided for.

There is no statistics because the state tax office workers have not received any such gifts at present.

The state tax service staff is not allowed to:

- engage in any business;
- combine jobs (except related to research, education and creative activities);
- accept gifts or services for acting or failing to act as part of their office duties;

- neglect to comply with the law if asked to do so by their relatives, friends or other unauthorized persons;
- organize and take part in strike action, political manifestations and rallies;
- take alcohol in performing their office duties;
- maintain relations with persons likely to discredit the state tax office bodies;
- act as an agent of or represent any third party at the state tax service bodies;
- use hardware and software, funds or other public property and official information for any purpose other than related to performance of office duties.

Moreover, paragraph 9 of the Rules of Good Conduct of the State Tax Service Workers of Uzbekistan approved by STC Order No. 155 as of April 15, 2016 provides for similar anti-corruption restrictions and prohibitions.

Control of compliance with the rules applicable to conflicts of interest, gifts, declaration of income and other anti-corruption restrictions and requirements is exercised by the STC internal security department and its offices at regional tax departments.

Disclosure of assets

No provision is made for income and assets to be declared by the state tax service staff of Uzbekistan.

Consultations

The mechanism for advising the state tax service staff on compliance with requirements and restrictions regarding prevention of conflicts of interest, gifts, declaration of income, other anti-corruption restrictions and requirements is established by the Rules of Good Conduct of the State Tax Service Workers of Uzbekistan approved by STC Order No. 155 as of April 15, 2016.

In the event of a conflict of interest, the state tax service staff shall promptly advise their supervisor who shall take timely steps to prevent or settle it.

No statistics of this kind is available at the STC.

Training

The skills improvement courses envisage training on integrity in the state tax service system.

Number of trainings:

- 2015: managers – 21, staff members – 86;
- 2016: managers – 20, staff members – 86;
- 2017: managers – 23, staff members – 108;
- 2018: managers – 12, staff members – 63.

Trainings are conducted on a regular basis as per scheduled plan for the skills improvement courses to be annually approved by the STC order.

The trainings are organized on the initiative of the STC's internal security department, with the trainers invited from the skills improvement courses and trainings conducted jointly with those for the staff of the internal security department;

Standard training programme:

1. Regulatory framework to fight corruption in Uzbekistan:

Anti-Corruption Law;

Presidential Resolution No. IIII-2752 of February 02, 2017 “On Measures for Implementing the Anti-Corruption Law of Uzbekistan”;

Cabinet of Ministers Resolution No. 62 as of March 2, 2016 “On Approving the Standard Rules of Good Conduct for Workers of Government Bodies and Executive Authorities at the Local Level”.

2. Duties and responsibilities of the state tax service staff to fight corruption in their professional work (State Tax Committee Order No. 155 “On Approving the Rules of Good Conduct for the State Tax Service Staff of Uzbekistan” dated April 15, 2016).

3. Outline of the corruption cases recently identified among the state tax service staff.

Number of workers who underwent training (by category):

- 2015: 449 managers, 1930 staff members;
- 2016: 416 managers, 1749 staff members;
- 2017: 508 managers, 2167 staff members;
- 2018: 261 managers, 1531 staff members;

The trainings are financed from the state budget and a special fund for development of the tax service.

Expert comments

1. The experts noted a considerable political influence on the appointment of senior officers to the State Tax Committee. To ensure integrity and achieve appointments based on professional qualities and merits, it is recommended to consider the introduction of competitive selection to these positions.

In their comments, Uzbekistan authorities noted that the senior STC staff were approved by the president of the Republic of Uzbekistan as nominated by the prime minister. Several candidates are nominated, they are vetted and interviewed by responsible officials at the Presidential Administration. According to the authorities, in such way a competitive selection of candidates for the above positions is ensured. However, monitors believe that this procedure is only nominally competitive, since the list of candidates is drawn up administratively, in a non-transparent procedure.

2. The experts have negatively assessed the introduction of bonuses for the STC staff in the amount of 10 percent of collected taxes and other duties following off-sight control, time studies and certification over one month, collected taxes following on-sight inspections, as well as the Special Fund to be formed with penalties for violation of the tax law and fines for administrative offense. This special fund and the payment of bonuses for collected taxes will encourage wrong behaviour and motivations among the staff and will create considerable risks of corruption and abuse of authority. It is recommended to review this approach, remove the practice of linking bonus payments to collected taxes, and make sure that the tax service is fully funded at the expense of the general state budget. Bonuses to the tax service staff should be based on transparent assessment of their performance with clear criteria and indicators and should not be directly dependent on the amount of collected taxes.

The experts also believe that the wage structure of the state tax service workers should be considerably reviewed to achieve a larger share of the fixed salary (that is, the total of wage supplements and bonuses should not be more than the salary). This will allow to considerably reduce corruption risks among the staff by encouraging impartial decision-making.

3. The experts welcome that positions within the state tax service, except those to be appointed by the President, are filled on a competitive basis with publicly available information on vacancies.

However, the procedure of such selection gives rise to a number of questions. Thus, according to the Regulation for organizing competitive selection for employment and transfer to another job within the state tax service, no candidate will be considered for promotion unless proposed by the head of a structural division or territorial body of the state tax service. Moreover, a character reference will be needed for a candidate recommended to the state tax service bodies, to be issued by senior officers.

Candidate to senior positions will also need “an instruction (guarantee) with a justification of fitness to the recommended position, ability to address not only short-term tasks but primarily medium and long-term tasks of the relevant focus and sector”. Such a guarantee should be provided by the senior manager.

A senior manager of the human resources department has a discretion to discard a candidate during the so-called preliminary screening including on the basis of contents of the character reference issued to the candidate, his performance at previous jobs, his progress across the hierarchy including the prospects of promotion and reasons for demotion, analysis of “the sense, relevance and motives specified in the essay written by the candidate and their adequacy in view of the thrust of modernization of the state tax service bodies”.

Uzbekistan authorities retorted that the human resources officer had no direct authority to exclude any candidate at the stage of preliminary screening. This is the matter that is settled after all opinions and conclusions have been made by the human resources commission. However, there is no such procedure clearly defined in the Regulations for the competitive selection.

The Regulation for organizing competitive selection also lacks a clear process and criteria for assessing candidates, calculating their ratings and appointing them on the basis of such rating.

New Recommendation No. 46

1. *Consider introducing an open competitive selection procedure for the State Tax Committee leadership positions, based on professional qualities and experience.*
2. *Revise the procedure for the competitive selection during the recruitment and promotion of staff in the tax service bodies, ensuring transparency and objectivity of the selection based on clear criteria and assessment methodology, and appointing candidates with the highest ratings and assessment scores, without mandatory procurement of recommendation letters, characteristics, guarantees, and other similar documents. Provide for a procedure to appeal results of the competitive procedure.*
3. *In the mid-term perspective (within 2-3 years) abrogate the formation of the tax service’s budget funding based on the financial sanctions for tax law violations and penalties, and discontinue bonus payments to the employees dependent on the amount of taxes and payments collected. Bonuses to tax officers should be based on a transparent assessment of performance results on the basis of clear criteria and performance indicators, and should not directly depend on the amount of taxes or penalties (sanctions) collected. Increase the share of the basic salary rate in the employee payroll structure (for example, to 80%).*
4. *Ensure regular practical training of tax officers, including in executive positions, on the issues of ethics, integrity and corruption prevention, and develop relevant training materials with a practical application focus.*

State financial control, internal and external audit

As provided by the Budget Code (art. 171), bodies of the state financial control are represented by the Audit Office of the Republic of Uzbekistan, the Ministry of Finance of the Republic of Uzbekistan and its authorized subordinate organizations.

As related to the State Budget revenues and budgets of the state target funds, the state financial control is exercised by the state tax service bodies within the limits of their mandate.

At national and local levels, the state financial control is carried out in the sector in accordance with the Budget Code through control of the application of funds allocated from the State Budget for tax service body at each stage in the course of financial and operational activities, specifically during:

- initial control – prior to performing financial transactions, is exercised by treasury divisions and financial authorities;
- ongoing control – in the course of financial transactions, is exercised by treasury divisions, financial authorities and state tax service bodies;
- follow-up control – after completion of financial transactions, is exercised by the state financial control bodies.

In addition, an Internal Audit Department set up as part of the STC structure, performs the following:

- distance studies, detection and control over elimination of defects and deficiencies revealed in the activities carried out by tax service bodies;
- analysis and reviews of the tax service bodies' activities; identification, based on review findings, of the worst indicators and implementation of preventive measures to eliminate performance deficiencies revealed, ascertainment of the true picture in territorial divisions, and measures designed to rectify and streamline activities in territorial divisions;
- checks (audits) of the activities carried out by the state tax service bodies, based on executives' instructions;
- audits to review compliance with the budget and operational outlays of the state territorial tax service bodies and subordinate organizations.

An STC Internal Audit Department has been set up in accordance with the Resolution of the President of the Republic of Uzbekistan No. IIII-3802 as of 26 June 2018 “On Measures for Radical Improvement of State Tax Service Bodies Performance”.

The Internal Audit Department and its lower-level units carry out the following control activities:

- distance studies, detection and control over elimination of defects and deficiencies revealed in the activities carried out by tax service bodies;
- analysis and reviews of the tax service bodies' activities; identification, based on review findings, of the worst indicators and implementation of preventive measures to eliminate performance deficiencies revealed, ascertainment of the true picture in territorial divisions, and measures designed to rectify and streamline activities in territorial divisions;
- checks (audits) of the activities carried out by the state tax service bodies, based on executives' assignments;
- audits to review compliance with the budget and operational outlays of the state territorial tax service bodies and subordinate organizations.

Also, as provided in the Regulations for Supervising Activities of the State Tax Service Bodies of the Republic of Uzbekistan, approved by the State Tax Committee order of 22 February 2018, audit reports shall be marked “For Official Use Only” to restrict their usage.

As stated by Decree of the President of the Republic of Uzbekistan No. 514785 as of 10 August 2017 “On Measures for Radical Improvement of the Republic of Uzbekistan Audit Office Performance” the Audit Office of the Republic of Uzbekistan represents the supreme external audit and financial control authority and monitors activities of financial, tax and other state bodies.

⁸⁵ <http://lex.uz/ru/docs/3305116>.

Based on instructions of the President of the Republic of Uzbekistan, the Audit Office has reviewed local budget revenue completeness status and operational performance of the tax service bodies in the first quarter of 2018.

Based on the review findings, a number of systemic deficiencies has been identified, specifically in the following areas:

- organisational structure of the tax service bodies;
- system of pre-trial settlement of taxpayer disputes;
- application of obsolete information technologies by tax service bodies and financial authorities in carrying out their activities, lack of an appropriate linkage between the tax service bodies' information base and information bases used by state bodies;
- inadequacy of the system for identifying entities, carrying out tax audits and reviewing audit findings;
- inadequate analysis of entities in the suspended-operation mode;
- training of tax service staff.

Based on the above systemic problems and expertise of developed countries such as Korea and USA, the Audit Office has introduced a whole range of proposals for improving STC performance.

The follow-up Resolution of the President of the Republic of Uzbekistan No. IIII-3802 as of 26 June 2018 "On Measures for Radical Improvement of the State Tax Service Bodies Performance" has been adopted, reflecting the above proposals.

Expert comments

According to experts, the state tax service internal control system can be improved by implementing a procedure whereby internal control supervision is ensured by divisional leaders and their deputies through control over daily activities and quality of task performance:

- staff compliance with the requirements of regulatory enactments and work procedures;
- ensuring performance of duties by subordinate staff in compliance with the STC Code of Ethics standards;
- making sure that actions and procedures in a unit are organized and implemented with a view to minimizing likelihood of abuse and corruption on the part of employees;
- audit is in place with respect to STC information systems user activities;
- each instruction (assignment) for staff is documented and entered in the information system;
- responsibility is in place for staff to perform their duties free from conflict of interest and in compliance with other anti-corruption requirements.

It is recommended to develop and implement a single ethical work environment mitigating corruption and conflict of interest risks and ensuring that all employees use fundamental principles of ethical actions engaging several persons in the process. For example, one and the same person shall not be entitled to solitary decision making and control reasonableness of decisions when preparing a statement. Decisions shall be agreed with the division leader, leader deputies and other employees (e.g. lawyers) engaged in the preparation process.

It is recommended to ensure implementation of the 'four eyes' principle – in performing their functions that are at risk of corruption, leaders of the structural units shall, as far as possible, ensure compliance with the 'four eyes' principle in the course of tax control and tax administration activities.

Rotation practices shall continue for employees in positions with high risks of corruption and conflict of interest.

In tax control divisions, the following shall be ensured as far as feasible:

- staff rotation in audit groups in carrying out audits of legal entities and individuals;
- rotation in the division of tax officers who deliver audits, inspections and support for a specific taxpayer.

Information support on tax matters

For the taxpayer to fully discharge its tax obligations, it is important to promptly receive quality information on the tax payment procedures, specifically as related to complex taxation cases. Tax payment information is of great significance for both fiscal purposes of the state and taxpayer financial status. The importance of this matter may often be associated with corruption occurrences.

To deliver on these important objectives, tax services focus on achieving maximum centralization, unification and automation of information provision with respect to payment of taxes. Information is provided in writing, electronically and via telephone communications.

Answers to general questions are published on the official site of the State Tax Committee ('soliq.uz') on a regular basis. In addition, 147 innovations in the tax sphere are available on the official STC site⁸⁶.

The 'my.soliq.uz' e-government services portal of the tax service bodies offers consultations delivered by way of information support services such as 'frequently asked questions', official explanations by tax service bodies and 'set up your own business' information service.

State tax service bodies carry out awareness-raising activities on taxation issues on a regular basis, and consult with business representatives on current reforms in the tax sphere. Consultations are conducted in the form of workshops, round-table discussions, and conferences on the national, regional and municipal (district) levels.

The State Tax Committee provides annual workshops across all regions of the Republic, to clarify benefits made available to business entities through the Tax Code, resolutions of the President and Government of the Republic of Uzbekistan, substance and content of tax reforms, as well new statutes and changes in tax legislation. In the course of the activities, taxpayers also receive tax specialists' answers to issues of interest.

In addition, tax service staff regularly carry out awareness-raising activities for business entities via media, radio, television, newspapers and magazines. In 2018, employees of the tax service bodies delivered 1,163 awareness-raising activities via media on changes in tax legislation. This included 310 activities in central and local publications, 219 TV events, 159 radio outreaches, and 328 activities on the official media sites.

Based on Resolution of the President of the Republic of Uzbekistan of 26 June 2018, a "Tax-service" state unitary enterprise has been set up to address the following key objectives⁸⁷:

- provide technical assistance to taxpayers in delivering on tax obligations, and practical assistance to state tax service bodies in providing services to taxpayers as related to accepting their reports and tax returns;
- provide information support services to citizens via a specialized 'call-centre' service;
- train taxpayers on rules governing maintenance of electronic invoices, inform taxpayers on tax legislation provisions;
- build up knowledge and expertise of the state tax service bodies' employees.

As reported by the Uzbekistan authorities, in order to to consolidate the IT infrastructure and set up a call centre in line with international standards, a statement of work was developed in December 2018 for the establishment of a corporate communications system at the Tax Service

⁸⁶ www.my.soliq.uz.

⁸⁷ <https://lex.uz/docs/3796086>.

state unitary enterprise. The equipment for the call centre was acquired and mounted in late 2018 – early 2019, complete with the acquisition and installation of the software to support the full-fledged operation of the call centre. In February 2019 the call centre was launched using the newly installed equipment. Pursuant to the order of the STC chairman of 28 August 2018, the call centre received the allowance for 30 staff of highly qualified personnel.

Expert comments

The STC has taken the right step towards improved taxpayer information support by launching a ‘call- centre’ in 2018, which is considered to be a most cost efficient and prompt tool for information provision. This method also eliminates necessity for ‘taxpayer informal consultations with its officer’.

The monitors have also been positive about the ongoing work to improve the call centre operations. They are, however, still convinced that further steps are needed.

During their meetings with STC representatives, experts have revealed understaffing in the ‘call-centre’, failure to implement a multistage specialized system for reply quality control, and that in cases where the ‘call-centre’ has provided poor-quality information the taxpayers will not be relieved of their obligation to be subject to tax sanctions and penalties in the event of incorrect information provision.

Public control

Public advisory councils set up under the State Tax Committee, 14 regional tax departments and all state tax offices in districts, include representatives of business entities and their associations, non-state non-profit organizations, media, representatives of the creative community, including culture, arts and science, as well as indicative taxpayers.

At meetings in regional state tax service bodies, members of the council have provided a number of proposals for a timely provision of information to citizens and representatives of business entities on the tax reforms underway, substance and content of the adopted regulatory legal acts, and other issues. No information was provided as to whether those proposals are taken into account and to what extent.

Transparency

Given the principal directions of the state tax service bodies’ activities and based on the results of each quarter, information on the structure of revenues to the budget and state target funds will be placed on the official site of the State Tax Committee.

In addition, statistics and information on the results of citizen and taxpayer submission reviews, including submission types, are placed broken down by each region of the Republic.

In addition, the STC site and media describe claims made by individuals and legal entities via telephone hotlines provided by the state tax service bodies, regarding malpractices of tax service bodies’ employees, results of claim reviews and follow-up measures taken⁸⁸.

At present, 27 sets of open (machine readable) data of tax service bodies are published on the www.soliq.uz site, including payment details of tax offices; schedule of business entity audits for the next year (broken down by month); register of legal entities; types of excisable goods; register of VAT payers; register of teller machine registration cards; State Register of teller machines with fiscal memory; register of control authorities; information about individuals who are founders (participants) of several legal entities.

However, data such as information about tax arrears, penalties paid and charged, and taxes paid is unavailable.

⁸⁸ https://soliq.uz/uz/contacts/ishonch_telefonlari/

Interaction with business community and corruption risks in key business processes

The STC has, in consultations with the business community, conducted a comprehensive review of the legislation and submissions of business representatives, and identified a number of systemic problems, including the following principal issues:

- the need to revisit the current audit system, other types of state control and the procedure for collecting taxes and other mandatory payments;
- artificial accrual of arrears for taxes and other mandatory payments, penalties and financial sanctions generated in connection with the availability of specific legal mechanisms in the legislation that do not comply with modern requirements;
- inefficient and redundant control functions of state bodies leading to violation of rights and lawful interests of business entities;
- lack of comprehensive regulation of organizational and procedural aspects of business entity operation audits, and a single integral system for monitoring audit legitimacy;
- lack of an adequate system of public control over activities of control authorities, ensuring transparency, disclosure and impartiality of audits;
- deficiencies of the current mechanism for compensating individuals and legal entities for losses related to seizures of land assets for state and public needs, including demolition of real estate assets.

Based on results of a review conducted in this area, Decree of the President of the Republic of Uzbekistan No. YII-5490 as of 27 July 2018 “On Measures for Further Improvement of the System for Protecting Rights and Lawful Interests of Business Entities”, has been adopted providing for:

- writing off flat tax and penalty arrears, and arrears on financial sanctions and legal expenses of individuals who have earlier lost their status or are not engaged in financial and business activities, provided that the persons in question renew operations before 1 January 2018;
- terminating the procedure for a lump-sum collection of a flat-rate tax on individuals carrying out activities without state registration as individual entrepreneurs, calculated on the basis of the annualized rate set for a specific activity type;
- terminating, as of 1 September 2018, scheduled audits unrelated to financial and business activities of business entities; audits of business entity activities carried out for control purposes;
- implementing a Single Entity E-Registration System before 1 January 2019, and other measures.

Online tax reporting

Uzbekistan is taking steps to migrate to online tax reporting.

Tax reports can be submitted online from the taxpayer personal cabinet on the my.soliq.uz e-tax services portal.

The system for capturing and processing electronic tax reporting was commissioned into operation in 2006, and was thereafter upgraded in 2008 and 2016.

E-payment of taxes is available to legal entities and individual entrepreneurs via electronic payment orders sent directly to the designated bank from the taxpayer personal cabinet on the my.soliq.uz e-tax services portal.

The online payment order system went live in 2015.

Individuals can also pay taxes online via mobile payment systems such as Click, UPay, PayMe. The systems were commissioned into operation in 2015.

After completing an electronic template form, the taxpayer will certify the generated report by digital signature and send it to a tax office selected by the taxpayer. Encrypted reporting will then

be forwarded to the tax office via secure communication links, following which the tax office employee in charge will complete verification and send a tax reporting receipt notification to the taxpayer personal cabinet. As at December 2018, 100% of tax reporting of business entities was provided in electronic form.

The online tax reporting system is administered by specialists of the Research and Information Centre for New Technologies under the State Tax Committee.

Online tax reporting system usage data. Number of the reports sent:

- 2013 total – 243,458, including 222,960 (91%) in electronic form;
- 2014 total – 280,404, including 277,187 (98%) in electronic form;
- 2015 total – 288,993, including 288,993 (100%) in electronic form;
- 2016 total – 356,823, including 356,823 (100%) in electronic form.
- 2017 total – 392,176, including 392,176 (100%) in electronic form.

The online tax payment system via taxpayer personal cabinet on the my.soliq.uz e-tax services portal is also supported by a Web application enabling taxpayers to make payments for all types of taxes, including (a) VAT, (b) taxes on land, (c) income, (d) other types of tax payments.

Following selection of a tax type, the taxpayer will be provided with a pre-completed payment order containing all bank details, initial amount payable (including option to amend the amount), and other requisite information. All the information needed for completing the payment order is downloaded from the database of the state tax service bodies.

After payment order completion, the taxpayer will certify it by digital signature and send to the designated bank for processing via a corporate inter-bank data transfer network. Tax payment information will then be entered online in the taxpayer ledger card.

The system for online tax payments via taxpayer personal cabinet is administered by specialists of the Information System and Database Department of the State Tax Committee DPC.

Usage data for the system for online tax payments via personal cabinet, taxes paid:

- 2015 total – UZS 27,530.2 billion, including UZS 209.1 billion (0.7%) in electronic form;
- 2016 total – UZS 31,428.5 billion, including UZS 5,715.3 billion (18%) in electronic form;
- 2017 total – UZS 37,750.9 billion, including UZS 10,795.3 billion (29%) in electronic form.

Payments of income tax and other mandatory payments by the public sector individuals and entities are made in a centralized manner in the UzSBO accounting application.

Audits

The control process is one of the tax service principal processes directly impacting tax collection performance; taxes, fines and penalties may be assessed, and collected by way of enforcement in the course of the process. The process is highly vulnerable to corruption risks.

Section 3 of the Tax Code of the Republic of Uzbekistan is designed to regulate tax control. The Code has provided for multiple types of control: desk control, runtime, monitoring, marking, control over cash receipts, record keeping, etc.

Chapter 14 of the Code regulates tax audits. Tax audits are carried out in the form of taxpayer financial and business operation audits, and short-term audits.

Audit of taxpayer financial and business activities — a review and comparison of taxpayer accounting, financial, statistical, banking and other documents with a view to exercising control over compliance with tax legislation.

Short-term audit — a tax legislation compliance check of specific transactions of the taxpayer, unrelated to the taxpayer financial and business operation audit.

Under paragraph 6 of the Regulations for the service career at the state tax authority, positions of auditing inspectors shall be filled with specialists with university degrees in economics and a certain number of years of prior work at state tax authorities: at least 5 years for the headquarters staff and at least 3 years for the staff of territorial divisions.

As provided in Decree of the President of the Republic of Uzbekistan No. VII-5308 as of 22 January 2018 “On the State Programme for Implementing Action Strategy In Five Priority Directions of the Republic of Uzbekistan Development in 2017-2021 in the ‘Year of Support to Active Entrepreneurship, Innovative Ideas and Technologies’”, a two-year moratorium has been put in place on carrying out audits of financial and business activities of business entities, except for the audits conducted as part of criminal proceedings and in relation to legal entity liquidation⁸⁹.

As provided in Decree No. VII-5490 as of 27 July 2018 “On Measures of the President of the Republic of Uzbekistan for Further Improvement of the System for Protecting Rights and Lawful Interests of Business Entities”, the General Prosecutor’s Office of the Republic of Uzbekistan shall, as of 1 September 2018, act as an authorized body for coordinating audits of business entity activities.

All audits of business entity activities conducted by control bodies shall be subject to mandatory registration in a Single Audit E-Registration System. Audits of business entity activities completed without registration in the Single Audit E-Registration System shall be illegal.

The audit moratorium has significantly decreased the number of audits: 5,939 audits of financial and business activities were conducted during 9 months of 2018, versus 15,434 audits in 2017; and 770 short-term audits were carried out in 2018, versus 25,097 audits in 2017.

According to the opinion of business representatives, desk control is becoming the key control tool for STC. In 2018, 277,627 desk control reports were drawn up. Desk control is by definition a less stringent control measure requiring no taxpayer visits and providing for a notification to be sent to the taxpayer with a request to refine tax reporting and pay a tax portion that remains outstanding according to STC. Where in disagreement, the taxpayer is required to give a written rationale. In the event of failure to read the rationale, the tax service shall only be entitled to enforce taxes through court action.

As provided in article 187-1 of the Code of Criminal Procedure of the Republic of Uzbekistan, audits of legal entities and individual entrepreneurs are instituted in the course of criminal investigations where information about circumstances that may be relevant for the case can be obtained by reviewing and comparing accounting, financial, statistical, banking and other documents of the audited entities. The audit scope may only include business entity’s activities related to the initiated criminal proceedings.

In 2015-2017 and 9 months of 2018, 56,789 tax audits of financial and business activities of business entities were carried out.

Appeals and complaints from the audited entities

According to Article 102 of the Tax Code, the tax payer may provide their written comments or objections to the tax audit report within ten working days of the completion of the tax audit. The tax authority shall inform the tax payer about the date, time and place of the hearing on the audit materials at least two days prior to the date of consideration. If the tax payer desires so, his authorized representatives, lawyers, tax consultants, member of public organisations may be present during the hearing.

If disagreed with the decision taken, under Article 122 of the Tax Code the tax payer may appeal the decisions of the state tax authority, actions or inaction of its officials to the higher-level authority (higher level official) or to court. In doing so, the lodging of the complaint with the higher-level authority of the state tax service shall not prejudice the right to lodge a similar appeal

⁸⁹ <http://lex.uz/docs/3516841>.

to court. The complaint lodged with the higher-level authority of the state tax service shall suspend the execution of the decision or action appealed, including collection of additional tax charges or other mandatory payments, or application of financial sanctions, until such time when, respectively, the decision on the complaint is taken by the higher-level authority of the state tax service, or the court award becomes final.

The total number of appeals received by tax bodies across the Republic:

- in 2016 - 220 appeals from the audited entities, including 220 reviewed appeals and 20 allowed appeals.
- in 2017 - 211 appeals from the audited entities, including 211 reviewed appeals and 29 allowed appeals.
- in 2018 - 98 appeals from the audited entities, including 98 reviewed appeals and 7 allowed appeals.
- Appeals received by STC head office:
 - in 2016 - 162 appeals from the audited entities, including 162 reviewed appeals and 2 allowed appeals.
 - in 2017 - 46 appeals from the audited entities, including 46 reviewed appeals and 1 allowed appeal.
 - in 2018 - 60 appeals from the audited entities, including 60 reviewed appeals and 2 allowed appeals.

According to the authorities, pursuant to the Resolution of the President, No IIII-3802 of 26.06.2018, a council was established at the Ministry of Finance of the Republic of Uzbekistan for the out of court settlement of tax disputes between tax payers and tax authorities. Its main objectives include:

- draw up opinions on ambiguous matters of application of tax legislation;
- look into disputes arising between the tax payer and a tax authority where tax laws violations have been alleged;
- make proposals rectifying lacunas in the tax legislation identified in the course of tax dispute adjudication.

Expert comments

1. Experts positively assess STC initiative to poll users of STC services. This practice should be continued and rolled out. Analysis of its results should be used in developing anti-corruption measures.

2. Experts welcome STC successes in implementing e-declaration services for business entities, and believe that this has a positive impact in sociological surveys, which was supported by good oral feedbacks received at expert meetings with business representatives.

Since benefits of e-declaration are multifaceted, the STC should continue progressing in this direction and exert maximum efforts to engage individuals in the e-declaration system. Going forward, at least half of individual filers should ideally file electronically.

The resultant provision of high-quality, standardized and automated services to taxpayers will build up their confidence in the tax administrator, reduce the potential for corruption and levels of perceived corruption.

3. Experts emphasize that tax audit is the principal tax control tool used by all tax administrations. However, given the current situation where audits have become an incommensurate administrative burden for business and infrequently involved corruption, the experts view unconventional measures for instituting a two-year moratorium on audits and transferring audit coordination function to the General Prosecutor's Office, as temporary and forced ones.

The STC is positioned to put in place an efficient audit procedure during the moratorium, that will be resilient to corruption and command the confidence of the public and other interested parties.

It is important to note that tax control cannot inherently serve as a substitute for audit because control focuses on small and moderate offences. Such an arrangement would negate the essence of desk control, impact tax collection performance, and increase corruption risks. Therefore, the optimal way to streamlining the control process is to set up a procedure and process for conducting efficient audits.

According to experts, the procedure should start with an unbiased selection of audit entities, based on risk analysis and supported by a robust IT system. Procedures for the selection of audit targets should be described in by-laws and made public. Audits should only be carried out by well trained and experienced staff. After the audit, taxpayers should be able to appeal against audit conclusions on the basis of a just process before an impartial body that will address the dispute.

4. Experts are seriously concerned about lack of credibility in the process of appealing against audit results, demonstrated by business representatives during country visit, as well as the opinion that chances of amending the initial decision are very small. This view is supported also by statistics provided by STC according to which only some 100 appeals are lodged annually. The Audit Office of the Republic of Uzbekistan has noted the same issue. Attention should be paid to the fact that courts tend to almost entirely support STC decisions. Lack of a robust procedure for appealing against decisions calling for additional tax payments and sanctions has a significant impact on the tax administration corruption element.

The STC should implement the following internal administrative measures: allocate more experienced staff to address appeals and grant additional powers to them, train personnel on appeal review issues, conduct specialized workshops, issue methodological guidelines, description of best practice in appeal decision making (e.g. for frequently recurring situations), etc.

Another potential option recommended to address the issue would be to set up an independent collegial body outside STC structure and grant full powers to it for settling tax disputes in the capacity of a pre-trial authority, including the right to amend, cancel or endorse STC decisions. As informed by Uzbekistan authorities, this purpose had already been served with the creation at the Ministry of Finance of the council for out of court settlement of tax disputes between tax payers and tax authorities. The experts did not have an opportunity to examine in detail this Council's procedures, composition or results. Overall, it seems to be outside the STC structure, and its decisions should be binding, but it will be necessary to make sure that the Council has all necessary powers to perform the above described functions and that its composition will ensure its independence of the STC. Such an independent institution could restore credibility with respect to the process of appealing tax audit results, serve as a cushion link between taxpayers and facilitate court operations.

5. STC administers a rather small number of VAT payers (around 7,000 payers). The number of VAT payers will grow to 16,000 due to the tax reform, and is expected to gradually increase going forward.

Procedures and their runtime, and the related administrative burden, indicate tax administration development level and ability to manage tax risks. A multistage procedure is currently in place to control VAT recovery, embracing multiple structural units through to the Ministry of Finance. It is essentially a rather bureaucratic procedure involving many duplicate steps, and its complexity is not commensurate with the risks. It is recommended to simplify and automate the VAT recovery procedure.

According to the authorities, the Resolution of the President, No IIII-4186 of 12 February 2019, stipulates that from 1 April 2019 VAT refunds procedure will be simplified. The experts had no opportunity to study the text of that resolution, but welcome nevertheless any steps in that direction.

6. About 500 heterogeneous tax benefits are in effect in the Republic of Uzbekistan. Business and public representatives have expressed their scepticism with respect to the benefit regulation, provision and control over such a broad conception of this tax institution.

Tax benefits essentially have an exclusive nature, and an economic or other rationale; they should be clearly regulated by laws and used in accordance with the principle of equality. The large number of tax benefits significantly increases tax administration costs, reduces fiscal effect of the tax system, creates corruption risks both at the stage of tax benefit institution, and tax benefit implementation and control stage.

Based on the foregoing, it is recommended to systemize and significantly shorten the list of tax benefits that should be determined by law.

As Uzbekistan authorities inform, under paragraph 85 of the State Programme for the implementation of the Strategy of actions in five priority areas of the Republic of Uzbekistan in 2017 — 2021, a step-by-step repeal of tax preferences is to be carried out by 1 May 2019, and certain practical actions are being taken on this issue: the classes of preferences to be fully repealed and repealed in stages have been determined.

Procurement

The procurement system is regulated by the Republic of Uzbekistan Law on “State Procurement”⁴⁴. The head office, territorial tax service bodies, and state enterprises act as buyers in accordance with the approved annual expenditure budgets. Annual expenditure budgets are approved by STC and registered at the Ministry of Finance.

State tax service bodies procure goods and services via online shops, auctions, competitive biddings, tenders and direct contracting.

In addition, based on the requirements of the President’s Resolution No. IIII-3953, of 27 September 2018, 28 commodity items can be procured through direct contracting.

See report appendix for statistics on types and scope of STC procurement.

In 2016-2017, tax service appealed against 6 vendors who failed to meet their contractual obligations, and collected UZS 45.4 million in penalties, including UZS 19.5 million on two cases in 2016, and UZS 25.9 million on 4 cases in 2017. No such appeals were made in 2018. No complaints with respect to tax service were received.

In 2018, the General Prosecutor’s Office and General Directorate for State Financial Control of the Finance Ministry of the Republic of Uzbekistan are auditing financial and operational activities of the State Tax Committee for 2015-2018. The audit is still underway.

New Recommendation No. 47

1. *Ensure rotation of employees performing tax control, and an automated random distribution of audits and other cases among staff. Where feasible, implement the 'four eyes' principle in exercising powers at risk of corruption.*
2. *Regulate the procedure and implement regular checks of employee access to information systems and databases available to tax service staff.*
3. *Implement a centralised system for consulting taxpayers in writing and by telephone, to ensure prompt availability, quality and unification of tax consultations across the country. Provide in the law for relieving taxpayers from responsibility arising in connection with incorrect consultations given by tax service employees. Staff 'call-centre' with a sufficient number of skilled personnel, modernize centre's operations in accordance with the best practice on quality management of replies, and strengthen its IT support.*
4. *Ensure publication of the updated information about the tax system, including information about tax arrears, penalties charged and paid, taxes paid (for legal entities), and tax benefits; publish the said information on the STC website in a machine-readable data format.*
5. *Conduct regular taxpayer surveys initiated by the STC with a view to determine the levels of trust and perceived corruption in the tax service, as well as satisfaction level with the services provided. Ensure broad public consultations for development and adoption of draft Tax Code and any other measures for reforming the tax area.*
6. *Promote and popularise filing of tax returns in electronic form by individual entrepreneurs paying taxes, targeting to achieve not less than 50% for such filings.*
7. *Clearly regulate in detail all types of control measures (audit, desk control, monitoring, other), rights and obligations of the tax service officials and taxpayers, procedures for control actions. Principal regulation should be incorporated in the Tax Code as a directly applicable act, when necessary, detailing specific procedures in bylaws, with their mandatory publication.*
8. *Apply in practice a system for selecting taxpayers for audits and other control measures based on risk analysis in accordance with a procedure clearly regulated in regulatory acts, and with the use of IT tools.*
9. *Put in place an efficient and effective system for addressing tax disputes that will enjoy taxpayer and public trust. Ensure efficient functioning of an independent institution outside the STC structure and granting it with powers for a pre-trial settlement of tax disputes, including the right to cancel, endorse or amend STC tax assessment decisions.*
10. *Systemise and continue to shorten the list of tax privileges that should be introduced and regulated by law.*

4.4. Anti-corruption law enforcement measures

Uzbekistan government authorities have provided the following information:

Table 30. Statistics on sources of corruption detection in the sector, 2016-2018.

| Source | 2016 | 2017 | 2018 | total |
|--|------|------|------|-------|
| statements of individuals | 21 | 15 | 4 | 40 |
| communications from agencies, organizations, public associations and officials | 14 | 7 | 2 | 23 |
| media reports | | | | |
| offences detected directly by law enforcement officers | 66 | 37 | 20 | 123 |
| admission of guilt statements | | | | |

Tax service staff can use the following tools for communicating potential corrupt practices or violations of anti-corruption laws:

- submit a statement (orally, in writing, electronically) to law enforcement agencies;
- communicate via telephone hotlines of prosecutor's offices or other law enforcement agencies;
- report directly to leaders.

No such applications were made by tax service staff in 2016-2018.

As provided in the Republic of Uzbekistan Law on “Submissions by Individuals and Legal Entities”, a submission can be made orally, in writing and electronically. Submissions can be communicated directly to both tax service, and law enforcement agencies.

Based on the Republic of Uzbekistan STC order of 5 November 2016, the Republic of Uzbekistan STC and its regional divisions can be contacted via telephone hotline round the clock.

In addition, the official www.soliq.uz site of the State Tax Committee supports transmission of electronic communications about corruption cases via “Corruptziyagha karshi kurashish” (Anti-corruption) directory.

Also, via a virtual reception office of the President of the Republic of Uzbekistan, the State Tax Committee receives citizen and taxpayer submissions reviewed by tax service bodies in compliance with the established procedure, including follow-up reply letters sent to applicants.

In 2016, 33 submissions were received and reviewed, following which criminal charges and administrative proceedings were brought against 23 and 10 tax service employees respectively;

In 2017, 27 submissions were received and reviewed, following which criminal charges and administrative proceedings were brought against 17 and 10 tax service employees respectively;

During 9 months of 2018, 9 submissions were received and reviewed, following which criminal charges and administrative proceedings were brought against 7 and 2 tax service employees respectively.

Anonymous submissions regarding corrupt practices of tax service employees are not allowed. As provided in article 29 of the Republic of Uzbekistan Law on “Submissions by Individuals and Legal Entities”, anonymous submissions shall not be reviewed.

Table 31. Statistics on corruption cases in relation to tax service employees

| Period | Number of criminal cases initiated | Number of criminal cases referred to courts | Number of persons brought to justice | Including: | |
|----------------|------------------------------------|---|--------------------------------------|------------|-----------------|
| | | | | leaders | other employees |
| 2016 | 101 | 90 | 120 | 19 | 101 |
| 2017 | 59 | 54 | 80 | 7 | 73 |
| 9 months, 2018 | 26 | 22 | 23 | 9 | 14 |

Based on corruption case investigations, tax service staff were sentenced to penalties (33.5%), correctional labour (46.5%), imprisonment (8%), and other punishments (12%).

In 2016, 2017, and 9 months of 2018, administrative action for offenses in this sphere was taken against 10, 10, and 2 tax service employees respectively.

In 2016, 2017, and 9 months of 2018, disciplinary action for breaching Ethical Behaviour Rules of employees of the state tax service bodies was taken against 231, 124, and 36 tax service employees respectively.

No specialized target-specific law enforcement measures designed to fight corruption in tax service were implemented.

As provided in Decree of the President of the Republic of Uzbekistan No. 5499 as of 2 August 2018 “On Measures for Legal Support to Tax and Customs Reforms Underway”, General Prosecutor’s Office department for supervising law implementation in the customs and tax sphere has been transformed to General Prosecutor’s Office department for supervising law implementation in delivering tax and customs reforms.

A key operational area defined for the department focuses on delivering systemic analysis of the lawfulness status in the tax and customs spheres, and taking measures to detect and eliminate law violations and corruption cases.

In addition, as provided in Decree of the President of the Republic of Uzbekistan No. VII-5446 as of 23 May 2018 “On Measures for Radically Boosting Budget Funds Performance and Improving Mechanisms for Combating Economic Crime”, a department for combatting economic crime and corruption has been set up as part of the Directorate for combating economic crime and corruption under the General Prosecutor’s Office of the Republic of Uzbekistan.

The said structural divisions are authorized to detect and investigate corruption offences perpetrated by officials of state bodies, including tax service.

The General Prosecutor’s Office Academy (formerly Advanced Training Courses) provides, based on annual plans, training, retraining and advanced training to investigators of prosecution bodies and those employees of the Directorate under the General Prosecutor’s Office responsible for carrying out pre-investigation checks, inquiries and preliminary investigation of corruption cases in tax service.

In addition, the Academy provided training to 70 responsible officers of the Republican Anti-Corruption Interagency Commission in 2017. A similar training has been scheduled for November 2018.

In 2018, the General Prosecutor’s Office Academy organized 3 training workshops in videoconference format for prosecutor’s office employees providing legal support to tax reforms.

For example, a training webinar was organized on 15 September 2018, on “Tax Reform Legal Support” for prosecutors supervising implementation of laws in the tax and customs spheres.

Participants in the event included employees of the General Prosecutor’s Office, Ministry of Finance, State Tax Committee, and deputy prosecutors from the Republic of Karakalpakstan, regions, city of Tashkent and districts (towns) – more than 150 attendees in total.

The workshop discussed topical issues such as principal directions of the fiscal and budget policy of the Republic of Uzbekistan, specifics of the taxation system and tax regime as related to ensuring efficient fiscal policy, improvement of the taxation system and tax administration, and national fiscal policy improvement concept; issues related to detecting corruption practices in the tax sphere were also addressed.

Relevant recommendations were given during the event, along with instructions on issues related to coordinating and carrying out audits on business entities by control authorities, and conducting systemic analysis on the observance of lawfulness in the tax sphere.

Similar training workshops were delivered for more than 400 employees of prosecutor’s offices in 2018.

Annexes

Annexes are available in the Russian version of the report.

