ABOUT INTERNATIONAL WARNING EXPERIENCE AND CRIMINAL CORRUPTION

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ABSTRACT

The article discusses the problems of combating corruption in Uzbekistan and using the experience of foreign countries in this field of activity. Today, the problems of corruption in the public administration are comprehensive and ubiquitous. Corruption is a dangerous criminal phenomenon that corrupts the foundations of power, discredits and undermines its authority, and directly affects the legitimate rights and interests of citizens. The fight against corruption is carried out both in the most developed industrial countries of the world, and in the least economically developed states, in international and regional organizations, in legislative and executive authorities, in law enforcement and army structures.

Keywords: corruption, international experience, prevention, suppression, bodies, state power, reasons, counteraction.

The problem of combating corruption has never lost its relevance. A special place is taken by the implementation of law enforcement policy, which is associated with the application of state coercion measures against offenders, ensuring the execution of the prescribed punitive measures (penalties), as well as with the implementation of measures aimed at preventing future offenses, in this case, corruption-related crimes.

In the modern period, the theme of the fight against corruption is in the focus of attention of the President and the Cabinet of Ministers of the Republic of Uzbekistan, all state authorities, as well as the scientific community of Uzbekistan. Addressing the Message to the Oliy Majlis of the Republic of Uzbekistan on January 24, 2020, President of the country Shavkat Mirziyoyev regretted the fact that “the development of the country is hindered by corruption in various manifestations.

If we do not eradicate this vicious phenomenon, we will not be able to create a truly favorable business and investment climate, not a single sphere of the life of our society will develop ”[1].

This problem, first of all, concerns employees of state authorities, who must be impeccable not only by devotion to serving the people, but also by example, the right of an obedient citizen of the country, especially in matters of corruption.

It should be noted that the corrupt crime of state employees has decreased significantly over the past three years and has not acquired a global and systemic character in the republic. However, it continues and, it is important to note, in a more conspiratorial

latent form.Corruption in the country today is not the result of the absence of repression, but a direct consequence of the restriction of economic freedoms, when any administrative barriers are overcome by bribes.

An objective assessment of our reality allows us to conclude that, in the presence of developed real mechanisms to combat the growth of corruption in government bodies, as practice shows, the fight against corruption is carried out mainly by criminal measures, which are not only ineffective, but also contribute to the development of anti-corruption measures from corrupt officials, they increase the total amount of funds in corrupt circulation and the amount of one-time payments for illegal conditions ugie government officials. Criminal countermeasures also do not solve the problem of professional and moral training of civil servants, as well as the development of methods to minimize the corrupt behavior of public administration officials.

The use of foreign experience in our country cannot be made by simply copying certain measures of state or municipal government, private business associations or public organizations that have shown their effectiveness in other countries.

Unlike Uzbekistan, in foreign countries, the main efforts to combat corruption are concentrated in the use of administrative-legal and organizational means of preventing and combating corruption.

In connection with the above, a generalization of positive experience and the study of existing developments in the field of combating this social phenomenon in a number of foreign countries (USA, Canada, France, Germany, etc.) can be of interest and can be selectively used in practical activities of law enforcement -bodies of our republic.

In foreign countries, there are practically no discrepancies in the perception and legal assessment of the corrupt behavior of civil servants. It includes the whole range of abuses: for personal purposes, the goals of third parties or groups of officials of state bodies, and may be recorded in case of violation of administrative, financial, labor, civil law. In some countries, corruption is also recognized as a violation of ethical standards by public servants.

A study of foreign experience shows that the most significant efforts to prevent and combat corruption in the state apparatus are made by the United States of America, which has created not only a whole system of administrative measures aimed at preventing and combating corruption, but also come up with a number of important international initiatives in area under consideration.

In this country, there are committees of the Senate and House of Representatives of the US Congress, the Ethics Committee under the government. The main coordinating agency for the fight against corruption is the Ministry of Justice. US law requires officials to be guided by ethical standards of conduct specifically designed for each of the three branches of government. So, for employees of executive bodies, this is the “Code of Ethics for Government Service” (UnitedSta-tedCode - USC), the norms of which are set by the US Secretary of State on behalf of the President of the country.

Each agency that is part of the executive branch system has a specially appointed employee who coordinates and monitors compliance by officials with ethical standards within the agency and liaises with the Department of the U.S. Treasury Department and the Ethics Office under the government. To prevent and combat corruption, ethical legislation in the government obliges officials of all three branches of government to inform the relevant state bodies about their financial condition and the changes taking place in it, regularly submitting financial declarations.

A special place in the prevention and suppression of corruption in the United States is assigned to the Federal Bureau of Investigation; in addition, the prosecutor's office, the police, and the court also participate in measures to prevent corruption and punish criminals. The mentioned law enforcement bodies actively use the so-called "whistle-blower" law, according to which any employee of a company, enterprise or organization can inform the Ministry of Justice of the facts of corruption known to him and receive a part of the amount for compensation for damage or a fine imposed on intruder. In the fight against corruption, there is a strict distribution of competence between the legislative, executive and judicial powers. Congress develops and adopts relevant laws and oversees their implementation. Both of its chambers have strong levers of influence on the activities of the executive by allocating or limiting budgetary funds for public spending, including the fight against corruption.

The control over offenses in the public service system is carried out by the Congress through the permanent and special committees of its chambers. Corruption issues are dealt with by the Special Senate Committee on Ethics and the Committee on Standards of Conduct of Officials of the House of Representatives. Corruption offenses are also heard on committees on government operations, the postal services of the civil service, science, space, technology, expenses and income.

The committees maintain contacts with federal ministries and departments, conduct hearings and investigate the activities of government bodies. Hearings on corruption cases are sometimes held on joint committees of both chambers of taxation and economic affairs. Congress has the right to invite and hear at meetings of committees of heads of ministries.

Despite the dominant role of parliamentary control over the executive and judicial powers in the field of combating corruption, in the United States there are means of control over the activities of legislative bodies. So, since 1946, the Law on the Federal Regulation of Lobbying Activities has been in force, according to which any organization that has an influence on Congress is obliged to register its lobbyists and communicate its interests in the legislative sphere. Each lobbyist must quarterly publish a report on his activities in the Vedomosti Congress. The importance of this law is explained by the fact that unregulated lobbyism in any developed society will inevitably lead to legislative decisions that are beneficial for a limited circle of people or political groups, and as a result, corruption in the legislative apparatus.

In addition to the above measures, the US federal legislation has an important preventive potential, which provides for the restriction of the business of former government officials after they leave government bodies. For example, if a public servant, while in the service, personally participated in resolving specific problems, he does not have the right after official resignation to represent anyone in any form to resolve the same problems in the future by the executive authorities. In addition, if the former public servant "personally or indirectly" did not engage in this procedure, although it "actually related to his official responsibility for one year before its termination," such a former civil servant loses the right to practice this kind for the period in two years.A characteristic feature is that the former state
an employee does not have the right, within two years after retirement, to carry out entrepreneurial activity when the executive authorities resolve specific problems that related to the official jurisdiction of this public servant during the year preceding the termination of his service in the executive branch. The same two-year ban also applies to former "senior officials" of the executive branch.[2].

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In Canada, as in the United States, a system of norms has also been worked out aimed at counteracting the corruption of the state apparatus. Including through a detailed regulation of how public servants satisfy their private interests in such a way that it does not contradict official duties and does not cause material and, no less important, moral damage to a particular state body and the state as a whole. In this regard, in 1985, Canada adopted a code containing the rules of conduct that all public servants are obliged to follow in the event of a conflict between their official duties and personal interests. This code consists of four parts.In the first part, general principles of behavior are formulated, which are obliged to guide public servants. So, a public servant is obliged to do everything necessary to exclude the real possibility of a "conflict of interest", as well as creating conditions for its occurrence.

The second part of the code contains specific requirements for the daily activities of a public servant. For example, a civil servant is obliged to submit a confidential detailed report on his property and on all direct and significant circumstances that could conflict with his official interests within 60 days after being appointed to the service.

The third part of the document under consideration contains requirements for the employee's behavior after leaving the civil service, the purpose of which is to minimize the possibility of a real, potential or explicit "conflict of interest" in his civil service. This refers to his future employment after the end of public service, and at the same time obtaining a preferred position or access to government institutions on behalf of a non-governmental organization, deriving personal benefits from many years of experience as a public servant, and priority in employment in relation to other citizens.

The fourth part of the code establishes the minimum differences in the procedure for hiring and dismissing certain categories of civil servants, and also determines the rights and obligations of the parties to comply with the rules on "conflict of interests". The rules set forth in the code are supported by disciplinary action in the event of violation.

Western European legislation and related organizational measures for the prevention of corruption in government bodies have a significant difference from the models for counteracting these types of offenses in the USA and Canada.

the anti-corruption system in the Netherlands includes, in particular, the following key procedural and institutional measures: - a system for monitoring possible points of corruption in state and public organizations and strict control over the activities of persons located at these points. The system of selection of persons for positions dangerous from the point of view of corruption; - a system of penalties for corruption, with the main measure being a ban on working in state organizations and the loss of all social benefits provided by the public service; - a system of encouraging the positive actions of officials, aimed at ensuring that the official would be beneficial both materially and morally to behave honestly and effectively; - A state security system has been created to combat corruption, such as the special police, which has significant powers to detect cases of corruption.

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In Israel, an anti-corruption atmosphere is ensured, along with similar measures used in the Netherlands, by a system of “certain duplication of monitoring” of possible corruption actions. It is carried out by government organizations and special police units, the Office of the State Comptroller, which is independent of ministries and government departments, and public organizations such as "Offices for the purity of the government." These organizations investigate possible corruption points, and if they are found, they inform the investigation authorities. Moreover, the information received must be communicated to the public without fail.

Singapore's anti-corruption policy impresses with its success. The main idea of Singapore’s anti-corruption policy is “to minimize or eliminate the conditions that create both incentive and the possibility of inducing the person to commit corrupt acts”. This is achieved through a number of anti-corruption principles, in particular: 1) remuneration of civil servants according to a formula tied to the average salary of people who successfully work in the private sector; 2) the controlled annual reporting of state officials about their property, assets and debts; the prosecutor has the right to verify any bank, stock and settlement accounts of persons suspected of violating the Prevention of Corruption Act; 3) high severity in corruption cases with respect to senior officials to maintain the moral authority of incorruptible political leaders; 4) the elimination of excessive administrative barriers to economic development. The fight against corruption is a key factor in Singapore's economic success. The Japanese experience in the fight against corruption proves that the absence of a single codified act aimed at combating corruption does not prevent an effective solution to the problem. Anti-corruption standards are contained in many national laws.

The Japanese legislator attaches particular importance to prohibitions on politicians, state and municipal employees. In particular, they relate to numerous measures that politically neutralize the Japanese official in relation to private business both during service and after leaving office.

As in Singapore, the Japanese legislator establishes strict restrictions on the financing of election campaigns, parties and other political organizations, introduces a strictly regulated procedure for making donations to candidates, political funds, and establishes a reporting procedure for the funds received and spent on them. Violation of the provisions of the law entails the application of sanctions that apply to responsible persons both representing and receiving political donations from the parties, as well as to intermediaries between them.

The study revealed several basic models of corruption in Western Europe (the means of combating it depend on the type of corruption):

-Systematic corruption (France, Italy, Spain, Belgium);

-the emerging systematic corruption (Germany, Greece);

spontaneous corruption (Portugal, Ireland, Austria);

-random corruption (Netherlands, Finland, Sweden, Denmark).

According to researchers, the model of corruption existing in France is largely similar to the current situation in the Republic of Uzbekistan. As a result of certain miscal-

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culations in public administration, which served as an incentive for abuse by officials of public authorities, there was a situation that allowed certain groups of people to receive uncontrolled additional income due to their official or social position.

Currently, the main areas of corruption in France are: the activities of political parties resorting to illegal methods of raising funds to finance election campaigns, the functioning of public servants who make political and administrative decisions, the relationship between government at various levels and entrepreneurs during the conclusion of contract contracts for public works.

Prevention was recognized as one of the priority forms of anti-corruption in France, which included a set of legislative measures related to the education, training of civil servants and managers, the formation of an anti-corruption professional ethics, the functioning of restraining and controlling government structures, personnel policies and the rotation of managers frames.

In order to prevent and suppress corruption in the state apparatus, from the beginning of the 60s several normative acts were enacted obligating all public servants and public service personnel who are at risk of corruption, as it depends on them to make decisions, to report on their property and income to independent authorities. In addition, legal and organizational foundations have been created to ensure the wide publicity of declarations of income and property of senior employees of the state apparatus. Forms have been developed for submitting information to the general public about agreements signed by administrative institutions or about permits issued by them. Bans on the direct payment of a fine on the spot for violating traffic rules have been introduced. In order to increase the effectiveness of state control as a way to prevent and combat corruption in the state apparatus, it was decided to increase the number and qualifications of prefectural workers employed in law enforcement control services, as well as provide prefectural services with the right to postpone acts whose contents provoke the risk of corruption. The French government decided to expand the competence of the Accounts Chamber, as well as to support the desire of enterprises to conduct internal audits and control measures to protect their employees from the risk of corruption. In addition to the above, the French government decided to create a central service in the Ministry of Justice to combat corruption.

In order to control the labor movement of employees in the public service, and to limit their influence on the resolution of any issues related to the activities of this department after their dismissal, the Government of France has created a Commission on Civil Service Deontology. This commission is designed to assess the compatibility of the future work of a public servant with his functions in the service. The Commission on deontology plays the role of a filter that does not allow public servants to abuse their official position in the interests of private or state-owned companies.Germany is also experiencing serious corruption problems.

One of the main legal means of combating corruption in Germany is the relevant norms of the Criminal Code and the Code of Criminal Procedure. Thus, paragraph 108eUK of Germany provides for the responsibility of a deputy, in the event that at the

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session he votes in accordance with a previous conspiracy, which would benefit him. In addition, according to paragraph 299 of the Criminal Code, employees and agents of an economic facility are punished if they prefer to deal with a profitable client bypassing the competitive rules when receiving goods and providing industrial services. The Criminal Code also provides for responsibility for the actions of officials to launder money (active and passive sub-purchase - clauses 332, 334 of the Criminal Code, respectively) and extracting unlawful benefits through crime or for the sake of crime (confiscation of the replacement of value), if the victim of a crime has the right to compensation (paragraph 73, paragraph 1, sentence 2 of the Criminal Code). In total, the Criminal Code of Germany contains 37 corpus delicti of corruption (paragraphs 108e, 299, 300, 301-335 of the Criminal Code). The severity of these offenses is determined by their ratio with paragraph 100a No. 1 of the Code of Criminal Procedure of Germany.

Some offenses of a lesser degree of gravity, which subsequently could lead to corruption crimes, are enshrined in paragraphs. 30 and 130 of the German Administrative Law Act.

The unstoppable growth of corruption, both in the countries adjacent to Germany and within the country, led to the adoption in August 1997 of the Law on Combating Corruption. According to this law in Germany, the ability of public servants to engage in additional activities is limited, penalties for the non-declaration of income, gifts are tightened. Strict regulation of the behavior of public servants was reinforced by the control of their actions by the relevant authorities.

The experience of Germany shows that the most effective administrative and legal methods for preventing corruption could be: identifying areas that are most susceptible to the threat of corruption; creation in the Central Bank of the country of a database of individuals and legal entities exposed in bribery of civil servants, which will not allow them to receive government orders under a new name (name) or other cover; rotate management personnel; create non-departmental divisions of internal control over the activities of management personnel. Summarizing the foreign experience in the prevention and suppression of corruption in the state apparatus, it should be noted that it is impossible to overcome this phenomenon with punitive measures alone; therefore, in order to prevent and suppress corruption in the sphere of public administration, a system of control of all government bodies over the activities of officials should be developed. The experience of the USA and Canada seems to be the most advanced in this regard. The legislation of these countries aimed at combating corruption in the state apparatus includes administrative codes and ethical standards of conduct that do not allow a “conflict of interest”, ensure the proper use of state resources and require the highest level of professionalism and honesty among employees of the state apparatus. As effective measures to prevent and combat corruption that could be used in the legislative practice of Uzbekistan, the following should be highlighted:

1) the imposition of legislative prohibitions or restrictions on the participation of officials in official events in respect of which these persons have a significant direct or indirect financial interest;

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2) control over the participation of officials in events that are the subject of interest on the part of individuals or legal entities with which these officials are negotiating for employment;

3) the imposition of bans on the activities of former public servants if they represent private or personal interests in the field or state bodies in which they previously worked, as well as on the use of information that has become available to them in connection with activities in public authorities;

4) the imposition of prohibitions and restrictions on receiving gifts and other goods, control over the property and financial status of family members and close relatives;

5) the introduction into administrative practice of control by specially authorized bodies over the facts of unlawful use of state property and resources in private interests, etc. and the application of appropriate sanctions for these offenses.

References

[1] see: http://uza/uz/ru/politics/poslanie-prezidenta-respubliki-uzbekistan-shavkata-mirziyeev-25-01-2020.
[2] The list is given in 18 USC 207 (d). These include, for example, the staff of the president's and vice president's office.