ANTI-CORRUPTION EXPERTISE AS AN ELEMENT OF THE LEGISLATIVE PROCESS IN THE REPUBLIC OF UZBEKISTAN (ISSUES OF IMPROVEMENT)

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Abstract: *This article examines existing issues related to the further improvement of the legislative process from the perspective of anti-corruption expertise in legal acts and their drafts. In particular, it presents opinions on certain discrepancies in the legislation, reviews the experience of foreign countries (including improving the legislative process by thoroughly working on draft laws before they are submitted to Parliament), and proposes other measures for enhancing the mechanisms of anti-corruption expertise.*

Keywords: *anti-corruption expertise, legislative process, legislation, corruption risk factors, legal acts and their drafts, reforms.*

The large-scale reforms underway in the country necessitate further enhancement of the legislative process, including the foundations of anti-corruption expertise, as such reforms invariably involve adopting numerous new legal acts and amending and supplementing existing legislation.

Through our research, including the study of foreign experiences, we have identified several areas where certain provisions could potentially be implemented.

Until recently, the national legislation lacked a specific definition of "anti-corruption expertise." This situation changed in 2021 with the update of the procedure for conducting anti-corruption expertise. According to a special Regulation, anti-corruption expertise is defined as "a set of measures aimed at identifying corruption risk factors in legal acts and their drafts, developing recommendations, and taking measures to eliminate the identified corruption risk factors" [1]. This procedure was repealed in October 2023 following the adoption of the Law of the Republic of Uzbekistan "On Anti-Corruption Expertise of Legal Acts and Their Drafts" in August of the same year.

In summary, the content of the 2021 procedure was divided and transferred. Sections related to conducting anti-corruption expertise and the checklist for identifying corruption risk factors were included in the aforementioned Law. Meanwhile, the Methodology for identifying corruption risk factors in legal acts and their drafts was reissued in a new order by the Minister of Justice [2].

At the same time, it is worth noting that since 2017, the national legislation has included a comprehensive definition of "anti-corruption expertise of legal acts and their drafts," which was somewhat broader than that found in the 2021 Regulation and the Law "On Anti-Corruption Expertise." This definition, found in the Law "On Combating Corruption," describes the process as a whole.

According to Article 24 of this Law, anti-corruption expertise of legal acts and their drafts aims to:

1. Identify corruption risk factors that create opportunities for committing corruption offenses;
2. Assess the potential consequences of adopting a draft that may lead to corruption offenses;
3. Forecast potential corruption risks in the application of legal acts;
4. Develop recommendations and take measures to eliminate identified corruption risk factors [3].

However, the Law "On Anti-Corruption Expertise" defines anti-corruption expertise as "a set of measures aimed at:

1. Identifying corruption risk factors in legal acts and their drafts;
2. Developing recommendations and taking measures to eliminate the identified corruption risk factors" [4].

Thus, discrepancies exist between the two laws, as the Law "On Combating Corruption" outlines four components, while the Law "On Anti-Corruption Expertise" includes only two. To resolve this, it is proposed to harmonize the relevant provisions of these legislative acts.

Next, it is suggested to examine the experiences of Botswana, Moldova, the Russian Federation, Belarus, Tunisia, and other countries. In these countries, the authority to conduct anti-corruption expertise is granted not only to various government agencies but also to prosecutorial bodies and specialized anti-corruption organizations.

A survey conducted by us revealed the following responses to key questions:

1. "Do you think efficiency will improve if part of the authority to conduct anti-corruption expertise is transferred to the Prosecutor’s Office and the Anti-Corruption Agency?" — 82.3% of respondents answered positively.
2. "Which legal acts do you think the Prosecutor’s Office should examine for anti-corruption expertise?" — 48% of respondents answered "existing legal acts," and 38.8% answered "all legal acts."
3. "Do you think the Anti-Corruption Agency should be given the authority to conduct anti-corruption expertise?" — 42.1% of respondents answered "Yes, fully," and 39.5% answered "only for draft laws and presidential acts."

It is important to note that the Ministry of Justice of Uzbekistan is part of the executive branch, which implies the potential for influence from the Cabinet of Ministers and the heads of ministries and agencies, many of whom serve as deputy prime ministers. Therefore, it is proposed to transfer part of the authority to the Prosecutor’s Office and the Anti-Corruption Agency.

Initially, we suggest establishing a procedure under which draft laws, as well as presidential and Cabinet resolutions, undergo mandatory anti-corruption expertise by the Agency; existing legislation is reviewed by the Prosecutor General’s Office, while drafts of ministerial orders, resolutions, and local government decisions are reviewed by the Ministry of Justice.

Drawing on Moldova's experience, it is also recommended to consider their two-tier system for preventing corruption in the legislative process, consisting of two independent centers—one from the public sector and the other a non-governmental organization. A key feature is that one center is not subordinate to the government or even the Moldovan Parliament. Importantly, any draft law must be reviewed by both centers, and without their conclusions, it cannot be considered in Parliament.

This experience, in our opinion, is effective and could be implemented in Uzbekistan's national legislation to provide a significant boost to the development of the legislative process and anti-corruption expertise mechanisms.

Finally, we propose examining the experience of one African country. In South Africa, the Public Protector, appointed by the President, operates independently of the government and has the authority to investigate public complaints, including those involving corruption, against state bodies and officials.

This body has the power to intervene if a draft legal act, influenced by lobbying, includes corruption-prone norms that cause public discontent.

This experience, we believe, is of interest for potential implementation in Uzbekistan. It may be necessary to grant the Anti-Corruption Agency investigative powers in the legislative process, including anti-corruption expertise, by examining the entire chain of draft law development—from ministries and agencies drafting the laws to the structural divisions of the Presidential Administration and Cabinet of Ministers, which finalize them.

Ultimately, this should provide a clear picture showing at which stage and why errors occurred in the legislative process, leading to corruption-prone or otherwise problematic norms in draft or enacted legislation.

REFERENCES:

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