

On the development of the legislation of the Republic of Uzbekistan on combating corruption

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Annotation: The article deals with the issues of corruption prevention, transparency and fairness in the civil service. The state policy in the field of prevention of corruption in the civil service is considered. The draft law "On the State Civil Service" is analyzed.

Key words: corruption, civil service, declaration, national rating.

The concept of administrative reform, adopted by the Presidential Decree of 08.09.2017 No. UP-5185, identified one of the six areas of reforming the public administration system as "the formation of an effective system of professional public service, the introduction of effective mechanisms to combat corruption in the system of authorities."¹

The draft Law on Civil Service has been widely debated in Uzbekistan. The purpose of the Bill is to regulate relations in the field of public service by:

ensuring the unity of the organizational and legal mechanism of the civil service and the status of civil servants;

phasing out the foundations of the career of civil servants;

establishing guarantees of equitable selection and promotion based on merit and merit;

regulation of procedures for admission, passage and termination of public service;

creating conditions for the growth of professionalism and competence of civil servants, the establishment of a spirit of service to the interests of the people and high ethical standards in the field of public service.²

Undoubtedly, it is important that professionalism and competence is, according to Art. 6 of the draft, one of the basic principles of public service. These provisions are developed in Art. 13 of the draft, which provides that the civil service will be carried out by professional personnel. Civil servants holding public positions of a political group will have to meet the basic competency requirements provided for by law. The proposed norms quoted 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 care of his competence. The draft prescribes that the assignment of state class ranks, qualification ranks and titles should be conditional on the acquisition of appropriate professional competencies.³

The basic provisions of Art. 21 of the Law "On Combating Corruption" are fundamental. According to these norms, employees of public authorities in the performance of official or official duties must not allow personal interest, which leads or may lead to a conflict of interest. A conflict of interest (Art. 3) means a situation in which a personal interest (direct or indirect) affects or may affect the proper performance by a person of official or official duties and in which there is or may be a contradiction between personal interest and the rights and legitimate interests of citizens, organizations, society or the state.⁴

¹ DECREE OF THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN ON APPROVAL OF THE CONCEPT OF ADMINISTRATIVE REFORM IN THE REPUBLIC OF UZBEKISTAN NoUP-5185 08.09.2017 <http://lex.uz/docs/3331176>

² Draft Law of the Republic of Uzbekistan on Civil Service <http://www.regulation.gov.uz/ru/documents/1615>

³ Draft Law of the Republic of Uzbekistan on Civil Service <http://www.regulation.gov.uz/ru/documents/1615>

⁴ THE LAW OF THE REPUBLIC OF UZBEKISTAN ON COMBATING CORRUPTION Adopted by the Legislative Chamber on November 24, 2016 Approved by the Senate on December 13, 2016 NoZRU-419 03.01.2017 <http://lex.uz/docs/3088013>

Certain provisions are contained in the Model Rules of Ethical Conduct of Employees of Public Administration Bodies and Local Executive Bodies, approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 62 of 02.03.2016.⁵

According to paragraph 14 of the rules, public servants, in the performance of their duties, must not allow for personal interest that leads or may lead to a conflict of interest.⁶

In accordance with paragraph 15, civil servants are prohibited from engaging in entrepreneurial activities. Public servants shall not carry out activities or hold a position incompatible with or detrimental to the proper performance of their official duties. In all circumstances, a public servant may not derive from his official position a personal benefit not due to him. Civil servants are obliged to notify their head about participation in the authorized capital of commercial organizations, in order to take measures to prevent conflicts of interest.⁷

We believe that one of the shortcomings impeding the effective implementation of the requirements of the Law "On Combating Corruption" regarding the prevention and settlement of conflicts of interest is the absence of a by-law.

One of the tasks of the draft Law "On Civil Service" is to further regulate these issues. The state anti-corruption program (paragraph 27) provides for the preparation of proposals for such improvement. In this regard, in order to introduce mechanisms for identifying, preventing and resolving conflicts of interest, the Prosecutor General's Office, together with interested ministries and departments, has developed a draft resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On approving a model provision on the procedure for resolving conflicts of interest between employees of state administration bodies and local executive bodies". The draft was sent to ministries and departments for receiving proposals and approval.⁸

Another important point is the declaration of property and income. Unfortunately, today, there are no norms regarding the declaration of property and income.

As part of the implementation of the Action Strategy on five priority areas of development of the Republic of Uzbekistan in 2017-2021, a draft law "On the State Civil Service" was developed, providing for the development of the organizational and legal foundations of the state civil service.⁹

The development strategy of the new Uzbekistan for 2022-2026 provides:

Improvement of the legal framework for eliminating corruption factors in the civil service, hiring personnel on a competitive basis and assessing the effectiveness of their activities.

Implementation of the "National Rating" system for an assessment system based on key performance indicators (KPIs) of civil servants and state bodies.

Improvement of the system of raising the level of professional training, material and social security of civil servants.

Formation of the National Personnel Reserve in order to prepare worthy candidates for senior positions of state authorities at the local level, ministries and departments.

Implementation of the Digital Public Service project, which provides for the digitalization of processes related to entry into the civil service, the formation of a reserve, evaluation and service.

Revision of requirements for working time and labor standards in state bodies.¹⁰

⁵ RESOLUTION OF THE CABINET OF MINISTERS OF THE REPUBLIC OF UZBEKISTAN ON APPROVAL OF STANDARD RULES OF ETHICAL CONDUCT OF EMPLOYEES OF STATE ADMINISTRATION BODIES AND EXECUTIVE BODIES AT THE LOCAL LEVEL No. 62 02.03.2016 <http://lex.uz/ru/docs/2911871>

⁶ RESOLUTION OF THE CABINET OF MINISTERS OF THE REPUBLIC OF UZBEKISTAN ON APPROVAL OF STANDARD RULES OF ETHICAL CONDUCT OF EMPLOYEES OF STATE ADMINISTRATION BODIES AND EXECUTIVE BODIES AT THE LOCAL LEVEL No. 62 02.03.2016 <http://lex.uz/ru/docs/2911871>

⁷ RESOLUTION OF THE CABINET OF MINISTERS OF THE REPUBLIC OF UZBEKISTAN ON APPROVAL OF STANDARD RULES OF ETHICAL CONDUCT OF EMPLOYEES OF STATE ADMINISTRATION BODIES AND EXECUTIVE BODIES AT THE LOCAL LEVEL No. 62 02.03.2016 <http://lex.uz/ru/docs/2911871>

⁸ 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" NoPP-2752 02.02.2017 <http://lex.uz/docs/3105127>

⁹ On the State Program for the Implementation of the Action Strategy on Five Priority Areas of Development of the Republic of Uzbekistan in 2017-2021 in the "Year of Active Investments and Social Development" DECREE OF THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN ON THE ACTION STRATEGY FOR THE FURTHER DEVELOPMENT OF THE REPUBLIC OF UZBEKISTAN NoUP-4947 07.02.2017 <http://uza.uz/ru/documents/o-gosudarstvennoy-programme-po-realizatsii-strategii-devystvi-18-01-2019>

The procedure for declaring the property of civil servants is reflected in article 25 of the above-mentioned draft law.

At the moment, according to Art. 26 of the bill, civil servants, except for those belonging to the technical group, will be obliged to annually submit a declaration of property, information on their income and major expenses, as well as a declaration on the property, income and large expenses of their family members (parents, spouse, children, including adopted children), in the manner prescribed by law.

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 declaring property, income and large expenses, including an expanded circle of family members included in the declaration.

Applicants for admission to the civil service and members of their family of the first degree of kinship will be required to submit a declaration of property, information on their income and major expenses at the time of admission to the civil service.

Information on the submission of the declaration will be checked by the authorized body for civil service affairs before making a decision on the admission of a candidate to the civil service.

Verification of the accuracy and completeness of information on property, income and major expenses submitted by civil servants and members of his family will be carried out by the authorized body for civil service affairs in the manner prescribed by law.

Failure to provide public servants or to provide incomplete or unreliable information about property, income and major expenditures, or failure to provide or submit knowingly incomplete or unreliable information about the property, income and major expenses of members of the family of a civil servant, if the provision of such information is mandatory, will serve as a basis for the termination of public service.

We believe that a more effective approach is to create a single common system for declaring property and interests by all public servants. Such a system is built to create using information technology and provide for the filling and submission of declarations in electronic form through the online form. With this in mind, the regulation of such a declaration system should be introduced into a separate law or significantly supplemented by the Law "On Combating Corruption". At the same time, the main components of the declaration system (subjects, types of declarations, the procedure for their submission, the main content of declarations, the procedure for monitoring the submission and verification of declarations, their publication) are recommended to be regulated in the law, and more detailed procedural points and the form of the declaration are regulated at the by-law level.

The new system could be 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, managers and employees of independent bodies and regulators (for example, the Central Bank, the Accounts Chamber), as well as other employees of state bodies and institutions and heads of state-owned companies and other similar entities. The implementation of the new electronic declaration system can be started in stages, starting with senior officials.

An important element of an effective declaration system is the online publication of statements from declarations.

With regard to ethical codes, the "Model Rules of Ethical Conduct for Employees of State Administration Bodies and Local Executive Bodies" are fundamental, on the basis of which departmental rules are developed and approved, as well as rules for employees of executive bodies at the local level.

The Model Rules contain rules on basic principles and rules of conduct for public servants, conflicts of interest, and liability for violations of the provisions.¹¹

In this regard, some progress is possible with the adoption of the Civil Service Act.

We also want to note that the law "On Combating Corruption", in Art. 26, provides for the obligation of employees of state bodies to notify about the facts of corruption offenses. Thus, employees of state bodies are obliged to notify their head or law enforcement agencies about all cases of any persons

¹⁰ Decree of the President of the Republic of Uzbekistan "On the development strategy of the new Uzbekistan for 2022-2026" NoUP-60. *National Database of Legislation*, 29.01.2022, No. 06/22/60/0082

¹¹ MODEL RULES 07.03.2016 of ethical behavior of employees of state administration bodies and executive bodies at the local level Read more: https://www.norma.uz/raznoe/tipovye_pravila

contacting them in order to induce them to commit corruption offenses, as well as about any facts of similar offenses committed by other employees of state bodies that are known to them. Failure to comply with this obligation entails liability in accordance with the law.¹²

The cited Law "On Combating Corruption", in Art. 28, contains provisions providing for the protection of persons reporting information about corruption offenses. According to existing norms, persons reporting information on corruption offenses are under the protection of the state, except in cases established by law. Prosecution of persons who report information about corruption offenses entails liability in accordance with the law. These rules do not apply to persons who knowingly reported false information about corruption offenses, who are liable in accordance with the law.¹³

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¹² THE LAW OF THE REPUBLIC OF UZBEKISTAN ON COMBATING CORRUPTION Adopted by the Legislative Chamber on November 24, 2016 Approved by the Senate on December 13, 2016 NoZRU-419 03.01.2017 <http://lex.uz/docs/3088013>

¹³ Ibidem