



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
ANTI-CORRUPTION NETWORK FOR EASTERN EUROPE AND CENTRAL ASIA

Anti-Corruption Reforms in

UZBEKISTAN

Round 3 Monitoring of the Istanbul Anti-Corruption Action Plan

The report was adopted at the ACN meeting on **9 October 2015** at the OECD Headquarters in Paris.

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Summary Table of Recommendations

Recommendation	Rating of compliance given in this report	Old recommendation remains valid (under the number)	New recommendation in this area (under the number)
1.-1.2. Political Will to Fight Corruption and Anti-Corruption Policy	Largely		1
1.3 Corruption Surveys	Largely		2
1.4-1.5 Education and Awareness Raising, Public Participation	Largely		3
1.6 Specialized anti-corruption policy and corruption prevention institutions	Partially		4
2.1.-2.2 Offences and Elements of the Offence	Partially	5	6
2.3. Definition of Public Official	Fully		-
2.5.1 Confiscation	Partially	7	8
2.5.2 Asset Recovery	Partially	9	
2.6 Immunities	Not compliant		10
2.7 International Cooperation and Mutual Legal Assistance	Largely	11	-
2.8 Investigation and Criminal Prosecution of Corruption - Operative Measures	Fully		12
2.9 Investigation and Prosecution of Corruption	Largely		13
3.2 Integrity in Civil Service	Partially	14	15
3.3 Administrative Procedures	Fully		16
3.4 State Financial Control and Audit	Largely		17
3.5 Public Procurement	Largely		18
3.6 Access to Information	Partially	19	20
3.7 Political corruption	Largely		21
3.8 Integrity in Judiciary	Partially		22
3.9 Business integrity	Partially	23	-

Executive Summary

Anti-corruption Policy

A major initiative of Uzbekistan has been the adoption of the Comprehensive Plan of Action for the practical implementation of anti-corruption measures in May 2015. To prepare this first anti-corruption Action Plan, Uzbekistan has involved different state bodies and organisations; the opinion of civil society and academic circles was taken into account. The Plan includes activities on anti-corruption policy and some areas of corruption prevention, for example, conducting studies and surveys on corruption, development and implementation of public education programmes, adoption of preventive measures in state institutions, competitive recruitment, Code of ethical conduct in public sector. The report highlights that Uzbekistan has made steps to implement the Plan and it welcomes the preparation of an implementation report reflecting measures taken that will be made public. At the next stage of anti-corruption policy development it is necessary for Uzbekistan to define its basis, including goals and main directions, and to continue development of similar plans of practical implementation as in 2015.

Besides, more than 50 public institutions have developed their anti-corruption action plans. Development of institutional anti-corruption action plans is also an obligation under the 2015 Comprehensive Plan of anti-corruption measures. The report recommends that Uzbekistan continues to promote development and practical implementation of such anti-corruption measures at the level of individual state institutions, especially in those with high risks of corruption.

Studies and surveys on corruption in Uzbekistan have been conducted by the centre “Public Opinion”, the Independent Institute for Monitoring the Formation of the Civil Society NGO (NIMFOGO) and the Chamber of Commerce. However, their results are not publicly available. This report calls Uzbekistan to regularly conduct surveys of public opinion and sociological and academic research about corruption, as it is also foreseen in the 2015 Comprehensive Plan of anti-corruption measures, as well as ensure publication, including on Internet, of results of such surveys and studies on corruption.

Besides, the institutional mechanism for coordination of anti-corruption policy and prevention of corruption has been reformed. In 2014, the General Directorate for Supervision over the execution of laws was created. One of its functions is prevention of corruption. In summer 2015, an inter-institutional working group for combating corruption was created, which at this early stage it not yet possible to assess. This report recommends ensuring regular and efficient work of this working group and informing the society about results of work in the area of anti-corruption policy.

Criminalization of Corruption

Since the previous monitoring round Government of Uzbekistan carried out substantial work aimed at aligning national legislation with the international standards. The newly adopted legislation broadened the definition of subjects of corruption offences to cover foreign public officials and officials of international organisations, as well as the private sector employees. In addition, the provision on effective regret was overhauled. Further, the voluminous draft legislation has been prepared providing for criminal liability for promise and offer of bribe, illicit enrichment, trafficking in influence, liability of legal persons, as well as introducing the functional immunities for the judges and members of parliament. However, the process of legislative drafting has not led to the adoption of the relevant legislation mainly due to the negative conclusions on the draft laws from academia. Accordingly, it is recommended to promote awareness of the relevant representatives of academia in the area of anti-corruption

international standards and good practices, in order to facilitate efficient legislative process and bring national legislation fully in line with international standards.

Legislation regulating confiscation and asset recovery has remained unchanged. It is strongly recommended to clearly provide all elements of confiscation in the criminal legislation in line with international standards. Uzbekistan is also recommended to collect and analyse statistical data on application of confiscation in corruption offences and use the analysis in order to overhaul the existing legislation and practice.

The new recommendations addressed to Uzbekistan in the area of law enforcement include increasing the anti-corruption specialization of law enforcement bodies including prosecution service and strengthening the independence of the structural unit of the Prosecutor General's Office in charge of the investigation and prosecution of corruption cases; ensuring public access to regularly renewed detailed statistical information on criminal and other corruption-related violations.

Prevention of Corruption

The report notes that in the area of **public sector reforms** Uzbekistan has taken a number of steps, including the development of Concept of the Law on Civil Service, the draft Law on Civil Service, the draft unified rules for competitive recruitment in public administration, draft code of public servants ethics, including conflict of interest issues. Meanwhile, these documents are drafts and cannot be considered in the assessment of implementation of recommendation 3.2. Regarding integrity in public sector the report also positively notes the increasing transparency about available vacancies in the public service after introducing the obligation to publish them in the Internet. Also, several new codes of conduct have been adopted, namely the Rules of Deputy Ethics of deputies of the Legislative Chamber, Rules for Ethical Conduct of Judges, for employees of prosecution bodies and the Accounts Chamber, since the last monitoring report. However, on a number of other measures recommended in this area, such as delineation of professional and political public servants, transparency of pay system in the public sector, income and assets declarations in public service, whistle-blowers protection for persons reporting corruption no significant steps have been taken.

Uzbekistan has carried out impressive measures to introduce e-governance in the **public administration**. The work on the electronization of government services and launching various government web-portals is specifically underlined in the report, in particular, the open data portal, web-pages for online access to legislation and public services. It is recommended to further continuation of simplification of regulations and increase transparency and efficiency of public service delivery. Report also recommends to Uzbekistan to continue reform of administrative legislation and adopted the law on administrative procedures. Legal drafting process in Uzbekistan is fairly well developed. Anti-corruption screening of normative acts is regularly practiced. However, the results of this work are not published. Regulatory impact assessment (RIA) is not provided and practiced yet. It is recommended that Uzbekistan moves to the next stage of legal drafting and uses RIA in the process of elaboration of at least major legal acts, as well as publishes generalized results of anti-corruption screening of legal acts.

In the area of **audit and financial control**, pursuing the recommendation in the previous monitoring report, control operations and checks on the subject of fraud and corruption have been started by the Accounts Chamber. The report recognised the role of the Main Control and Revision Office of the Ministry of Finance in fighting corruption, including through its controls and revisions, which have allowed detecting allegations of fraud and corruption and reacting to reports about corruption. In 2012 – 2015,

the Accounts Chamber has conducted 16 training and seminars for its employees on anti-corruption issues. Meanwhile, internal audit divisions have not been created in Uzbekistan. Therefore, the report recommends that Uzbekistan considers the possibility to introduce modern system of internal financial control, including internal audit.

The report recognizes that steps are taken in Uzbekistan in order to improve the legal framework of **public procurement**. The concept for the development and improvement of public procurement system in the Republic of Uzbekistan during 2015-2025 and the draft Law on public procurement have been developed. The “black list” is made operational, anti-corruption training for procuring entities is conducted, as well as the responsible body on public procurement is strengthened in the area of monitoring and analysis of procurement.

Law on openness of the government administration was adopted in Uzbekistan, representing an important step forward towards meeting the international standards on **access to information**. The new law, inter alia, provides for shorter timeframes for answering the requests for public information, includes the list of the information for regular mandatory proactive publication and the possibility of electronic request of public information. However, the issues raised in the previous monitoring report still remain valid (imprecise and ambiguous definition of state secrets, absence of the state body in charge of monitoring the access to information etc.). At the same time, the two previously existing laws regulating the issues of access to information have not been abolished. Therefore, it is necessary to resolve the issue of duplication and conflict between the three separate laws regulating access to information. Uzbekistan is recommended to revise the legislation, unifying the relevant regulations in one law as well as ensure implementation of the law on the openness of government administration, including through the adoption of the relevant bylaws where necessary. In addition, it is recommended to abolish criminal liability for defamation.

In regards to the financing of political parties and election campaigns, the reports notes positively that, according to the recommendation, the transparency of financing of political parties and election campaigns is increasing with political parties informing in a more comprehensive manner about their resources and how they are used, as well as with streamlining the rules political parties have to follow to report electoral campaign spending. Regarding political corruption, the reports also recognised progress made with the adoption of the Rules of Deputy Ethics of deputies of the Legislative Chamber in 2015 and adoption of codes of ethics and creation of ethics committees by the political parties in 2013-2014.

In relation to ensuring transparency in the **judiciary**, several positive changes have been made. In particular, report assesses positively publication by the High Qualification Commission of the information about the stages of the selection of judges and new openings for vacancies. The reports commends Uzbekistan for the adoption of the rules of ethics for judges, however, expresses concerns about the role of the Commission in the process of monitoring the implementation of these standards. At the same time, in line with international standards, bodies responsible for disciplinary liability of judges should not be influenced by executive. Adoption of the regulations on mandatory publication of court decisions on the relevant website by the Supreme Economic Court of Uzbekistan is assessed positively. It is recommended to adopt similar regulations in relation to decisions of other courts as well. Nevertheless, fundamental reforms of the judiciary with a view of guaranteeing its independence are still due in Uzbekistan. It is recommended to overhaul the rules on selection, appointment and promotion of judges as well as their dismissal, ensuring objective and transparent process. In particular, it is recommended to introduce in the legislation regulations providing for clear criteria of selection and appointment of judges including their reappointment and procedure for substantiating decisions related to the career of judges,

as well as appeal of the decisions of respective agencies. The influence of the political bodies on appointment and dismissal of judges has to be brought to the minimum, appointments outside the formal procedure should be excluded; the composition of the body responsible for the selection of judges should be revised to meet the international standards, in particular to ensure that the body is composed mostly of the judges from various levels of the system of judiciary and are elected by other judges, automatic case assignment system should be made the requirement of law and its operation ensured in practice.

Regarding **integrity in business sector**, the report notes that in 2014 Uzbekistan started to take measures aimed at increasing efficiency and introducing corporate governance systems in joint stock companies. The report welcomes adoption of a Code of Ethics for conducting business in Uzbekistan by the Chamber of Commerce in 2014 and the dialogue with business sector through the Chamber of Commerce. However, the monitoring report finds that more efforts are needed to support small and medium-size business (private sector) with the aim to create systems of internal control and continue to develop the dialogue with private sector.

Third Round of Monitoring of Uzbekistan

The Istanbul Anti-Corruption Action Plan (Istanbul Action Plan, or 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 Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Ukraine and Uzbekistan; 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 Uzbekistan was conducted in December 2010. As a result, Uzbekistan received 21 recommendations. The joint first and second round monitoring report was adopted in February 2012. This report assessed the progress made in implementing the initial recommendations and contained compliance ratings with these recommendations. As a result, from 21 recommendations 14 remained valid, 6 new recommendations were made and 1 recommendation was no longer valid. In between monitoring rounds, at the plenary meetings of the Istanbul Action Plan 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.

In December 2012, the third round of monitoring under the Istanbul Action Plan was endorsed by the participating countries. It started for Uzbekistan in 2015. The Government of Uzbekistan submitted its responses to the questionnaire specially developed for its third round of monitoring in June 2015. The on-site visit took place from 29 June to 3 July 2015.

The on-site visit to Uzbekistan included 10 thematic sessions with public authorities including: General Prosecutor's Office, Ministry of Justice, Legislative Chamber and Senate of Olji Majlis Committees, Apparatus of the President of the Republic of Uzbekistan, the National Centre of Human Rights, Ministry of Finance, Ministry of Labour and Social Protection, Supreme Court, Supreme Economic Court, State Tax Committee, State Customs Committee and others.

OECD Secretariat also organised special panels with academic representatives, civil society, business sector and international organisations and embassies. The meeting with academic representatives and civil society was organised with the Tashkent State Law University; the meeting with business sector was organised with the Chamber of Commerce of Uzbekistan and the meeting with international partners – with UNDP Uzbekistan.

National coordinator of Uzbekistan is the General Prosecutor's Office. The co-ordination and support to the third round of monitoring was ensured by Mr. Evgeniy Kolenko, deputy director of Office for Combating Organised Crime and Corruption in the General Prosecutor's Office.

The monitoring team for the third round of monitoring of Uzbekistan consisted of: Mr. Serhiy Drozach (Ukraine); Ms. Olga Zudova (UNODC); Ms. Sigita Deichmane (Latvia); Ms. Altinay Kapisheva (Kazakhstan); Mr. Fazliddin Rakhimov (World Bank); Ms. Inese Kuške, OECD Secretariat and Ms. Rusudan Mikhelidze, OECD Secretariat.

The monitoring group would like to thank Uzbekistan for efficient co-operation during the third round of monitoring and, in particular, to thank representatives of the General Prosecutor's Office and the

Ministry of Justice, as well as is grateful to other state authorities for their open and constructive dialogue during the on-site visit. The monitoring team expresses its gratitude also to the Tashkent State Law University, the Chamber of Commerce of Uzbekistan and the UNDP Uzbekistan.

This report is based on the answers to the questionnaire and conclusions of the on-site visit, additional information received from the authorities of Uzbekistan and NGOs, analysis by the monitoring team, as well as information obtained during the plenary meeting.

The report was adopted at the ACN Plenary Meeting on 9 October 2015 at the OECD in Paris. It contains the following compliance ratings and new recommendations: **out of 20 recommendations 1 recommendation was not implemented, 8 recommendations are partly implemented, 8 recommendations are largely implemented and 3 recommendations are fully implemented. As a result of the third round of monitoring, there are 23 recommendations to be implemented by Uzbekistan, including 16 new recommendations were made and 7 previous recommendations remained valid.**

The report will be made public after the meeting, including at www.oecd.org/corruption/acn.

Uzbekistan is invited to disseminate the report as widely as possible. To present and promote implementation of the results of the third round of monitoring the ACN Secretariat will organize a return mission to Uzbekistan, which will include meetings with representatives of the public authorities, civil society, academia, business and international communities. Uzbekistan will be invited to provide regular updates on the measures taken to implement recommendations at the Istanbul Action Plan plenary meetings.

OECD/ACN Istanbul Anti-Corruption Action Plan third round of monitoring is carried out with the financial support of Liechtenstein, the United States, Switzerland and the United Kingdom.

Country Information

Economic and Social Situation

Uzbekistan, with an area of 448.9 thousand square km, is located in Central Asia, borders Afghanistan, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, and has no outlet to the sea. The population was 31 million people in 2015.¹

Uzbekistan ranks sixth in the world in terms of cotton production and second in terms of its exports; cotton remains a major source of the country's export earnings. Uzbekistan is the sixth largest producer of raw silk in the world and the third largest exporter of uranium. Uzbekistan has significant resources of natural gas, oil, gold, uranium and other natural resources.

The country has been carrying out incremental social and economic reforms aimed at the development and liberalization of the market economy. Over the last decade Uzbekistan has enjoyed sustained economic growth. GDP grew by 8.5% in 2010, 8.3% in 2011, 8.2% in 2012, 8% in 2013, and 7% in 2014. GDP amounted to 56,8 billion US dollars in 2014 compared to 39 billion US dollars in 2010. Per capita GDP in 2014 was 1878 US dollars compared to 1719 in 2012.²

Political Structure

Uzbekistan is a presidential republic. Since 1991 the President of Uzbekistan is Islam Karimov. The last presidential elections were held on 29 March 2015. Islam Karimov was re-elected during the elections with 90% of votes.

The political power is concentrated in the hands of the executive branch. The President presents for consideration and endorsement to the chambers of the Parliament (Oliy Majlis) the candidate for Prime Minister. Upon proposal of the Prime Minister, the President approves the members of the Cabinet of Ministers, as well as approves and dismisses, upon proposal of the Prime Minister, khokims of regions and Tashkent city, as well as approves candidates for judges.

Uzbekistan has a bicameral Parliament (Oliy Majlis). The lower house, the Legislative Chamber of the Parliament, has 150 deputies. The upper house of the Parliament, Senate, has 100 deputies, of which 84 are elected by the local Kengashes of deputies, and 16 are appointed by the President.

The last elections to the Legislative Chamber took place in December 2014. The leading political force the Liberal Democratic Party (UzLiDeP), People's Democratic Party, the Democratic Party "Milly Tiklanish" and "Adolat" Party made it to the Parliament, as a result of these elections, as well as the Ecological Movement, whose representatives are appointed, according to the Constitution. These four parties and the Ecological Movement were also represented in the 2009 convocation of the Legislative Chamber.

Trends in Corruption

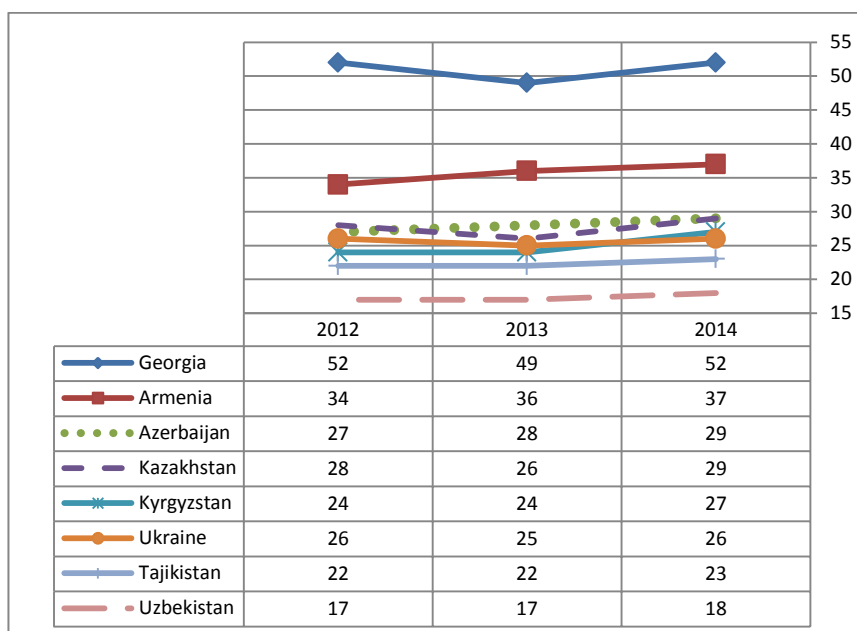
With 18 points out of 100, Uzbekistan is ranked 166 among 175 countries that took part in the latest **Transparency International's Corruption Perception Index** in 2014. After the first and second rounds of

¹ The State Statistics Committee of the Republic of Uzbekistan, <http://www.stat.uz/demographic>.

² IMF, Regional Economic Outlook: Middle East and Central Asia, November 2011; World Bank, 2014.

monitoring, the rating has barely changed and remains the lowest among the countries of the Istanbul Action Plan.³

Figure 1. Istanbul Action Plan Countries in the Corruption Perception Index of “Transparency International”, 2012-2014



At the same time Uzbekistan holds highest position out of the countries of the Central Asia in the rating Basel Anti-Money Laundering Index 2015. With 5.11 Uzbekistan holds 107 place and is between Uruguay (5,13) and Spain (5,02). This rating assesses the risks of money laundering among them the risks of corruption.⁴

Meanwhile, Uzbekistan’s rating in terms of the ease of doing business in **World Bank’s Doing Business** has improved. Uzbekistan is ranked 141 in the Doing Business 2015. The rating improved slightly since the first and second rounds of monitoring, however, it remains quite low (2014 – 146; 2013 – 154; 2012 – 166; 2011 – 150).⁵

According to the **EBRD-World Bank’s Business Environment and Enterprise Performance Survey**, corruption remains the second most serious obstacle to the introduction and development of business.⁶ In the World Bank’s **Worldwide Governance Indicators** (2013) Control of Corruption Index dropped to 8.13 since 2008 (0 = low to 100=high).⁷ In its 2014 study of Nations in Transit, **Freedom House** gave Uzbekistan a rating for corruption of 6.75 (on a scale of 1=highest score, 7=lowest score). The study noted that in Uzbekistan, corruption is widespread, including problems in the judiciary.⁸ Under Absence of

³ Transparency International, Corruption Perception Index, <http://www.transparency.org>

⁴ Basel Institute on Governance, 18 August 2015, Basel AML Index 2015 Report, https://index2015.baselgovernance.org/sites/default/files/aml-index/Basel_AML_Index_Report_2015.pdf

⁵ World Bank, Doing Business www.doingbusiness.org

⁶ EBRD-World Bank Business Environment and Enterprise Performance Survey (BEEPS), Uzbekistan BEEPS-at-a-Glance

⁷ World Bank, *World Governance Indicators* (2013), Available here: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

⁸ Freedom House, *Nations in Transit* (2014) available here: https://freedomhouse.org/report/nations-transit/2014/uzbekistan#.VUdR6_mUdHV

Corruption factor in the **World Justice Project's 2014 Rule of Law Index**, Uzbekistan is ranked 81 out of 99 countries participating in the index.⁹

⁹ World Justice Project, *Rule of Law Index* (2014) available here <http://data.worldjusticeproject.org/#/index/UZB>

PILLAR I. ANTI-CORRUPTION POLICY

1.1 - 1.2 Political Will to Fight Corruption and Anti-Corruption Policy

Recommendation of the first and second rounds of monitoring

Adopt a comprehensive National Plan on Countering Corruption, agreed by all key national players, including ensuring wide consultation with non-governmental organisations and academia, and widely disseminate it. Ensure that the National Plan on Countering Corruption includes clear priorities, concrete and effective measures and a mechanism for implementation, including clear division of tasks, precise guidelines and time frame; designate a body in charge of coordinating the implementation and include in the plan provision of regular public reports about its implementation.

Political Will to Fight Corruption

The fight against corruption remains to be the primary focus of Uzbekistan authorities. During the visit within the third round of monitoring it was noted that the political will to fight corruption is evident in the ratification of the UN Convention against Corruption in 2008 and accession to the Istanbul Action Plan in 2010. During the visit Uzbekistan also talked about the reforms aimed at reducing the state's role in the economy, about the introduction of "one-stop-shop" for provision of state services to enterprises and electronization of the government, about the need to strengthen the Parliament's role, about the importance of preventing corruption, and not just repressive measures, as well as about measures such as the *Law on Openness of Activities of State Authorities and Government Bodies*, adopted on May 5, 2014. In one of his speeches in 2015 President Karimov said that "consistent intensification of the ongoing fundamental reforms (..) will undoubtedly improve the quality of public administration structures ...".¹⁰ In his speech in September 2015 the deputy Prime-Minister of Uzbekistan confirmed that corruption is among the problems business sector in Uzbekistan is facing and that Uzbekistan needs to address it.¹¹

An important step taken by Uzbekistan was the Cabinet of Ministers' approval of the Comprehensive Plan of Action for the practical implementation of anti-corruption measures in 2015, on May 18, 2015. Uzbekistan's national plan on countering corruption has been in development since 2008. In 2012, a Presidential Order prescribed to draft a Law on Combating Corruption, and a draft Law on Prevention of Corruption was developed.¹² However, the Comprehensive Plan of Anti-Corruption Measures is the only document that has been actually approved.

The information in the international reports indicates that corruption in Uzbekistan remains widespread and the perception of corruption has not improved since 2008, when Uzbekistan joined the UN Convention. According to three international anti-corruption indices – Transparency International's Corruption Perception Index, Control of Corruption Indicator in the World Bank's Worldwide Governance Indicators and corruption rating in Freedom House's Nations in Transit report – perception/level of corruption either has not changed (i.e. remained very low compared to other countries in the region), or has worsened. It should be noted that the Uzbek authorities do not publish or disseminate studies or

¹⁰ Inauguration speech by Islam Karimov on 10.04.2015 www.prezident.uz

¹¹ CA-News, 9 September 2015

¹² Uzbekistan will adopt the *Law on Combating Corruption* <http://www.gazeta.uz/2013/12/26/corruption/>

surveys on corruption. Therefore, the possibilities for comparing data in international reports with that from the Uzbek authorities are limited.

National Anti-Corruption Policy

The UN Convention against Corruption (hereinafter – the UN Convention) states that "the prevention and eradication of corruption is a responsibility of all States." Article 5 of the Convention provides that "each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies."

During the visit, Uzbek authorities have named out directions of Uzbekistan's anti-corruption policy to the monitoring group: 1) legislative, including the adoption of laws and legislative provision; 2) institutional, namely the creation of specialized inter-institutional groups; 3) educational and academic, special academic programs on countering corruption; 4) awareness, outreach and publishing, designed to educate the public about the government's anti-corruption efforts; 5) monitoring of the anti-corruption policy; and 6) international.

As indicated in the responses to the questionnaire of the third round of monitoring, the fundamental strategic document, setting the direction of reforms in the country and prescribing implementation of a range of anti-corruption measures, is the **Concept for Further Intensification of Democratic Reforms and Development of Civil Society**, presented by the President of the Republic of Uzbekistan on November 12, 2010. In a recent speech in January 2015, President Karimov has reiterated the relevance of the Concept: "the Concept for Further Intensification of Democratic Reforms and Development of Civil Society, adopted by Oliy Majlis in November 2010, (...) has certainly become the strategic program for political and economic reforms."¹³ The fact that this Concept is the main strategic document in the fight against corruption was also pointed out in the report of the first and second rounds of monitoring and in follow-up reports on Uzbekistan's progress.

The Concept is a comprehensive document, which includes reforms in different areas of the state, society and economy. It has six areas: I. Democratization of the state authority and government; II. Reform of the judicial system; III. Reform of the information sphere and ensuring freedom of speech and information; IV. Ensuring freedom of choice and the development of the electoral legislation in Uzbekistan; V. Formation and development of civil society institutions; and VI. Further intensification of democratic market reforms and liberalization of the economy.

At the same time, measures to fight corruption – or with similar objective – are not specified in the Concept. It remains difficult to clearly assess the role of the Concept as that of the strategic framework for anti-corruption policy in Uzbekistan. During the visit to Uzbekistan, the group of experts has been communicated that the Concept's important role was to reduce the level of corruption in the economy. However, an analysis, for example, in form of reports precisely on actions taken by the Uzbek authorities to fight the corruption on the basis of this Concept is not available.

It should be noted that this Concept is being implemented, including both the adoption of new laws, and support of the implementation of those that have already been adopted. There are a number of Presidential orders that have been passed for the purpose of executing specific measures envisaged by the Concept (primarily drafting of laws). These specify the responsible departments and form working

¹³ Report by President Karimov at the joint session of the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan on 23.01.2015 <http://www.president.uz/ru/news/5084/>

groups. As of the end of 2014, 27 of the 46 laws have been adopted under the Concept.¹⁴ An example was given where under one of these laws pilot projects are being carried out in two oblasts of the country.

Responses to the questionnaire of the third round of monitoring indicate that a number of legal acts have been adopted within the Concept's framework that have an anti-corruption component and the following examples were listed: the *Law on Operational Investigative Activities*; the *Law on Openness of Activities of State Authorities and Government Bodies*; the new edition of the *Law on Joint-Stock Companies and Protection Of Shareholders' Rights*; amendments and additions to various legislation on anti-corruption expertise and to the *Law on Auditing*, etc. For instance, there is a plan within the Concept to adopt a draft Decree on Approval of the National Program on Improving the Legal Culture of the Society. It is positive that the above reforms and specific laws may make a contribution to the fight against corruption.

On May 18, 2015, the Cabinet of Ministers of Uzbekistan has approved the **Comprehensive Plan of Action for the practical implementation of anti-corruption measures in 2015**. The monitoring group welcomes this positive and important step after many years of work on the national plan to combat corruption. The comprehensive plan is made in the form of a table and contains 18 measures. Each of them lists the name of the activity, expected outcomes, timeframe and institutions responsible for its implementation.

The plan is not comprehensive and is focused on the implementation of some of the activities selected for the first annual Plan. The Plan includes measures on the anti-corruption policies and some aspects of preventing the corruption. The Plan includes activities such as conducting specialized and scientific research and surveys on corruption, developing and implementing educational programs on countering corruption for secondary and higher educational institutions, training government officials, adopting measures preventing corruption within state bodies, introducing government hotlines, measures to raise awareness, developing measures on the competitive selection in the recruitment to work for the public administration, the Code of Ethics for public servants. At the same time, the Plan does not include measures for the criminalization of corruption and law enforcement. There are also no provisions for a range of corruption prevention issues, such as corruption in public procurement, in courts, measures for sectors that are most susceptible to corruption, for example, education or medicine, etc. These points may be reflected in future plans.

The Plan was developed by the General Prosecutor's Office, the principal developer, and the Ministry of Justice. Supreme Court, Supreme Business Court, Institute for Monitoring Current Legislation, Ministry of Finance, Ministry of Economy, Ministry of Interior, Ministry of Health, Ministry of Public Education, Ministry of Higher and Secondary Special Education, State Tax Committee, and State Customs Committee took part in the preparation of the Plan.

With regards to the coordination and consultation with the key actors from the civil society and other partners, the Uzbek authorities noted that non-governmental organizations, academia, business circles and international partners also participated in the development of the Plan. The Independent Institute for Monitoring the Formation of the Civil Society (NIMFOGO), Chamber of Commerce, the academic community, namely, Tashkent State University of Law and the University of World Economy and Diplomacy, Uzbek International Law Association, UNDP and others were involved in the preparation of the Plan.

¹⁴ Report by President Karimov on 05.12.2014

Several non-governmental and scientific organizations confirmed their participation in its development to the monitoring group during the visit to Uzbekistan. For example, NIMFOGO proposed conducting opinion surveys on the corruption and large-scale events to educate the public about the negative consequences of corruption. These two proposals are reflected in the Plan, and NIMFOGO is listed as one of the organisations responsible for implementation of the relevant activities (No. 1 and No. 7). During the visit, NIMFOGO also pointed out that opinion polls were conducted before the adoption of the Plan, and these were taken into account while developing the Plan.

Representatives of the Tashkent State University of Law (TSUL) proposed to include the adoption of the law on public service in the program. As a result, the development of model provisions for the competitive selection during recruitment of employees to the state administration bodies was included as item No.9. TSUL and Uzbek International Law Association suggested conducting scientific research with a focus on international experiences (Singapore, Sweden) and studying educational programs of Western countries.

In addition, as the experts were told by the Chamber of Commerce of Uzbekistan (CCI) during the visit, draft legal acts touching upon rights and legal interests of business sector cannot be adopted without discussion with the business community through the Chamber of Commerce, and the Plan was no exception from this rule. According to the head of the CCI, suggestions were made concerning the relations between the state and businesses in terms of increasing the transparency of administrative procedures, as well as proposals on the harmonization of the timeline of implementation of the Plan and its coordination with other anti-corruption documents. At the same time, the Plan lacks any activities directly related to these issues, so one can assume that these suggestions might have been taken into account indirectly.

Additionally, during the visit the expert group had heard that it would be useful to include events on legal education, training and research, and on aspects such as legal literacy, especially amongst the youth; about the need for a more extensive discussion of the laws and communicating the essence of the laws to the citizens, and about the need to explore what citizen rights are being infringed.

As far as the efforts of widely publicizing the adopted Plan, one can verify the publication of the Plan on the General Prosecutor's Office website (in the section on general supervision), distribution to responsible agencies, academic institutions, and non-profit organizations. There were also publications in the official printed media responsible for the publication of adopted legal acts, and articles on the adoption of the Plan on news sites, such as 12news.uz.

In terms of the implementation mechanism, there is no description per se, but, as has been said, the tasks in the Plan are clearly divided: the deadlines and responsible agencies for each of the events are specified. The responsibility for coordinating the execution of the Plan lies with the General Prosecutor's Office and the Ministry of Justice. The Plan also envisages the establishment of an interagency anti-corruption working group charged with the task of monitoring the implementation of anti-corruption measures (see on this the section 1.6. of this report).

Regular reporting on implementation or the publication of such reports is not foreseen in the Plan. There is only a provision on the regular publication of articles in the media on its implementation. Indeed, the monitoring group has seen examples of Internet publications on the activities undertaken under the Plan. In the meantime, during the visit to the country, repeated statements were made that there will also be regular reports on the implementation of the Plan. During the plenary meeting in October 2015 Uzbekistan informed that it is foreseen to prepare quarterly implementation reports and that at present

first such interim progress report is being prepared (on results of the third quarter). In the process of preparing of this report in July 2015 the General Prosecutor's Office has sent letters to ministries and other public institutions. As a result, about 70 organisations prepared information on implementing measures foreseen in the Comprehensive Plan.

Regarding the practical implementation of the Plan, the Uzbek authorities stressed during the visit of the third round of monitoring that the Plan is in the stage of active implementation. Indeed, there are several examples of how the activities included in the Plan are being executed. For example, all educational institutions have approved schedules for research on corruption, and plans for the training and retraining of civil servants. Training courses have been developed, for example, at the National University of Uzbekistan; agency-specific plans to prevent corruption have been approved, work on the implementation of "hotlines" is in progress. In June 2015, the inter-institutional commission has been established and has held its first meeting.

As a closing remark, it deems practicable to establish a more clear connection between anti-corruption measures and the above Concept of 2010 as a policy document. It would also be useful to develop a clear mechanism of evaluating performed activities, and finally – a wider coverage among the population of the work that is being done as part of anti-corruption measures, not just through the media.

Measures to Prevent Corruption within Agencies and Ministries

Institutional anti-corruption working groups are being established and institutional plans are being developed to prevent corruption as a result of analytical work by the Prosecutor General's Office, as well as recent legal requirements.

Since 2012, the Prosecutor General's Office has been studying causes and conditions conducive to corruption in different spheres. This work covered such areas as public education, health, and tax in 2012; higher and secondary special education, the use of gas and electricity, the banking sector in 2013; land use, public procurement, as well as public companies *UzHlopkoProm* and *UzZernoProdukt* in 2014. As a result, the General Prosecutor's Office made presentations to these agencies and entities on how to eliminate the causes and conditions that had contributed to the commission of offences. These presentations were considered by the agencies and entities in collaboration with the Department for Fighting Corruption of the General Prosecutor's Office. At the next step,

The *Law on Prevention of Offences*, which entered into force on 15 August 2014, contains provisions under which any national, regional or agency-specific plans for the prevention of crimes get adopted, including plans on countering corruption. This law stipulates that government agencies can develop territorial programs on crime prevention.

Point 8 of the 2015 Comprehensive Plan of anti-corruption measures provides for the introduction of systems and regular measures aimed at preventing corruption within the government. In order to implement this measure, all ministries and public bodies have to develop and adopt agency-specific anti-corruption plans by June 2015 (and on an annual basis thereafter).

The response to the third round questionnaire states that "nearly all state agencies are successfully implementing agency-specific planned measures to prevent corruption." During the visit, the monitoring group had verified that some government agencies have developed these measures or are aware of this requirement. For example, during the visit to Uzbekistan, the State Customs Committee had presented the system of countering corruption at the customs. In January 2015, the Ministry of Health of the

Republic of Uzbekistan has approved an Action Plan to improve anti-corruption efforts of the central office of the Ministry of Health and of regional health authorities. The Ministry of Public Education has established a commission to prevent corruption back in July 2012, has developed and approved the sectoral corruption prevention plan for 2012, and approves new plans on an annual basis. The sectoral plan envisages the introduction of anti-corruption standards for the operation of the Ministry, the introduction of ethical standards, the implementation of measures to neutralize the causes and conditions conducive to corruption in the activities of the Ministry and its constituent subordinate structures.

Regarding the level of actual introduction of anti-corruption action plans by ministries and public institutions and how efficiently they are implemented, in October 2015 Uzbekistan informed that more than 50 ministries and public institutions have endorsed their measures on prevention of corruption. A number of concrete examples were mentioned, such as the Accounts Chamber, State Committee on Statistics, Ministry of Justice. The monitoring group obtained confirmation that these institutional plans contain a list of activities, deadlines and persons in charge. Moreover, Uzbekistan informed about adoption by Ministry of Finance in June 2015 of the Activities Plan on implementation of the 2015 Comprehensive Plan and on creation of a corruption prevention commission. Besides, in June 2015 several bodies subordinated to the Ministry of Finance adopted anti-corruption plans, namely Republican Road Fund, Department of Oversight of Melioration Fund and the Pension Fund. The monitoring group welcomes these measures at the level of ministries and public bodies, however, this matter was not studied by it sufficiently in order to give an assessment of these plans and of the level of their implementation.

Besides, the monitoring group found that Uzbekistan is carrying out a functional audit of the Ministry of Labour and Social Protection on this subject, and it is planned that similar audits will be conducted in other agencies, khokimiyats and courts. It would be useful to assess corruption risks arising in the implementation of specific functions and revisit such functions by having prevented such risks.

Conclusions

Overall, since the last monitoring report in 2012, Uzbekistan has done quite a lot of work for the development and implementation of anti-corruption policy. The main step is the adoption of the Comprehensive Plan of anti-corruption measures in 2015. It is positive that the Plan was designed with the participation of various agencies and organizations, and considered, inter alia, the opinions of a civil society organization and academia. The monitoring group welcomes Uzbekistan's execution of the Plan and calls to actively pursue its implementation; however it is also important to raise public awareness of it. The fact remains that such parameters as priorities, analysis of the current situation, required resources, and mechanism for the implementation of the Plan are missing. Nevertheless, the actions listed in the Plan, are specific and realistic and, if resources are available, they can be completed within the stated timeframe. In addition, the 2010 Concept for Further Intensification of Democratic Reforms and Development of Civil Society is being implemented, including both the adoption of new laws, and support of the implementation of those that have already been adopted, and specifically those that are significant for countering corruption. Work is underway to develop plans to prevent corruption in government agencies and ministries, and this work is backed by the General Prosecutor's Office analysing the current anti-corruption efforts in various sectors, agencies, and ministries.

The monitoring group believes that at the next stage of the development of anti-corruption policy it would be useful to determine its basis, formulating objectives and main directions of anti-corruption reform in Uzbekistan, and regularly update it. Based on these, it is important to continue to develop

national action plans of anti-corruption measures, for example, on an annual basis. In the latter, it would be essential to cover also measures to combat corruption in more depth, including, inter alia, measures to criminalize corruption, as well as in relation to investigation and prosecution of corruption cases. It is important to intensify inter-agency cooperation on the implementation of both national plans and agency-specific plans. It is necessary to centralize the monitoring of how the measures are being implemented and what impact they have at different levels – both in pursuance of the national Plan and agency, ministerial or sector-specific initiatives. It would also be useful to make the results of anti-corruption measures and their monitoring available in the form of regular, publicly accessible reports.

Uzbekistan is largely compliant with recommendation 1.1.-1.2.

New recommendation 1

- *Determine the basis of anti-corruption policy of Uzbekistan, including its objectives and main directions, as well as the implementation mechanism, having clearly reflected the results of studies and reports involving key government agencies, the civil society and academia, and to update them regularly.*
- *Develop and adopt on a regular basis national plans to prevent and combat corruption in state institutions, make them public and to encourage their active implementation.*
- *Encourage the development and implementation of effective anti-corruption measures at the level of public institutions, ministries and state institutions at the local level, especially at those with the highest risk of corruption.*
- *Monitor the implementation of anti-corruption measures and their impact.*
- *Ensure public availability of regular reports on anti-corruption activities in Uzbekistan and their results.*

1.3. Corruption Surveys

Recommendation of the first and second rounds of monitoring

Encourage further research into corruption by government, non-governmental and independent institutions. Ensure regular, specific and evidence-based studies and surveys of public opinion on the extent and patterns of corruption, experience with corruption and attitude towards government anti-corruption efforts. Use statistical data on corruption crimes to ensure that anti-corruption surveys are reliable and evidence-based. Ensure that results of research studies are used in development of anti-corruption policy and identification of corruption risk areas. Ensure wide dissemination and publication of the results of surveys.

Research and Opinion Polls on Corruption

After a 2012, opinion polls and surveys on corruption in Uzbekistan were conducted by the state public opinion research centre “Ijtimoiy Fikr” (“Public Opinion”), the Independent Institute for Monitoring the Formation of the Civil Society NGO (NIMFOGO) and the Chamber of Commerce. These studies, as indicated by Uzbekistan, contain information about the attitudes and experiences with corruption of

citizens and business community, their assessment of anti-corruption measures undertaken in Uzbekistan.

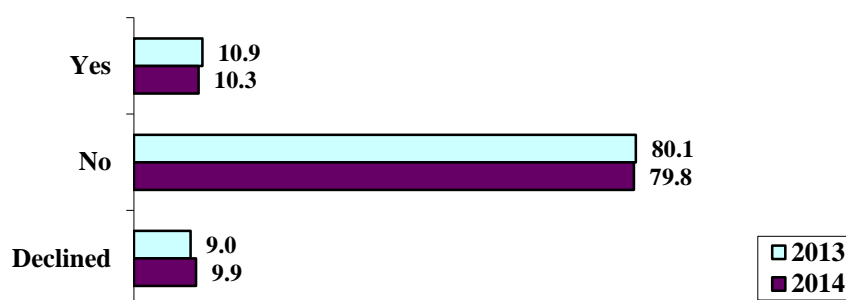
The monitoring group was presented only two pieces from corruption studies: 1) the 2014 study by NIMFOGO and regional offices of the Chamber of Commerce and Industry (CCI), *Problems for the Development of Small Business and Private Entrepreneurship in Uzbekistan*; and 2) Informational and analytical report on the results of a 2014 public opinion poll, *The Fight against Corruption and Public Opinion*.

The aforementioned NIMFOGO and CCI study was prepared on the basis of a sociological survey of small and medium-sized businesses, which was conducted by NIMFOGO in collaboration with CCI during joint workshops in 2014. The study talks about the problems hindering the development of entrepreneurship. Among others, the study provides examples of unwarranted interference in business activities. Mostly such interference occurs on the part of regulatory authorities. 42% of respondents have encountered such a problem, while in Tashkent and Bukhara oblasts this number ranges between 70-80%. The government agencies where racketeering is a more serious problem are the tax authorities and khokimiyats. The problem of coercing entrepreneurs to provide sponsorship was mentioned. The study also concluded that government bodies extend the consideration of complaints filed by businessmen and "this is a kind of breeding ground for a range of wrongdoings, including corruption."

According to Uzbekistan's responses to the questionnaire of the third round of monitoring, the study materials were distributed to all relevant agencies, as well as published in the press, and the study became the foundation for the General Prosecutor's Office and other agencies to develop relevant measures to prevent corruption.

The second study provided to the monitoring group was a public opinion poll, *The Fight against Corruption and Public Opinion*. The poll was conducted by the public opinion research centre *Ijtimoiy Fikr* in 2014. Its main conclusions are that, in the opinion of citizens, the country has been successfully taking measures to fight corruption, and the level of corruption is reducing, while bribery and extortion cases in the country only happen sometimes. To the question, *Is there corruption in Uzbekistan?*, 34% answered "yes" (compared to 36% in 2012 and 53% in 2011). The study says that in 2014 there has been a significant decline in corruption, in comparison with 2013, in areas such as healthcare (from 37.7% to 25.5%), education (from 37.8% to 24.2%), and the judiciary (from 31.6% in 2012 and 24.3% in 2013 to 14.6% in 2014). More than half of surveyed citizens believe that the fight against corruption in the country is successful (74.5%), and the most effective measure of countering corruption is stronger criminal liability and punishment. The majority (79.9%) cases of corrupt practices are associated with the extortion of bribes from citizens. 80% of respondents said that they had not encountered any extortion or bribery cases. This study is not publicly available.

Figure 2. Question from the 2014 public opinion poll: Have you personally encountered any cases of corruption, extortion or bribery? (in %)



Source: "Ijtimoiy Fikr", the Fight Against Corruption and Public Opinion, 2014

Uzbekistan noted that *Ijtimoiy Fikr* research centre had also conducted other corruption surveys: in 2013, *The Fight against Corruption in the Mirror of Public Opinion*, and in September 2014, the annual survey *Uzbekistan: Public Opinion – 2014*, which also talks about the opinions of citizens on the fight against corruption. These two studies were not provided to the expert group, nor are they publicly available.

NIMFOGO also conducts regular sociological research on corruption and monitoring of corruption manifestations since 2011. Among others, in 2013, a study was conducted that was similar to the one mentioned above, with the purpose of determining the level of corruption in business. In addition, NIMFOGO has developed a methodology for monitoring and analysing the problems associated with the manifestations of local bureaucracy, corruption, and formalism. This methodology provides for regular analysis of the causes and conditions that give rise to corruption, in particular.¹⁵ Neither these regular NIMFOGO surveys, nor the aforementioned methodology were presented to the monitoring group, nor they are publicly available, therefore the monitoring group cannot assess their content.

Also, during the visit, the monitoring group found out about the surveys and interviews of entrepreneurs conducted by the CCI as part of its collaboration with government agencies that interact with businesses. For example, it was said that the CCI and the Ministry of Justice had conducted a study on the business climate, which also included a question whether there is extortion. As a result of these studies, which are also not available publicly, the CCI identified risks, such as inspections by law enforcement agencies, licensing and others, and made proposals on how to eliminate them (for example, the introduction of "one-stop-shop" system). In addition, the surveys have confirmed that the identified risks are similar to risks in other countries in that they are related to scheduled and unscheduled inspections and import operations. As the expert group found out during the visit, in the course of research by the CCI, business representatives do not always correctly answer questions and consider some questions minor, so the CCI primarily conducts surveys in oblasts. The CCI also welcomed the adoption of the Presidential Decree on the no-contact business, which will allow businesses to register via the Internet and, consequently, reduce corruption risks. Parallel efforts are now underway to implement such no-contact system and the one-stop-shop system.

Uzbek International Law Association has also conducted an opinion poll on the awareness of corruption and measures to combat corruption. As a result, 33% of respondents confirmed that corruption is present as a phenomenon. During the visit, there were discussions about the research on corruption conducted by, for example, TSUL. It was also noted that the Public Service Academy makes presentations on the

¹⁵ Measures to prevent and suppress corruption 29.06.2015, <http://nimfogo.uz/ru/node/1146>

results of public opinion polls with the participation of state bodies and non-governmental organizations. Most of the research is carried out in education, medicine, business, economic sphere, and administrative services. In general, the Uzbek side noted that all studies are conducted in the context of improving administrative services, not revealing corruption components within them.

Overall, the results of all sociological and industry research are reduced to the vast majority of Uzbek citizens believing that every year the situation with countering corruption in the country is improving and increasingly appreciating the steps taken by the government in this area. During the visit the monitoring group had the impression that the ongoing studies emphasize the positive impact of measures taken by the state. The studies contain little information on what specifically the corruption problems encountered by citizens and businesses are, what the most corrupt spheres are, which forms of the corruption are more frequent. In addition, the experts were told that most of the studies conducted are not anonymous, and the results of the few studies conducted anonymously are in line with the results of the former, which seems unlikely.

Use of statistical data on corruption crimes. In its responses to the questionnaire of the third round of monitoring Uzbekistan noted that the General Prosecutor's Office analyses the dynamics and trends of corruption-related crimes, including by using statistics on types of corruption offences, and categories of perpetrators of corruption offences, submitted by internal affairs, national security and other government agencies. Such analytical work reveals areas that are most prone to corruption. The expert group was not able to review such statistics or the results of analytical work (for more information about this work see Part II of this report).

The expert group did not find out about any other examples of sociological or other studies on corruption in Uzbekistan, which use the statistics on corruption crimes, in order to ensure the reliability and evidence of the results of such studies. An example of the use of statistics on corruption offences in the studies that are publicly available is a 2014 *OECD Foreign Bribery Report. An Analysis of the Crime of Bribery of Foreign Public Officials*, which is based on the analysis of 427 completed criminal cases of bribery of foreign public officials in the OECD Anti-Bribery.¹⁶

Using research to develop anti-corruption measures and analyse corruption risks. As mentioned earlier in this section, materials of 2014 NIMFOGO and CCI research on corruption in business were used for the development of measures to prevent corruption by the General Prosecutor's Office and other agencies. The results of the research in the field of combating corruption, including that conducted by the *Ijtimoiy Fikr* centre, are used by the Ministry of Justice to consider the possibility of further improvement of legislation and the adoption of comprehensive plans for the prevention of crime, including measures to combat corruption.

At the same time, the new comprehensive plan of anti-corruption measures for 2015 does not contain references to research, and it is hard to assess exactly how and which of the aforementioned studies were used in its development.

A positive innovation is that the Comprehensive Plan itself provides for conducting specialized and sociological studies of corruption problems and researching the causes and conditions of corruption. In practice, it is important to coordinate, implement these measures, as well as encourage the use of research results in the development of effective anti-corruption measures.

¹⁶ See full report and statistical tables at <http://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm>

Using research to identify the most corrupt spheres. One example mentioned by Uzbekistan is the analysis of the causes and conditions of corruption in industries, ministries and agencies, which is done by the General Prosecutor's Office that makes recommendations based on the results. Studies are used, inter alia, in this work. Public information on the extent and results of such analysis is not available, and the monitoring group could not evaluate it (see section 1.1.-1.2. above). Also, during the visit to the country the impression was that the studies and surveys themselves study the most corrupt spheres and their specific corruption problems in a rather limited way. It was only stated that risks are being examined and that the social services and economic activities are risk areas. Clearly, there is a need to increase the role of research and surveys in identifying specific problems and corruption risks. This will improve their utilization.

Wide dissemination and publication of the results of surveys. As mentioned above in this section the mentioned studies on corruption are not publicly available. Some of them are sent to the concerned agencies and organizations, and, in some cases, information about them is provided to the media. It was found that the main way to familiarize the public with such information is the television, which is due to the fact that this media is the most popular. For example, materials of the 2014 study on the corruption in business were distributed to all relevant agencies and published in the press. The report *Uzbekistan: Public Opinion – 2014* was sent to concerned departments and presented to the media.

Conclusions

Overall, since 2012, a number of sociological studies on corruption and public opinion polls were conducted both by the public sector organizations, and by the civil society and business circles. At the same time, the bulk of the research concerns the common understanding of corruption and attitude towards the government's efforts to combat corruption, leaving the issues of its scope and nature, and most importantly – individual encounters of corruption by citizens and businesses, out. In addition, most surveys are not conducted anonymously, which significantly reduces their credibility.

It is positive that the new Comprehensive Plan of Anti-Corruption Measures for 2015 includes conducting specialized, sociological and scientific research on corruption. It will be important to coordinate this work and to ensure its utilization while performing anti-corruption reforms.

Also, future research on corruption should be improved through clear wording of the questions asked during the interviews, the maximum number of anonymous surveys, as well as making full use of the research results in the work of state bodies and while drafting relevant legal acts.

With regard to the publication and dissemination of corruption research findings, it would be useful to make such publications not only in professional press, but in more massively read sources, as well as on the internet, despite some limited access to it at this stage.

Uzbekistan is largely compliant with recommendation 1.3.

New recommendation 2

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

1.4-1.5. Education and Awareness Raising, Public Participation

Recommendation of the first and second rounds of monitoring

Develop and conduct awareness raising and education events for general public, selected risk groups of public officials, addressing also civil society associations and business sector. Make awareness raising events useful and focus on specific and practical aspects, such as rights and duties of each specific audience, practical ways to prevent corruption, right of citizens to interact with public institutions, etc. In providing awareness raising and education events, use already developed and established methods and channels of cooperation notably between the governmental agencies and institutions and civil associations and allocate adequate funds from the state budget for these purposes.

Generally during the on-site visit the monitoring team was under the impression that quite a number of anti-corruption seminars, training and legal propaganda events are taking place. Materials from such events were gathered and in form of an exhibition presented during the visit (photos, programmes, books).

As Uzbekistan indicated it, many of these recent events were organised based on plans and programmes adopted by the Inter-institutional Council to coordinate the efforts of state bodies on raising legal awareness and education. This Council was created in Uzbekistan in 2011. According to the Cabinet of Ministers resolution of 23 July 2012, the Council has the function to organize and coordinate the legal awareness and education work, including, according to Uzbekistan's answers to the questionnaire, in the area of anti-corruption awareness raising.

Uzbekistan indicates that the country has a National Program of Legal Education, which covers, among other things, the issues of combating corruption and which is taught at schools.

The Comprehensive Plan of Anti-Corruption Actions for 2015 includes two activities on anti-corruption training and education: 1) development and implementation of training programs on anti-corruption issues at institutions of secondary, specialized secondary, vocational and higher education; and 2) the development and introduction of measures on legal awareness and legal education. During the visit to Uzbekistan, the monitoring group has received confirmation that the work has begun. For example, the National University already has such training courses developed.

As mentioned above, during the visit of the expert group had heard that it would be useful to include the issues of legal literacy in the events on legal education and training, especially amongst the youth; about

the need for a more extensive discussion of the laws and communicating the essence of the laws to the citizens, whose rights are being infringed.

Public Anti-Corruption Education

In response to the questionnaire of the third round of monitoring and during the visit of the expert team to Uzbekistan, extensive information has been provided on the activities of legal awareness and training, including those related to the fight against corruption. These activities were carried out by different government agencies and organizations, often in collaboration with international organizations like the OSCE, UNODC, UNDP, and the EU.

A number of activities aimed at raising awareness and anti-corruption education of the population were conducted by the prosecution bodies. The response to the questionnaire of the third round of monitoring presents the statistics of such events: in 2012 – 2070, in 2013 – 2273, and in 2014 – 2693. The response stated that "it is the prevention of bribery that was at the core of 4029 events, of which 3107 were in the form of meetings, round tables and seminars, and 922 were conducted through the media." During 2012-2014, the General Prosecutor's Office conducted a large number of measures to prevent corruption and clarification of the law among entrepreneurs, in the form of meetings, round tables and seminars, as well as through articles and media appearances.

Also, the Accounts Chamber annually publishes 100 copies of various posters, including those on the fight against corruption, and 3 booklets, 500 copies each, for employees of the inspected organizations, including on the basis of the UN Convention against Corruption. These posters are also distributed to the organizations inspected by the Accounts Chamber.

Judicial authorities conducted more than 81 thousand measures on legal awareness, covering 2.5 million people. One of the most important subjects of the events carried out by the judicial authorities was the fight against corruption, improving the rule of law in the law-making and law enforcement government agencies.

Uzbekistan indicates that the anti-corruption issues are often highlighted on TV and as part of special broadcasts. Special videos are being demonstrated, anti-corruption posters and booklets are being published.

Raising Awareness and Education of Certain Risk Groups

Civil servants training and their awareness-raising is addressed within the framework of the Public Service Academy, and at certain training centres. See Section 3.2. "Integrity of Public Service" for more details.

Also, the Ministry of Justice holds seminars on the use of anti-corruption standards in the organization of legislative work, while drafting legal acts and eliminating existing shortcomings, for the employees of state and economic management bodies, local authorities.

At the Ministry of Justice's Centre for Raising Qualification of Lawyers anti-corruption courses are being taught. Since 2012, 8964 attendees have been trained, including judges, civil servants, legal advisers, and notaries. In addition, these individuals were taught subjects related to the international standards of judicial ethics, as well as the parent liability for corruption offences.

In accordance with the Comprehensive Plan to ensure the effective development of business activities, in 2013-2014, the General Prosecutor's Office and the Ministry of Justice have organized seminars and conferences for government and economic management bodies, as well as for **representatives of business circles**, where liability for corruption offences was also discussed.

In **the system of the Ministry of Public Education**, Decree No. 121 has been adopted on May 1, 2014, *On Further Acceleration Of The Work On Raising Awareness And Agitation Of The Fight Against Corruption In The Educational System*. The Ministry of Public Education has recommended to its subordinate newspapers and magazines to publicize the fight against corruption in the system of public education. As a result, the newspapers *Ma'rifat* and *Teacher of Uzbekistan*, as well as scientific and methodological magazines, have been publishing a series of materials on anti-corruption propaganda.

Raising Anti-Corruption Awareness in Cooperation with the Civil Society. In its response to the questionnaire Uzbekistan indicates that progress has been made in the establishment of institutional mechanisms and effective tools for cooperation between state institutions and civil society representatives and organizations. Representatives of such organizations are involved in special commissions and working groups to build awareness. The adoption of the *Law on Social Partnership* on September 26, 2014 is presented as an example.

For example, the General Prosecutor's Office cooperates with a number of organizations in the field of anti-corruption propaganda, for example, NIMFOGO, the CCI, the National Centre of the Republic of Uzbekistan for Human Rights, and the National Association of NGOs of Uzbekistan. Joint educational activities are being conducted. Since June 2013, NIMFOGO and the General Prosecutor's Office have jointly organized a series of training seminars on *The Legal Framework for the Protection of Small Businesses and Private Entrepreneurship*. These seminars discussed the strengthening of mechanisms to ensure all rights and legitimate interests of entrepreneurs and enhance their legal culture. In October 2013, a round table was organized on *The Role of Civil Society in Combating Corruption*. Also, employees of the General Prosecutor's Office participate in the CCI activities.

In general, Uzbekistan believes that activities for various public groups enabled the participants to gain knowledge and skills to combat corruption, to exchange views and to receive the latest information about anti-corruption steps undertaken by the state in the country.

"... allocate adequate funds from the state budget for these purposes." On this issue Uzbekistan indicates that there is no separate accounting of the funds allocated from the state budget for activities on raising awareness and anti-corruption education of the society. This process is carried out within the overall financing of public authorities.

New Issue: Participation of Non-governmental Organizations in the Fight against Corruption

No recommendation was given under this line to Uzbekistan during the previous monitoring round.

According to the monitoring group's sources, the perception of the civil society as a partner in Uzbekistan in recent years has improved. More recently, the procedure for the registration of NGOs and NGO activities has simplified. In 2013 and 2014, Presidential Decrees have been adopted, which reduced the number of documents and the registration fee for NGOs. For example, NGOs have participated in the development of the *Law on Social Partnership*, which was adopted in 2014, in cooperation with the Parliament and the Public Council of the Ministry of Labour and Social Protection. Representatives of non-governmental organizations are permanent members of the Inter-institutional Council, which coordinates

the efforts of state bodies on legal awareness and education. The law on public control in Uzbekistan is currently being drafted.

At the same time, Uzbekistan has a range of state or national organizations acting as the institutions of civil society in the context of anti-corruption measures, such as the national NGO the Independent Institute for Monitoring the Formation of the Civil Society (NIMFOGO), and Public Youth Movement *Kamolot*. Academic circles take an active part and have influence, for example the Tashkent State University of Law, University of World Economy and Diplomacy, business associations like the Chamber of Commerce and Industry.

Conclusions

In general, it appears that the educational work carried out in Uzbekistan is at an appropriate level. At the same time, it would be useful to assess what results have been achieved through anti-corruption awareness raising. It is necessary to broaden the existing cooperation with non-governmental organisations and other civil society groups in the area of anti-corruption awareness raising of the general public, by conducting joint activities, in this way also contributing to implementation of the law On Social Partnership, which entered into force on 1 January 2015. It is also important to ensure that new educational programs on anti-corruption issues, which will be introduced in schools and universities according to the Comprehensive Plan of Anti-Corruption Measures, are useful and practical.

Uzbekistan is largely compliant with recommendation 1.4.-1.5.

New recommendation 3

- *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 to combat corruption.*
- *Develop and implement in institutions of secondary, specialized secondary, vocational and higher education training programs on anti-corruption topics, provide a common methodological support in the development of such programs and financial support for their implementation.*
- *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.*
- *More active involvement of the civil society in the collaboration with public authorities in the prevention of corruption.*

1.6. Specialized Anti-corruption Policy and Corruption Prevention Institutions

Recommendation of the first and second rounds of monitoring

Ensure a specialized agency or unit within an existing public institution that would be responsible for development and coordination of the national anti-corruption policy, would monitor and supervise its implementation and would disseminate knowledge about prevention of corruption and regularly cooperate with civil society. Authorities should ensure such body is granted effective independence, necessary material resources and specialized staff with regular training in order to enable them to carry out their functions.

Uzbekistan was recommended to establish a specialized body or unit which is responsible for coordination of the national anti-corruption policy and implementation of measures to prevent corruption. This recommendation was given in accordance with the UN Convention against Corruption, according to which each State shall ensure the existence of a body or bodies to prevent corruption, including anti-corruption policy.

During the first and second rounds of monitoring, there was the General Prosecutor's Office and the Office for Combating Economic Crimes and Corruption¹⁷ under the General Prosecutor's Office, and it was recommended to improve the institutional framework in the area of anti-corruption policy, for example, through the creation of a permanent inter-institutional commission, with the purpose to coordinate this work more effectively and to strengthen measures to prevent corruption.

After the first and second rounds of monitoring Uzbekistan has created two new inter-institutional bodies in the area of anti-corruption policy coordination and a new department within the General Prosecutor's Office, which has a role in prevention of corruption.

Based on the *Law on Prevention of Offences*, which came into force on 15 August 2014, the **Coordinating Council for Crime Prevention** was established. Role of this Council is to coordinate activities of state bodies in the area of prevention of crimes, including corruption-related crimes. During the visit to Uzbekistan, it was announced that on June 26, 2014, the Council held its first meeting on the prevention of crime in the social sphere, during which a list of problem issues was compiled and specific activities were planned, and in particular for the prevention of corruption. The monitoring group has not learned more about the work of the Council in this area and in this light is finding it difficult to evaluate its role.

Furthermore, pursuant to the Comprehensive Plan of action for the implementation of anti-corruption measures in 2015, in June 2015 based on a Cabinet of Ministers decision the **inter-institutional working group on promoting the improvement of organizational, practical and regulatory frameworks for combating corruption** was established. In line with the Comprehensive Plan and the Cabinet of Ministers decision, the inter-institutional working group has the following objectives: 1) monitoring the implementation of anti-corruption measures; 2) Implementing of the legal propaganda and interacting with civil society institutions on combating corruption; and 3) making proposals for the improvement of organizational, practical and regulatory frameworks for combating corruption.

The inter-institutional group is composed of representatives of state authorities and non-governmental organisations, for example, Chamber of Lawyers and Chamber of Commerce. Meetings of inter-

¹⁷ At the moment of adoption of this report it is renamed as Office for Combating Organised Crime and Corruption.

institutional group have to take place every quarter. Its first meeting took place in June 2015. The Secretariat/working body of this inter-institutional group is the Office for Combating Organised Crime and Corruption in the General Prosecutor's Office.

In accordance with Article 11 of the *Law on Prevention of Offences* stipulating that the prosecution bodies coordinate the activities of government bodies and institutions engaged in the prevention of offences and on the basis of the Presidential Decree On Measures to Further Improve the Enforcement of Legislation" of 24 July 2014, was established the **General Directorate for Supervision over the execution of laws at the General Prosecutors Office.**

In its response to the questionnaire Uzbekistan noted and confirmed it during the plenary meeting that one of the main objectives of this directorate is to prevent corruption and other abuses. The General Directorate includes 4 departments and has 88 staff positions. Information as to how many of the 88 staff members are dealing with corruption issues was not provided. Also, the monitoring team was not able to assess documentation related to the establishing of the new Directorate.

Consequently, as before, the prosecution authorities in practice keep the leading role in coordinating the development and implementation of the national anti-corruption policy, including its monitoring and supervision of its implementation, as well as the corruption prevention, including the dissemination of knowledge about the prevention of corruption and maintaining regular communication with the civil society.

Finally, in the area of legal advocacy, the Inter-institutional Council to coordinate the efforts of state bodies on raising legal awareness and education has been in operation since 2012. Uzbekistan indicates that the authority to organize and coordinate the dissemination of knowledge on corruption lies with this body (the same function as the aforementioned inter-institutional working group).

Further, the recommendation 1.6. calls upon Uzbekistan to ensure effective independence, necessary material resources and staff, which all are the requirements of the UN Convention against Corruption. According to the Article 6, paragraph 2 of the UNCAC, each State grants body or bodies that prevent corruption the necessary independence to enable the body or bodies to carry out its or their functions effectively and free from any undue influence, and also provides the necessary material resources and specialized staff, as well as the training of such staff.

On this element of recommendation 1.6., the monitoring group can note that the only change in the General Prosecutor's Office was in terms of establishing the Main Directorate for Supervision over the execution of laws (88 staff positions). However, as said above, it is not known exactly how this directorate is involved in the corruption issues. As will be later described in Part 2 of this report, the resources for the Office for Combating Organised Crime and Corruption in the Prosecutor General's Office have not been increased. It is not known whether additional resources were provided to the General Prosecutor's Office to operate as the Secretariat/working body of the new inter-institutional anti-corruption working group, described earlier in this section.

Finally, regarding the element of this recommendation to "regularly cooperate with civil society," some relevant examples of joint actions on anti-corruption advocacy and participation in the development of the Comprehensive Plan are provided in the section 1.4.-1.5. of this report.

Conclusions

Uzbekistan made steps with the purpose to strengthen the institutional framework for the development and implementation of anti-corruption policy, as well as to prevent corruption, as recommended by the Istanbul Action Plan. The monitoring group welcomes the establishment of the Coordinating Council on Crime Prevention and the Inter-institutional anti-corruption working group, as well as the new Directorate within the General Prosecutor's Office. Because these agencies have been created recently and there is no information about their work or results, and in part about their functions, it is too early to assess the effectiveness of these reforms.

It is also necessary to better define what functions of the Coordinating Council on Crime Prevention are directly in the area of corruption prevention and delineate its functions from the inter-institutional working group on combating corruption. Finally, given that Uzbekistan has defined the General Directorate of the General Prosecutor's Office as the department responsible for implementing the measures specified in this recommendation, it is necessary to make sure that these functions are secured in the legislation and that this unit has sufficient independence, resources and personnel to carry out such functions.

Uzbekistan is partially compliant with recommendation 1.6.

New recommendation 4

- ***Ensure regular and efficient work of the inter-institutional 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 body in the area of national anti-corruption policy.***
- ***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.***

PILLAR II. CRIMINALISATION OF CORRUPTION

2.1-2.2 Offences and Elements of the Offence

In the previous monitoring report it was noted that the working groups under the General Prosecutor's Office and the Supreme Court had drafted amendments to number of articles of the Criminal Code. However, these draft laws have not been presented to the monitoring group, as they were undergoing the process of internal consultations.

In response to the questionnaire of the third round of monitoring, Uzbekistan indicated that "...as of today relevant draft laws have been developed, adoption of these draft laws is under consideration in an established manner." During the country visit, the Uzbek authorities have shown a number of draft laws to the monitoring group, some of which were provided to the Secretariat after the visit. The monitoring group was convinced that considerable work has been done by the government agencies in order to bring the national legislation in line with international standards, although in many cases the authorities did not have the support from academia.

During the meeting with representatives of academia within the third round monitoring visit, teaching lawyers of Tashkent State University confirmed that the General Prosecutor's Office had solicited their opinions and expertise on requests and draft laws on amendments to the Criminal Code to recognize promise and offer of bribe, illicit enrichment, and trafficking in influence as criminal offences and introduce criminal liability for legal persons. The lawyers gave positive opinion in terms of the trafficking in influence, but have indicated that, in their opinion, the criminalization of illicit enrichment violates the principle of presumption of innocence stipulated in the Constitution of Uzbekistan, while the promise and offer of bribe are covered by common attempt and preparations for a crime. They also gave a negative opinion on the bill establishing criminal liability for legal persons, pointing out that such liability is contrary to the basic principles of the criminal legislation of the Republic of Uzbekistan.

According to the Article 21 of the Law of Uzbekistan on Legal Acts, a draft legal act is subject to mandatory legal expertise. Despite the fact that legal expertise from academia has the recommendatory nature, representatives of the Prosecutor General's Office explained during the monitoring visit that a negative opinion of scholars significantly complicates the further development and adoption of relevant legislation. The meeting at Tashkent State University gave a reason to believe that the academics providing legal expertise of draft laws are not always fully aware of the international anticorruption standards and practices in different countries meeting such standards. It appears that raising awareness of academics regarding the international standards in the relevant area could contribute to a more efficient legislative process in terms of bringing the anticorruption legislation of Uzbekistan closer to international standards.

The monitoring group calls on Uzbekistan to expedite adoption of respective laws, ensuring compliance of the national legislation with international standards.

Recommendation of the first and second rounds of monitoring

Amend the Criminal Code to ensure the following:

- subject of a bribery, both in public and private sector, covers undue advantages which include both material and non-material benefits;
- definition of a bribery includes 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 articles 15 and 16 of the UNCAC;
- promise and offer of a bribe, and solicitation of bribe by an official of any organization, entity or institution, both in public and private sector are criminalized, according to the UN Convention against Corruption;
- introduce efficient and effective civil, administrative or criminal liability of legal persons for participation in the corruption offences, in line with the UNCAC.

Consider amending the Criminal Code to ensure the following:

- “concealment”, “abuse of functions”, trading in influence, “illicit enrichment”, as defined by the UNCAC, are criminalized.

Analysis of the Criminal Code of Uzbekistan shows that the necessary changes for the implementation of this recommendation have not been introduced in the legislation. Changes in the definitions of officials and effective regret provisions are described in the subsequent parts. In the answers to the questionnaire Uzbekistan indicated that in order to prevent corruption in business, in September 2012, Article 206¹ has been introduced to the Criminal Code, which provided for liability for illegal interference in the activities of business entities. After the visit, the Uzbek authorities informed that the article 206¹ was abolished in accordance with the law of the Republic of Uzbekistan of 20 August, 2015 № 3PY–391 on introducing the amendments and additions to certain legal acts of the Republic of Uzbekistan aimed at further strengthening protection of private property, entrepreneurs and removing obstacles for their speedy development. In line with this law, the new chapter was added to the Criminal Code, providing, inter alia, for liability for various offences among them: commercial bribery, bribery of an official of commercial or non-governmental organization; abuse of powers by the official of a commercial or other non-governmental organization.

The mentioned law was presented to the Secretariat just prior to the plenary meeting, for this reason these new provisions have not been fully analysed in the report (see the analysis in the bribery in private sector and the liability of legal persons). Nevertheless, it seems that the new provision could serve as good tools against corruption if sufficiently implemented.

Undue Advantage

According to international standards, one of the elements of the bribery is undue advantage that includes non-material benefits (i.e. benefit not constituting or represented by a physical object and of a value

which cannot be precisely measured) and/or non-pecuniary benefits (i.e. not relating to or consisting of money).¹⁸

The criminal legislation of Uzbekistan does not yet include non-material benefits as a bribe. For example, Article 210 of the Criminal Code, *bribe-taking*, includes only material assets or pecuniary benefits: "illegal acceptance with knowledge by an official, directly or through an intermediary, of material assets, or deriving pecuniary benefits for performance or non-performance in the interest of the bribe giver of a specific action, which such an official should or could have committed using his/her official position." A similar description is provided in Article 211 of the Criminal Code, *bribe-giving*.

Bribery in Favour of Third Parties

An essential element of the offence of bribery is that it should not matter for whom an undue advantage is intended, namely, for the official him/herself or another person or entity, if such advantage is provided in exchange for an act or omission in the performance by that official of his or her duties. International standards require that third party beneficiaries can be persons, natural or legal, close to the official or otherwise.¹⁹

Uzbekistan's Criminal Code does not criminalize bribery in favour of third parties, recognizing criminal offences only in bribe-taking by officials or giving a bribe to such official, whether "directly or through an intermediary [...] for performance or non-performance in the interest of the bribe giver of a specific action, which such an official should or could have committed using his/her official position" (Articles 210 and 211 of the CC RoU). It should be noted that clause 5 of the *Resolution on Judicial Practice in Bribery Cases* of the Plenum of the Supreme Court of Uzbekistan,²⁰ in the explanation of the concepts of giving and receiving bribes as completed offences, states that "giving and accepting bribes will be completed offences not only in cases when it is received by such official him/herself, but also when it is received by other persons with his/her knowledge or on his/her order." It appears that the above explanation cannot establish the criminalization of bribery in favour of third parties, as according to the principle of legality under Article 4 of the CC RoU, criminality of an action is determined only by the Criminal Code. As established by the Law of the Republic of Uzbekistan on Courts, the Plenum of the Supreme Court is empowered only to give clarifications on the application of the law, hence is not authorized to recognize any acts as punishable, which are not covered by the Criminal Code. Moreover, even assuming that the wording of Articles 210 and 211 of the CC RoU allows to interpret them in a way that they are likely to criminalize bribery in favour of third parties, nonetheless, the aforementioned explanation by the Plenum of the Supreme Court cannot be considered sufficient for the criminalization of bribery in favour of third parties (including legal entities), as it is provided by international standards, since the explanation itself only gives an interpretation of completed bribery offences but does not elaborate on the elements of bribery in favour of third parties.

Promise and Offer, Acceptance of Promise and Offer

In accordance with the OECD Convention on Combating Bribery, the Council of Europe Criminal Law Convention on Corruption and the UN Convention against Corruption, an active bribery offence should

¹⁸ Concluding report on the results of the IAP second round of monitoring for 2009-2013, 51.

¹⁹ See also CRECO's report on the third round of assessment for **Russia** (§57, <http://www.coe.int>).

²⁰ Pursuant to Article 21 of the Law of the Republic of Uzbekistan on Courts, "clarifications of the Plenum of the Supreme Court of the Republic of Uzbekistan on the issues of application of the law are compulsory for courts, other bodies, enterprises, institutions, organizations and officials applying legislation for which a clarification was given."

include intentional offer, promise²¹ or giving of an undue advantage to a public official. Each of these elements is subject to the criminalization as a complete and autonomous offence of active bribery. Requests²² for undue advantages and acceptance of an offer/promise of such advantages as such should also be criminalized as complete and separate offences.

Respective changes have not been made to the legislation of Uzbekistan. In its response to the questionnaire of the third round of monitoring, Uzbekistan indicated that "...as of today relevant draft laws have been developed, adoption of these draft laws is under consideration in an established manner." During the meeting with the lawyers at Tashkent University it was confirmed to the monitoring group that the academic community gave a negative opinion on the initiative, pointing out that the promise and offer of a bribe are covered by common attempt and preparations for a crime.

Bribery in Private Sector

Article 21 of the UN Convention against Corruption includes bribery in the private sector as a non-mandatory offence. Similar provisions are contained in the Council of Europe Criminal Law Convention on Corruption (Articles 7-8).²³ Since the monitoring mechanism within the framework of the Istanbul Action Plan is not formally limited to any of the conventions and covers broad international standards in the fight against corruption, bribery in the private sector was considered as a standard, which should also be implemented in all countries of the Istanbul Action Plan.

Up until the adoption of the law of 20 August, 2015 № 3PY–391 on introducing the amendments and additions to certain legal acts of the Republic of Uzbekistan aimed at further strengthening protection of private property, entrepreneurs and removing obstacles for their speedy development, criminal legislation of Uzbekistan did not regulate corruption offences in the private sector separately, but relevant provisions were applicable to employees of the private sector as well. Thus, the Uzbek legislation covered bribery in the private sector through a broad definition of an official in bribery offences.

During the third round monitoring visit, representatives of the Uzbek side informed that such wording of articles on bribery allows them to prosecute employees of the private sector and gave examples of convictions for bribery of teachers and doctors working in the private sector who have been given organizational, managerial, administrative or operational authority. However, it seems that the definition of an official, contained in the Criminal Code, limited criminalization of bribery in the private sector and did not allow prosecuting for bribery a person who worked in any capacity in the private sector, as required by international standards, including Article 21 of the UN Convention against Corruption.

On 25 August, 2015 new Chapter XIII¹ was added to the Criminal Code, providing for criminal responsibility for among others liability for various offences among them: commercial bribery, bribery of the official of commercial or non-governmental organization; abuse of powers by the official of the

²¹ In some GRECO reports on the third round of assessment (for example, for **Croatia**, §48, <http://www.coe.int>; and **Estonia**, §69, <http://www.coe.int>) it is recognized that a "promise" may cover an "offer" of an improper advantage, but only under condition that there is a clearly interpreted judicial practice that supports that. At the same time, the report of the third round of assessment for **Slovakia** (§104; <http://www.coe.int>) notes that an "offer" is a very important element, as it covers offered (but not accepted) bribes and frequently leads to the actual "giving" or "promise" of improper advantage (for example by covering situations where potential "offender" "tries" his/her counterpart").

²² As opposed to extortion, i.e. situations where the bribe-receiver coerces the other party to give a bribe under a threat of negative consequences for the latter.

²³ Out of 43 state parties of the Council of Europe Criminal Law Convention on Corruption the reservation in respective clauses was only made by **Andorra**, **Belgium** and **Hungary**. See: <http://conventions.coe.int>.

commercial or other non-governmental organization. Nevertheless, the new provisions regulating the bribery in private sector do not cover all elements envisaged under article 21 of the UNCAC.

In accordance with international standards, bribery in the private sector should, like similar crimes in the public sector, include other elements too: promise, offer for active bribery; request, acceptance of offer/promise for passive bribery; intangible and non-pecuniary undue advantage; directly or indirectly; third party beneficiaries.

Since these elements are missing in new provisions as well, bribery in the private sector under the legislation of Uzbekistan does not fully meet international standards.

At the same time, the criminal legislation of Uzbekistan has come closer to international standards, in particular, one of the requirements of the international standards is that the private sector offences include as subjects active or passive bribery of “any person who directs or works, in any capacity, for a private sector entity”, which includes low-level employees and such people as consultants and agents working for the private entity. Thus, the new Article 192¹⁰. Bribery of employee of the commercial or non-governmental organization provides: “deliberate unlawful giving to the **employee of the nongovernmental commercial or any other nongovernmental organization** material values or property benefits for acting or refraining from action in the interest of the briber, which the employ should or could commit using his/her official functions, committed after application of administrative measures for such actions”.

In addition, section eight of the Criminal Code was amended to include the legal concept of an “employee” , which implies person, carrying out functions on the basis of a labour or civil law agreement in the state body, commercial or non-commercial organisation, not having the functions of the official.

Trafficking in Influence

Improper influence (Article 18 of the UN Convention, Article 12 of the Convention of the Council of Europe) includes active and passive side, and covers situations where the undue advantage is given (promised, offered) to any person who asserts or confirms that he is able to exert an improper influence over the decision-making of a public official, as well as when such advantage was received (its offer or promise accepted) in consideration of that influence – whether or not the influence is actually exerted and whether or not the supposed influence leads to the intended result.²⁴ Within the framework of the Istanbul Action Plan, trading in influence is seen as an international standard that must be implemented by all participating countries.

Uzbek criminal law does not provide for the mentioned crime. As stated above, the draft law on the criminalization of the abuse of influence, prepared by the General Prosecutor's Office, received positive conclusions from the academics.²⁵

²⁴ A slightly different definition of influence trading is contained in the UNCAC (Art. 18): (a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person; (b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

²⁵ Opinions of the Centre of Legal Research, UWED to the draft Law on Amendments to the Criminal Code of the Republic of Uzbekistan (Article 206² Abuse of Influence).

The issue was also discussed at the meeting of the Scientific and Methodological Council of the legal departments of the Police Academy, on June 13, 2015.²⁶ The draft law, which included amendments to the Criminal Code for the implementation of Articles 18 and 20 of the UN Convention, received a negative conclusion. With regards to the trading of influence, it was said that the proposed revision "will entail undesirable concurrence with Articles 210 and 211 of the Criminal Code of Uzbekistan." Regarding illicit enrichment (proposed Article 206³), it was indicated that the international experience has not been sufficiently studied as well, and its introduction would "make it necessary to develop a clear mechanism for tracking assets in excess of the officials' legitimate income," and that suggested penalties are seen as disproportionate. The Council resolved that the draft law needs to be overhauled.

As the representatives of the General Prosecutor's Office informed, at the moment the draft law is undergoing internal consultations. The draft law has not been presented to the monitoring mission.

Other Corruption Offences

Uzbekistan was recommended to consider introducing amendments to the Criminal Code to introduced the criminal liability in addition for "concealment", "abuse of power", "illicit enrichment" in the same extent in which they are defined in the UN Convention.

According to the provided answers, these issues were examined both by public authorities and by academic institutions. Upon examination, relevant conclusions and drafts were formulated, and their adoption is currently being considered in an established manner. Unfortunately, the drafts have not been presented to the monitoring group.

In addition, the responses indicate that the Tashkent State University of Law, the Academy of the Interior Ministry, and the University of World Economy and Diplomacy held a series of seminars and conferences, which comprehensively addressed the issues of criminalization of "improper influence." For example, on January 12-13, 2015 TSUL held a scientific-practical conference to consider introduction of improper influence and other offences to the Criminal Code, in accordance with the UN Convention against Corruption. The event was attended by law enforcement and supervisory authorities, representatives of civil society, the teaching staff of higher educational institutions and students. At the end of the conference proposals for further improvement of the Criminal Code were developed and were sent to all agencies with the right of legislative initiative for consideration.

Liability of Legal Persons

Uzbekistan indicates that relevant drafts are developed, and their adoption is being considered in a prescribed manner: in particular a draft law on amendments and additions to the Criminal and Criminal Procedural Codes of the Republic of Uzbekistan, which provides for the introduction of criminal liability of legal persons.

After the visit to the country, Uzbekistan provided a draft *Law on Amendments and Additions to the Criminal, Criminal Procedure and Penitentiary Codes of the Republic of Uzbekistan Due to the Introduction of a Criminal Law Regulations in Relation to Legal Persons*, which was developed by the General Prosecutor's Office of the Republic of Uzbekistan.

²⁶ Excerpt from Protocol No.19, Session of 13 June 2015

As emphasized in the explanatory memorandum to the draft law, the General Prosecutor's Office had investigated criminal cases against employees of legal entities for economic crimes. In the period of 2009-2011, 297 employees of legal entities were repeatedly prosecuted for violations of legislation. A study showed that officials of legal persons were prosecuted, mainly under Articles 167 (Theft by Embezzlement or Misappropriation), 168 (Fraud), 182 (Violation of the Customs Legislation), 210 (Bribe-taking), 211 (Bribe-giving), 242 (Organization of a Criminal Community), 243 (Legalization of Proceeds of Crime) of the Criminal Code. Also, examples of criminal cases were given, emphasizing the need to institute the criminal liability of legal persons.²⁷

The draft law contains provisions providing the legal basis for liability of legal persons, the range of subjects, types of measures of criminal law that can be applied to the legal persons, grounds for and terms of convictions of legal persons, criminal procedural mechanisms for the involvement of legal persons in criminal cases as an accused, the defendant, as well as the procedure for the application of measures of criminal law nature.

Proposed provisions introducing the liability of legal persons in Uzbekistan are welcome. In case of their adoption, Uzbekistan will move closer to the compliance with international standards, requiring liability of legal persons for committing various criminal law violations, including corruption offences and money laundering. Further, Uzbekistan should be commended for elaboration of detailed supplementary material to the draft legislation containing substantiation of the proposed amendments, including with the references to the international practices.

Provisions of the draft law in many respects comply with the international standards and good practices. The draft does not introduce the legal persons as subjects of a criminal offence, however envisages possibility to use the "measures of legal nature" under the Criminal Code of Uzbekistan. With this, it is proposed to introduce so-called quasi-criminal liability of legal persons, which in general is the practiced way of introducing the corporate liability in other countries as well (Latvia, Sweden, Azerbaijan, Ukraine).

At the same time the following major shortcomings of the draft could be identified, that need to be addressed in order the draft legislation to be fully compliant with the international standards:²⁸

1) Proposed standard of liability provides the liability of a legal person in case when the offences are committed "in the interest of a legal person, its manager or other person with the managerial functions, as well as those de facto managing it". This unjustifiably limits the grounds for liability, specifically excluding the situations, when the offences are committed by the employees of "agents" of the legal persons (person representing the legal person on any grounds) or in its interests with the consent or direction of the managing person. In addition, the draft does not cover the situations when the offences are committed as a result of the insufficient supervision or control from the management of the company, elements mandatory according to the international standards.

²⁷ Excerpts from the explanatory note: "The investigation of the criminal case against officials of" Khisor toga "found that in 2007 the head of the company Soipov inflated the volume of work performed in the construction of six schools of Parkentsky district and committed theft of 22.7 million soum and was prosecuted. Further, Soipov, deprived of the right to occupy managerial and positions of material responsibility by court sentence, in 2009, carrying out a tacit leadership of a company, in collusion with the director of the company Miryusupov again committed embezzlement of budget funds in the amount of 129.8 million soum that he was again held criminally liable. In addition, the founder of "Khisor toga" Soipov was also held criminally liable in 2011 for violation of customs legislation in the amount of 153 million soum and in 2012 for forgery. "

²⁸ Detailed standards on introducing the liability of legal persons and recommendations for their implementation are provided in the ACN publication "Liability of Legal persons for corruption in Eastern Europe and Central Asia, 2015 www.oecd.org/corruption/acn/ACN-Liability-of-Legal-Persons-2015-ENG.pdf.

2) Non-autonomous nature of the proposed liability of legal persons: in particular prerequisite the liability of the natural person. Although the crime is committed by natural person, linking the proceedings against the legal person with the criminal liability of the natural person substantially limits the effectiveness of the corporate liability. Impossibility of holding the natural person liable for any reason (for example fugitive, death of the person, expiry of statute of limitations, amnesty etc.) should not result in termination of the proceedings against the legal person. The two proceedings may be carried out simultaneously (or can be merged), however there should be the procedures provided to conduct the proceedings against the legal autonomously from those against the natural person.²⁹

3) Insufficient fair trial guarantees in relation to the preventive measures proposed in the draft criminal procedure code. These measures are proposed to be applied before the completion of the proceedings against the legal person “aimed at preventing further unlawful activities of the legal persons, related to the criminal activity of the natural person; ensuring execution of the judgement” Among the proposed measures are: bail, suspension from certain activities, suspension of the licences, suspension of operations for bank accounts, limitations on the use of property. With this, preventive measure in the form of the bail can be used not only by the courts, but also by an investigator or a prosecutor. Application of these forms of preventive measures in the proposed ways, especially suspension from certain activities, suspension of licences (for use) of the property, suspension of operations for bank accounts, seem superfluous and can lead to the unjustified limitation on the commercial activities and violation of the property rights even before the decision on holding person liable is made. These measures can be certainly justifiable in specific situations, however, the legislation should provide for the mandatory grounds for application of each of them, as well as the procedure for substantiating and applying these measures not leave almost unlimited discretion to the instigator, prosecutor or the judge on these issues.

Draft Code on Administrative Liability recognizes legal persons as subjects of administrative liability; however, the Code of the Republic of Uzbekistan on Administrative Liability does not have any specific regulations providing for corruption offences or the respective sanctions. This liability is provided in the Criminal Code. Nevertheless, Uzbekistan stressed that the Code of the Republic of Uzbekistan on Administrative Liability contains articles that can indirectly be seen as such, because they can be linked to corruption factors, one way or another, bringing the example of illegal interference in the activities of business entities (Article 241²).

It should be noted that both current CAO and its new draft contain only a few articles providing for corruption related violations in general, and the new draft does not seem to contain any corruption related violations, which would provide for the liability of legal persons. Corruption violations providing for the liability of individuals, most probably could be considered *Minor Theft* (Article 61 and Article 90 of

²⁹ See as an example provisions of the Criminal Procedure Code of Latvia, described in the OECD Working Group on Bribery, phase 1, pg. 11 and 42-43, www.oecd.org/daf/anti-bribery/LatviaPhase1ReportEN.pdf. Legal basis for separate proceedings for the application of coercive measures to the legal person in separate records in the following cases (Article 439 of the CPC of Latvia): 1) criminal proceedings against a natural person are terminated for non-exonerating reasons; 2) if the circumstances have been determined that do not allow to ascertain or hold criminally liable a concrete natural person, or the transfer of the criminal case to court is not possible in the near future (in a reasonable term) due to objective reasons; 3) in the interests of solving in timely manner criminal-legal relations with a natural person who has rights to defence; 4) it is requested by a legal person's representative.

the current CAO and its draft, respectively), *Exceeding Cost Limits and Failure to Publish Annual Reports by Public Funds* (Article 239¹ and Article 362 of the current CAO and its draft, respectively), and Article 366 of the draft Administrative Code, *Conducting Illegal Business Activities and Receipt of Illicit Incomes by Public Bodies and Officials*. Obviously, this information is not a solution to the problem or implementation of the recommendations, even if the draft gets adopted.

Effective Regret

Uzbekistan noted that in accordance with the *Law on Amendments and Additions, as well as on the Annulment of Certain Legislative Acts of the Republic of Uzbekistan*, which came into force on May 15, 2014, the articles of the Criminal Code, providing for the liability for giving bribes and mediation in bribery had been amended. According to Uzbekistan, the reason for such amendments was that persons, who instigate bribery, mediate in bribery or directly give bribes, often avoid liability, which has a negative impact on the effectiveness of the prevention of such crimes.

Under the old wording of Articles 211-212 of the Criminal Code (giving bribes and mediation) the person who has given a bribe or has provided mediation in bribery, shall be exempt from criminal liability, if such bribe was extorted from him/her and such person has voluntarily reported the incident after the commission of criminal acts, has sincerely repented and actively contributed to solving the crime. The presence of these rules promoted commitment of crimes because any person could, by inciting a civil servant by means of bribery to achieve the desired benefits (e.g. be awarded a contract), and subsequently report it to the police and evade responsibility, while keeping the previously acquired benefits.

For more efficient prevention of such types of bribery, the period during which the briber can report to law enforcement after the crime was specified (1 month), after which he/she shall be subject to criminal liability.

In addition, the penalties for active bribery and mediation in bribery were increased and are now equal to those for bribe-taking.

These changes, although not recommended during the in the previous monitoring round, are evaluated positively since they meet international standards.

Conclusions

Legislative drafting process in Uzbekistan is thorough and inclusive. Draft laws are elaborated carefully, taking into account the views of relevant stakeholders, and with full participation of the academic community. Expertise from academia is a mandatory step in the process. A negative opinion by legal scholars significantly complicates the further elaboration and adoption of relevant legislation. Interagency coordination and consultations on drafts is a rather long and burdensome process. This could explain the delays in the adoption of criminal legislation with the purpose of implementing international standards.

Nevertheless, it should be noted that the most of the draft laws that have been developed or were under the development during the previous round of monitoring are still not adopted and are further delayed. Therefore, Uzbekistan is recommended to take swift measures to ensure compliance of the national legislation with international anticorruption standards.

At the same time, adoption of a new definition of an official, in line with the international standards is assessed positively. The government agencies have also made significant advancements in drafting the legislation on the liability of legal persons, trading in influence, illicit enrichment, introduction of functional immunity of deputies and judges (see below).

Uzbekistan is recommended to make necessary legislative changes to bring its criminal legislation fully in with relevant international standards.

Uzbekistan is partially compliant with recommendations 2.1.-2.2, which remain valid under the number 5.

New recommendation 6

- ***Promote raising awareness of the relevant representative of academia in the area of international anti-corruption standards to contribute to the effective law-making process to bring the national anti-corruption legislation better in line with the international standards.***

2.3. Definition of Public Official

Recommendation of the first and second rounds of monitoring

Amend the Criminal Code to ensure that the bribery of foreign public officials and public officials of international organizations is criminalized explicitly, either through amending the definitions of public officials or by introducing separate criminal offences.

Bring in compliance with each other definitions of an official provided by the Criminal Code and Code on Administrative Liability.

In accordance with international standards, Uzbekistan was recommended to amend the criminal legislation to criminalize the bribery of foreign public officials and officials of international organizations by expanding the definition of an official or by introducing a separate provision.

In addition, it was recommended to harmonize the definitions of an official in the CC and CAL.

At the time of the monitoring visit, relevant draft law was developed to amend section 8 of the CC with respect to the legal term of "an official". During the monitoring visit, members of both chambers of the Parliament confirmed that the above-mentioned draft law submitted by the General Prosecutor's Office was returned for revision because of the need for clarification of the term "responsible official". Also, they pointed out that there is an understanding between all members of parliament the need to expand the definition of an official and to determine criminal liability of foreign public officials and officials of international organizations, as provided by the draft.

After the visit to the country, on July 31, 2015, the Legislative Chamber has adopted the *Law on Amendments and Additions to Some Legislative Acts of the Republic of Uzbekistan, Aimed at Further Strengthening of the Reliable Protection of Private Property, Businesses, and the Removal of Barriers to Their Rapid Development*. As part of this initiative the definition of "an official" has been amended and the term "responsible official" was excluded from the Criminal Code.

The new definition: "An official shall be a person appointed or elected permanently, temporarily or on special authority, exercising the functions of the representative of the authority or exercising organizational, managerial, administrative or operational functions in state bodies, local self-governing bodies, enterprises, institutions, organizations, regardless of ownership, and who is authorized to perform legally significant actions, as well as any person performing these functions in an international organization or in a legislative, executive, administrative or judicial organ of a foreign state."

Analogous definition of an official was introduced in the CAL with the law of Republic of Uzbekistan of 20 August, 2015 № 3PY-391 — C3 PY, 2015, № 33, article 439. Thus the article 15 of CAL provides for the following: "An official shall be a person appointed or elected permanently, temporarily or on special authority, exercising the functions of the representative of the authority or exercising organizational, managerial, administrative or operational functions in state bodies, local self-governing bodies, enterprises, institutions, organizations, regardless of ownership, and who is authorized to perform legally significant actions, as well as any person performing these functions in an international organization or in a legislative, executive, administrative or judicial organ of a foreign state."

Uzbekistan indicates that in practice there were no criminal cases with the participation of foreign officials.

Uzbekistan is fully compliant with recommendation 2.3.

2.5.1. Confiscation

Recommendation of the first and second rounds of monitoring

Take measures to enable confiscation of proceeds of crime derived from the corruption-related offences 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;**
- 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.**

Confiscation

International anticorruption standards require that measures are taken in order to enable the confiscation of proceeds of corruption crimes (or assets of equivalent value) and the tools used to commit crimes.³⁰ The UN Convention requires States parties to take measures to the greatest extent possible to enable confiscation of proceeds, equivalent value of proceeds, and instrumentalities of crimes covered by the Convention, and to regulate the administration of such property.³¹

Uzbekistan was recommended to introduce in the legislation a legal definition of confiscation and provisions allowing the use of confiscation regime in all cases provided for in Article 31 of the UN Convention. Respective changes have not been made to the legislation of Uzbekistan. In response to the questionnaire the Uzbek authorities indicate that relevant draft laws have been developed. The monitoring group has not had the opportunity to see those draft laws.

Notwithstanding the foregoing, as in the second round of monitoring, the Uzbek authorities argue that there are no practical problems with the application of this legislation or with the effective confiscation of the instrumentalities of corruption crimes and of proceeds of these crimes, and that the law adequately regulates the issue of confiscation, including the definition of confiscation in accordance with the international standards.

Legislation in force in Uzbekistan in relation to confiscation provides for the following:

Confiscation as a penalty was excluded from the CC per Law of 29.08.2001. The Code of the Republic of Uzbekistan on Administrative Liability (CAL) provides for confiscation of instruments and objects of the offence as an administrative penalty (Articles 23-24) and defines the administrative confiscation (Article 27).

The term "confiscation" in the CPC is used only in relation to instruments of crime (clause 1 of Article 211) (as well as the property of the victim and others that cannot be privately owned).

The criminal procedural legislation of Uzbekistan provides for, but does not define, procedural confiscation. For the purposes of criminal proceedings, Uzbek authorities refer to the definition of confiscation in Article 204 of the Civil Code: "In cases provided by the law, property may be withdrawn from the owner without compensation by a court decision for committing a crime or other offence (confiscation)."

The general provision of procedural confiscation is provided for in para. 5 of Article 211 of the CPC: "money and other valuables acquired by criminal means, shall be under the court ruling to used compensate for property damage caused by the crime, and when the person who has suffered property damage has not been identified, shall be directed to the state budget." It is not clear what is meant by the phrase "money and other valuables acquired by criminal means" and how this provision includes all the elements of confiscation, as provided by international standards.

³⁰ The UN Convention against Corruption (art. 31), Council of Europe Convention on Criminal Law (Art. 19), the OECD Convention against bribery (art. 3, as an alternative to the confiscation of the bribe and the proceeds of bribery provides "financial sanctions, to ensure a proportionate effect").

³¹ Legislative Guide for the Implementation of the UN Convention against Corruption, New York, 2012, p.143, para. 427., p. 137, p. (hereinafter, UNCAC Legislative Guide).

Furthermore, Article 284 specifies that the property that is subject of a crime shall be directed to the state ownership by a court judgment, unless it is to be returned to the former owner (Article 284 of the CCP). If the property that is subject of the crime is not found, then per court ruling, or, should the criminal case be closed, per court decision made in civil proceedings, the state collects its value ("monetary" confiscation) – (Article 284 of the CPC). According to the explanations of the representatives of Uzbekistan, if a criminal case is terminated, confiscation takes place under the civil law, whereby action is brought by the prosecutor under Article 279 of the Criminal Procedural Code. (The prosecutor is obliged to bring a lawsuit or support an existing lawsuit brought by a civil suit, or to object to the claim, if required for the protection of state or public interests or the rights and legitimate interests of citizens.)

There is no definition of the subject of a crime in the law. Uzbek authorities refer to the resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan from 11.02.2011, No.1, *On Some Issues of Judicial Practice in Cases on Legalization of Proceeds from Crimes*. Clause 7 clarifies that the property received from the legalization of income in accordance with clause 5 of Article 211 of the CPC is the **subject of a crime** under Article 243 of the CC, and on the basis of Article 204 of the CC is to be confiscated after the pecuniary damage caused by the offence to an individual or a legal entity has been compensated. Furthermore, paragraph 2 clarifies that a property obtained through criminal activity is any property obtained as a result of one or more intentional offences, both by individual persons and by an organized group or a criminal community. The Uzbek side indicates that in this way the Plenum resolution provides an interpretation of the proceeds of crime. However, this definition also does not include all the requirements of the international standards, as it does not include definitions of proceeds, instrumentalities of crime, or property obtained with the proceeds of crime (assets of any kind, material or non-material, movables or immovable properties, etc.).

If the property that is the subject of the offence, is found at a **third** party, and is confiscated from it and returned to the rightful owner, the money, things and other valuables acquired by the defendant through the sale of such property, are directed to the state ownership per court ruling. The person, who had acquired the property that has been returned to the rightful owner in good faith, is explained his/her right to bring a civil action suit against the convicted person for damages caused by the withdrawal of the property (Part 2 of Article 285 of the CCP).

According to Resolution of the Plenum of the Supreme Court No. 13 from 16.04.1993 *On the Application of the Law when Considering Court Cases for the Release of Impounded Property (exclusion from the list)*, the recovery and compensation for damage caused by the offence can be also imposed onto the property which is joint property of the spouses and the property of private farms of citizens or dehkan farms if the court rules in a criminal case that such property was acquired with funds obtained by criminal means (clause 10).

With regard to the proceeds of crimes, "which have been transformed or converted, in whole or in part, into other property" during the visit, the representatives of Uzbekistan explained that Article 285 of the Criminal Procedural Code is interpreted in such a way that it provides for the confiscation or seizure of the proceeds of crimes by the state. Article 285 of the Criminal Procedural Code stipulates that money, things and other valuables acquired by the accused for funds obtained by criminal means, are used to compensate for property damage, per court ruling, while the amount in excess of the damage is repossessed to the state.

Burden of Proof

Regarding the second part of the recommendation, considering the issue of **reversing the burden of proof**, the Uzbek authorities have provided information on the consideration of the possibility of introducing "illicit enrichment" to the legislation (see above 2.1.-2.2.), as a part of the possibility of reversing the burden of proof was also considered. However, it should be emphasized that reversing the burden of proof (Article 31.8 of the UN Convention) in the process of confiscation and the criminalization of illicit enrichment (Article 20 of the UN Convention) are separate, independent requirements of the UN Convention.³²

Conclusions

The legislation, which has remained unchanged since the previous monitoring round, still contains no provisions for the confiscation 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;

Uzbekistan's criminal legislation still does not contain a definition of confiscation. It is necessary to introduce the definition of confiscation that will be in line with the relevant definition of the UNCAC. Value based confiscation is provided only with respect to the subjects of crimes but not the proceeds of crimes (284 CPC); similarly, the confiscation from third parties includes only subjects of crimes (285 CPC). There is also no definition of the property or subjects of crimes that are due for confiscation. Proceeds of crimes, which caused no material damage, are not subject to forfeiture. There is no provision for confiscation of proceeds of crimes which have been transferred to third parties.

Hence, it is recommended to clearly provide for all the elements of confiscation in the criminal law in accordance with the international standards.

As far as the practical application of confiscation is concerned, statistical data on the use of confiscation in corruption cases is not available.

Uzbekistan is partially compliant with recommendation 2.5.1, which remains valid under the number 7.

³² UNCAC Legislative Guide, p.143, para. 427.

New recommendation 8

- *Collect and analyse statistical data on the application of confiscation in corruption cases regularly and use them for overhauling the relevant legislation and practice.*

2.5.2. Asset Recovery

Recommendation of the first and second rounds of monitoring

- Take measures to enable direct recovery of property as it is established by Article 53 of the UNCAC including:

- **measures to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with the UNCAC,**

- **measures as 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,**

- **measures to permit domestic courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with the UNCAC;**

- Consider adopting provisions that enable confiscation of crime proceeds without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases;

- Take measures to enable the return and disposal of assets as it is established by Article 57 of the UNCAC.

The first part of the recommendation concerns the implementation of Article 53 of the UN Convention, for which Uzbekistan was recommended to amend the criminal legislation. Since the previous report no changes have been made in Uzbekistan's legislation to implement this recommendation.

However, in response to the questionnaire the Uzbek authorities indicate that the legislation of Uzbekistan meets the requirements of Article 53 of the UN Convention. In particular, it was stated that the legislation does not preclude the filing of a claim by a representative authorized by a foreign state or by its competent authority in the local courts, when such state had suffered damage from the crime. Chapter 33 of the CPC, regulating the issues of civil claims in criminal proceedings, provides that a person (natural or legal, including a public authority), who considers him/her/itself suffered property damage from the crime or his/her/its representative shall be entitled to bring a civil action from the moment a criminal case was initiated up until the beginning of the trial. Upon review of the criminal case and the civil suit, the court, in the case of a guilty verdict (Article 283 of the CPC), depending on the validity of causes of action, the size of the claim and other conditions, satisfies it in full or in part, and either awards compensation and recovery of damages, or rejects it.

Further it is stated that in accordance with Article 386 of the CPC foreign citizens have the right to apply to the courts of the Republic of Uzbekistan, and enjoy civil procedural rights equally with citizens of the

Republic of Uzbekistan. Foreign organizations have the right to apply to the courts of the Republic of Uzbekistan, and enjoy civil procedural rights to protect their interests.

In addition it was indicated that most of the international treaties of the Republic of Uzbekistan on legal assistance include provisions on recognition and execution of court decisions in civil cases and criminal cases in the part of compensation. For example, in the Treaty between the Republic of Uzbekistan and the UAE on legal assistance in criminal matters, signed on November 11, 2014, the scope of legal assistance includes provisions for assistance in confiscation, recovery of stolen public assets, distribution of recovered assets or equivalent funds (Subparagraph f, Clause 2, Article 3 of the Treaty, Articles 17-19).

It was further indicated that during this past period several requests for legal assistance in criminal matters entailing seizure, have been received, with one request from the Republic of Kazakhstan related to a corruption offence. The request has been executed and the results were communicated to the respective country. A number of requests for seizure of property have also been sent to foreign countries, including with reference to the Convention.

However, the UN Convention requires States Parties to permit another **State Party** to take measures for the **direct recovery of assets** and to harmonize their legislation with this in mind.³³ Article 53 of the UN Convention contains three specific requirements relating to the direct recovery of property, which is what was set out in this recommendation.

Although since the previous monitoring, no changes have been introduced in the legislation, with the relevant court judgments, one could assume that subparagraphs a) and b) of Article 53 of the UN Convention, and paragraphs 1 and 2 of the first part of the recommendation, respectively, are covered by the legislation of Uzbekistan, but as far as the possibility to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence, when making decisions on confiscation, such a possibility is not provided for by the legislation of Uzbekistan.

Regarding the second part of recommendation 2.5.2 – consider adopting provisions that enable confiscation of crime proceeds without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases – there was no change. Uzbekistan presented the draft law proposing amendments in the CPC on conducting the proceedings on confiscation of property received from unlawful means before the conviction, indicating that the issue of its adoption was considered. The draft was sent to the Tashkent State University for legal expertise. However, the Academic Council gave its negative conclusion, indicating that such amendments will result in violation of constitutional rights of the citizens.

With respect to property that is the subject of a crime, Article 284 of the Criminal Procedural Code of Uzbekistan stipulates that in case of termination of the criminal case, the issue of recovering to the state revenue the value of the property that is the subject of the crime and that was not detected during the proceedings, shall be decided in civil proceedings under an action filed by the prosecutor. However, this applies only to the subject of crime, while the recommendation is aimed at this type of confiscation being applicable not only in respect of the subject of crime, but also in respect of the proceeds of crime in the broader sense of this term.

Uzbekistan also explained that Article 410 of the CPC provides for the possibility of criminal proceedings by a court in the absence of the defendant. In particular, hearing in the absence of the defendant may be

³³ UNCAC Legislative Guide, p. 245, para. 714.

permitted in the case where the defendant is outside the Republic of Uzbekistan or refuses to appear in court, and his/her absence does not preclude from the establishment of the truth. The verdict against such a person will resolve all issues relating to reparations, withdrawal of instruments, and forfeiture of subjects of crime to the State.

As another way of addressing this issue, Uzbekistan indicates lawsuits in civil court, filed by the prosecution. An example was given of a criminal case in which the accused is put on the wanted list, and within the civil proceedings under the prosecutor's suit the return of money and other valuables that have been taken from their lawful ownership or proprietorship as a result of a crime or other illegal actions, to the legitimate owners may be considered.

Pursuant to Article 84 of the Criminal Procedural Code of Uzbekistan in cases when the accused or the defendant is deceased, the criminal case shall be terminated without a decision on the guilt of such person. The question is whether, in case of terminating criminal proceedings on this ground, the court resolves the issue of confiscation in its ruling. During the visit, the monitoring group was told by the court representatives that in the event of the death of the accused or the defendant, the judge also makes the decision on actions with money and other valuables acquired by criminal means, in accordance with Article 211 of the Criminal Procedural Code. However, taking into account the fact that clause 5 of Article 211 of the CPC stipulates that money and other valuables acquired by criminal means are repossessed per court ruling for the compensation of property damage caused by the crime, and when the person who has suffered property damage has not been identified, are repossessed by the state, the question remains what happens in cases where the offence did not cause property damage, as it happens in cases of bribery and in cases without claims for compensation of the damage.

During the expert visit, the Uzbek side pointed out that with regard to the third part of recommendation 2.5.2., i.e. adopting measures to ensure the return and disposal of assets in accordance with the procedure provided for in Article 57 of the UN Convention, the General Prosecutor's Office has developed a draft law on amendments to the Criminal Procedural Code, which was sent for review and scientific discussion by educational institutions. In addition, Uzbekistan has indicated that while entering into new treaties on international legal cooperation, it tries to include an item corresponding to the requirements of Article 57 of the UN Convention on the return and disposal of assets in them. The Treaty between the Republic of Uzbekistan and the UAE on legal assistance in criminal matters of November 11, 2014 was mentioned as an example.

The monitoring group is not able to assess progress on the third part of recommendation 2.5.2 since the relevant draft laws were not provided.

Uzbekistan is partially compliant with recommendation 2.5.2., which remains valid under number 9.

2.6 Immunities

Recommendation of the first and second rounds of monitoring

Adopt clear, simple and transparent rules for lifting of immunity and limit the categories of persons benefiting from immunity and the scope of immunity for some categories to ensure that it is restricted in applications to acts committed in the performance of official duties.

International standards stipulate that immunity should not be an obstacle for effective investigation or criminal prosecution of corruption offences, and are calling for limited immunity and to ensure an effective procedure for their lifting. The UN Convention against Corruption (Article 30) requires State Parties to ensure "an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating" in connection with corruption offences.³⁴

Uzbekistan was recommended to introduce functional immunity by changing the relevant legislation. Since the previous monitoring no changes have been made to the legislation. As before, according to the law, immunity from criminal prosecution is enjoyed by the President, deputies of the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan, the Commissioner of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman), judges, lay judges, prosecutors and investigators of the prosecutor's office, as well as attorneys.³⁵

The previous report does not include the information on the procedures for lifting immunity and the practical application of immunities in corruption cases, although it is indicated that the legislation of Uzbekistan is not clear on what procedural actions are allowed in respect of persons enjoying immunity. It is also noted that law enforcement authorities assert that, in practice, the procedural measures are carried out in respect of such persons.

The group of persons enjoying immunity in Uzbekistan is rather wide. At the same time, immunities are not functional and the procedure for their withdrawal is not clearly defined in the legislation.

The monitoring team welcomes the draft law developed by Uzbekistan providing for the introduction of functional immunity for deputies and judges. According to the draft law, Article 13 of the Law on the Status of Deputies of the Legislative Chamber and Senate of Oliy Majlis of the Republic of Uzbekistan, Article 11 of the Law on the Status of Deputies of the Regional, District and City Councils of Deputies, and Article 70 of the Law of the Republic of Uzbekistan on Courts, will be supplemented by the following: "except in cases when wrongful act committed by him/her is not connected with the performance of deputy duties." The draft law was approved by the scientific community. The monitoring group calls on

³⁴ OECD/ACN, Summary Report *Anti-Corruption Reforms in Eastern Europe and Central Asia. Progress and Challenges, 2009-2013*, p. 61, available at: www.oecd.org/daf/anti-bribery/anti-corruption-reforms-eastern-europe-central-asia-2013.htm (hereinafter referred as "OECD/ACN (2013) Summary Report" p. 87.

³⁵ Articles 79, 80, 88, 91 and 108 of the Constitution, Article 6 of the Constitutional Law on the Senate of the Oliy Majlis of the RoU, Article 6 of the Constitutional Law on the Legislative Chamber of the Oliy Majlis of the RoU, Article 13 of the Law on the Status of the Deputy of the Legislative Chamber and Member of the Senate of the Oliy Majlis of the RoU, Article 17 of the Law on the Oliy Majlis Commissioner for Human Rights (Ombudsman), Article 11 of the Law on the Status of Deputy of Oblast, District and City Kengashes of Deputies, Article 16 of the Law on the Constitutional Court of the RoU, Article 79 of the Law on Courts, Article 49 of the Law on Prosecution, Article 6 of the Law on Guarantees of Advocacy and Social Protection of Attorneys, Article 233 of the CPC of the RoU).

Uzbekistan to adopt the law without further delay and continue to limit the immunities provided by the legislation to other persons.

Regulations on Immunities of Different Categories of Persons

Deputies. According to the law, "... deputies of the Legislative Chamber and members of the Senate of Oliy Majlis may not be prosecuted, detained, imprisoned or subjected to administrative sanctions imposed by the court, without consent of the Legislative Chamber or the Senate, respectively" (Article 88 of the Constitution). The same immunity is granted to the deputies of the regional, district and city councils of deputies, but only within the relevant territory (Article 11 of the *Law on the Status of Deputies of the Regional, District and City Councils of Deputies*).

Ombudsman. The law contains the same wording in relation to the immunity of the Commissioner for Human Rights (Ombudsman), as in the case of deputies of the Legislative Chamber and members of the Senate, with an additional statement that "the attachment, detention, as well as inspection of personal belongings, luggage, transportation, residence or office of the Commissioner" is not allowed (Article 17 of the *Law on the Oliy Majlis Commissioner for Human Rights (Ombudsman)*).

Judges. The legislation contains more detailed rules on the immunity of judges. In particular, Article 70 of the *Law on Courts* states: "The immunity of judges applies to their residences, offices, means of transportation and communication, correspondence, belongings and documents. ... A judge may not be prosecuted, detained without the consent of the Plenum of the Supreme Court of the Republic of Uzbekistan or the Plenum of the Supreme Business Court of the Republic of Uzbekistan. A judge may not be subject to administrative proceedings without the consent of the appropriate qualification board of judges. Penetration into the residence or office of a judge, the transportation he/she uses, performing inspections, searches or seizures, tapping his/her telephone conversations, personal searches and inspections of a judge, as well as the inspection, confiscation or seizure of his/her correspondence, belongings or documents can be made only with the sanction of the prosecutor of the Republic of Karakalpakstan, regional prosecutor, Tashkent city prosecutor, Military Prosecutor of the Republic of Uzbekistan or by court order." Lay judges are granted all the guarantees of immunity of judges during the performance of their duties in court.

Judges of the Constitutional Court. The law separately regulates the immunity of the judges of the Constitutional Court, pointing out that a judge of the Constitutional Court cannot be held criminally or administratively liable or taken into custody without the consent of the Constitutional Court; and that "the attachment, detention, as well as inspection of personal belongings, luggage, transportation, residence or office of the judges of the Constitutional Court " is not allowed (Article 16 of the *Law on the Constitutional Court of the Republic of Uzbekistan*).

Prosecutors and investigators. The legislation also provides for the immunity of prosecutors and prosecution investigators (Article 49 of the *Law on the Prosecutor's Office* and 239 of the CPC), providing that (a) initiation and performance of preliminary investigation of criminal cases against a prosecutor or an investigator are the exclusive competence of the prosecution; (b) the issues of liability of prosecution employees for administrative offences or disciplinary offences are solved by a higher-level prosecutor; and (c) the measure of restraint in the form of detention or house arrest can be imposed on a prosecutor or a prosecution investigator only with the consent of the Prosecutor General of the Republic of Uzbekistan.

Attorneys. Article 6 of the *Law on Guarantees of Advocacy and the Social Protection of Attorneys* entitled *Immunity of Attorneys*, provides, inter alia, that: (a) "The person of attorney is inviolable. The immunity of an attorney extends to his/her residence, office, means of transportation and communication, his/her its postal and telegraph dispatches, belongings and documents"; (b) "A criminal case against an attorney can be initiated by the Prosecutor General of the Republic of Uzbekistan, the prosecutor of the Republic of Karakalpakstan, regional prosecutor, Tashkent city prosecutor and peer prosecutors." (c) "Penetration into the residence or office of an attorney, personal transportation or the transportation that he/she uses, performing inspections, searches or seizures, tapping his/her conversations by telephone or other intercommunication equipment, personal searches and inspections of an attorney, as well as the inspection or seizure of his/her correspondence, belongings or documents, attachment or detention of an attorney can be made only with the sanction of the Prosecutor General of the Republic of Uzbekistan, prosecutor of the Republic of Karakalpakstan, regional prosecutor, Tashkent city prosecutor, and peer prosecutors"; (d) "A preventive measure in the form of imprisonment may be imposed on an attorney by the district (city) criminal court at the request of the Prosecutor General of the Republic of Uzbekistan, the prosecutor of the Republic of Karakalpakstan, regional prosecutors, Tashkent city prosecutor and peer prosecutors"; (e) "An attorney cannot be held criminally or materially liable or liable in any other way, or threatened to be held liable in connection with the provision of legal assistance to individuals and legal entities under the law."

It appears that the above wording of the law does not allow concluding that attorneys have immunity from criminal prosecution, because the decision to bring them to justice is made by a prosecutor (of a certain level), irrespective of the consent of the Board of Attorneys, which is a self-governing body of attorneys.

Procedure for Lifting Immunity

The procedure for lifting immunity (inviolability), specifying, in particular, the timeframes for consideration of prosecutor submissions to lift the immunity and periods for appealing against rulings, where possible, is stipulated in the law only for the deputies of the Legislative Chamber, members of the Senate and members of the regional, district and city councils of deputies, and the Ombudsman (Article 14 of the *Law on the Status of Deputies of the Legislative Chamber and Senate of Oliy Majlis of the Republic of Uzbekistan* and Article 12 of the *Law on the Status of Deputies of the Regional, District and City Councils of Deputies*, Article 30¹ of the *Law on the Rules of the Legislative Chamber of Oliy Majlis of Republic of Uzbekistan* and Article 30¹ of the *Law on the Rules of the Senate of Oliy Majlis of the Republic of Uzbekistan*). The procedure for lifting the immunity of other persons is not regulated by the law. It is limited only to the indication of the body or person whose consent is required to perform a procedural action in relation to a particular person with immunity.

Effectiveness of Investigation and Criminal Prosecution of Persons with the Immunities

During the monitoring visit, representatives of the Uzbek side explained that in practice they have no problems with the lifting of immunities and that in 99% of all cases immunities were lifted. They also pointed out that, in practice, there were only isolated cases where lifting of immunity was rejected and such rejections only concerned the deputies of district Kengashes. From the statistics provided (see table below), it is clear that every year persons enjoying immunity, including members of parliament, judges and prosecutors, are held liable for corruption crimes, including bribe-taking.

Representatives of the Uzbek side also explained that the immunity does not prevent, in practice, from institution of criminal cases or conducting any operational-investigative and criminal actions, including

wiretaps and searches (provided proper sanctions are received), during the time of the entire investigation of the case, up until indictment of the person with immunity.

This practice is likely to exist on the grounds that the legislation of Uzbekistan does not specify which operational, search and/or criminal proceedings may be performed in relation to the individuals with immunities up until immunities are waived. On one hand, the law provides that certain persons who have inviolability (e.g., judges and deputies) cannot be criminally prosecuted without obtaining consent for the removal of immunity, while on the other hand, the prosecutor's office in practice initiates criminal cases against these categories persons and conducts all the necessary operational, investigative and procedural steps until such persons are indicted, presumably for the reason that they narrowly interpret the term "criminal liability" as "indictment" and believe that the institution of criminal proceedings, searches, seizures, wiretaps, inspection of personal correspondence, etc. within the framework of the instituted proceedings is not a criminal prosecution. It seems that such a practice, while helping to investigate corruption cases, does not fully ensure a proper balance between the privileges and the possibility, when necessary, to carry out an effective investigation.

Table 1. Statistics on the Liability of Individuals with Immunity

Year	Number of Indicted Individuals		Number of Submissions to Lift Immunity			
	Judges	Deputies	Judges, total	Including cases where decision on lifting immunity was not made	Deputies, total	Including cases where decision on lifting immunity was not made
2012	8	1	8		1	
2013	13		13		1	1*
2014	18	1	18		1	
Total	39	2	39	0	3	

* **Note:** the decision was not made because during consideration of the submission, the criminal proceedings were terminated on rehabilitating grounds

Uzbekistan is not compliant with recommendation 2.6.

New recommendation 10

- ***Adopt clear, simple and transparent procedure for lifting of immunity of those categories of persons, for whom the procedure for lifting immunity is not provided in the legislation.***
- ***Limit the categories of officials benefiting from immunity and the scope of immunity to ensure that it is restricted in applications to acts committed in the performance of their official duties***
- ***Provide clear regulations on permissible types of operative as well as procedural actions in relation to the persons enjoying immunities, before lifting such immunities, to ensure that the immunities do not impede effective investigation and prosecution of corruption cases.***

2.7 International Cooperation and Mutual Legal Assistance

Recommendation of the first and second rounds of monitoring

Consider adopting provisions that allow taking testimony of a witness or expert by video conference in accordance with Article 32 of the UNCAC.

Consider becoming a party to the CIS Chisinau Convention on mutual legal assistance and legal relations in civil, family and criminal matters.

On May 14, 2014, relevant amendments were made to the Commercial Procedural Code (Articles 8, 126, 126-1 and 131), which provided for participation in the Economic Court sessions via video channels. During the monitoring visit, representatives of the Supreme Court of Uzbekistan informed that the Supreme Court had prepared draft laws on amendments to the Civil Procedure Code and the Criminal Procedure Code, which provided, inter alia, the possibility of questioning witnesses and experts by video, including the possibility of such questioning based on the requests of foreign countries. The drafts are currently in the Parliament. The texts of the drafts have not been provided to the monitoring mission. At this stage, this innovation is expected to be tested as part of the economic (commercial) proceedings, with subsequent consideration of its implementation in criminal and civil proceedings.

In its replies to the questionnaire Uzbekistan indicates different measures of providing courts with modern information and communication technologies, which is a plus, but does not fully meet the requirements of the recommendation. These measures mainly concern economic and civil proceedings. Uzbekistan reported that pursuant to the Resolution of the Cabinet of Ministers No. 346 *on Measures to Incorporate Modern Information and Communication Technologies in Courts* from December 10, 2012, a Program to incorporate modern information and communication technologies in courts had been designed and approved. Implementation of the Program was scheduled for 2013-2014. The program provides for the implementation of proposals to organize electronic litigation, including video- and audio-recording of trials, new types of short handing at trials, use of video conferencing, etc.

As to the second part of the recommendation, Uzbekistan reports that the proposal to consider Uzbekistan's joining the Convention on legal assistance and legal relations in civil, family and criminal matters, signed in Chisinau on October 7, 2002, was submitted to the Office of the President of the Republic of Uzbekistan and the Cabinet of Ministers. Ministry of Justice presented the Cabinet of Ministers with consolidated proposals developed in collaboration with the Foreign Ministry, MIA, the General Prosecutor's Office, the Supreme Court and the Supreme Economic Court, on the feasibility of

Uzbekistan's joining the Convention with reservations. The opinion on the feasibility has been prepared with the assistance of experts from concerned agencies and academic institutions.

The scope of legal assistance under the Treaty between the Republic of Uzbekistan and the UAE for legal assistance in criminal matters, signed on November 11, 2014, includes the possibility of hearing testimonies via video conferences (subclause "a", clause 2 of Article 3 of the Treaty).

Currently, draft treaties on legal assistance are being developed with Spain and Vietnam, a draft treaty has been developed with the USA, all of which also include provisions on the use of video conferencing.

With regard to the practical application, Uzbekistan reports that within the requested period, no requests for video conferencing had been received. However, in 2015, 2 such requests were received, although neither was related to corruption offences (human trafficking and drug dealing).

Regarding statistics, Uzbekistan reports that during 2012-2014 it received a total of 18 requests for international legal assistance (MLA) in corruption cases, and sent a total of 109 requests for international legal assistance (MLA) in corruption cases.

In practice, with certain countries there are legal and practical barriers for receiving/submitted MLA's. In particular, the lack of a treaty basis for cooperation with the UAE does not help the positive cooperation in the fight against crime in general, and corruption offences in particular. To address this issue, the General Prosecutor's Office of Uzbekistan in cooperation with the competent authorities of the UAE has developed relevant treaties on cooperation in the area of criminal justice. On November 11, 2014, the Treaty between the Republic of Uzbekistan and the UAE on legal assistance in criminal matters, the Treaty between the Republic of Uzbekistan and the UAE on extradition, and the Treaty between the Republic of Uzbekistan and the UAE on the transfer of convicts.

The laws of the Republic of Uzbekistan on the ratification of these treaties were adopted by the Legislative Chamber and approved by the Senate on the May 15, 2015. These are awaiting ratification by the UAE. After these come into force, a series of outreach activities are planned with the participation of representatives of the United Arab Emirates.

Uzbekistan is largely compliant with recommendation 2.7 and it remains in force under number 11.

2.8 Investigation and Criminal Prosecution of Corruption – Operative-Investigative Activities

Recommendation of the first and second rounds of monitoring

Adopt the law that allows for the appropriate use of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic and other forms of surveillance and undercover operations, and to allow for the admissibility in court of evidence derived therefrom, in accordance with Article 50 of the UNCAC.

Article 50 of the UN Convention against Corruption provides for the use of special investigative techniques (SIT) in fight against corruption. To effectively fight corruption, SIT's should be used, in particular, controlled delivery, electronic or other forms of surveillance and undercover operations, in a manner that would make the evidence gathered by such methods admissible in the court.

On December 25, 2012 the Law of the Republic of Uzbekistan on Operative and Investigative Activities was adopted, which came into force on December 2013. The purpose of the law is to regulate relations in the field of operational and investigative activities, to create legal basis for operational and investigative activities of law enforcement bodies, as well as the guarantees to ensure protection of the rights and freedoms of citizens during the operative and investigative activities (Article 4). The Law systematized norms that had previously been scattered in a number of legal acts regulating the issue.

According to Article 10 of the Law, authorities carrying out operational investigative activities are:

- Ministry of Internal Affairs of the Republic of Uzbekistan;
- National Security Service of the Republic of Uzbekistan;
- State Customs Committee of the Republic of Uzbekistan;
- Department for Combating Fiscal and Foreign Currency Crimes and Legalization of Criminal Income under the General Prosecutor's Office of the Republic of Uzbekistan.

Article 14 of the Law lists the types of operational and investigative activities, which includes both controlled delivery and other special investigative techniques, for example, operational surveillance, interception of communications, including by telephone and other communication devices, operative infiltration, undercover operations, operational experiments and others. However, no definitions of these techniques are given. As follows from the explanations of representatives of Uzbekistan at the time of the visit, there are a number of internal instructions on operational investigative activities, which are classified, while Article 16 of the Law establishes that the specifics of the operational investigative activities are determined by the legislation. In this regard, the monitoring group was not able to find out exactly what is meant under "controlled delivery", "operational surveillance" and other operational investigative activities, or to make sure that the method of "controlled delivery" in Uzbekistan can be used in the line with the UN Convention.

Article 50.4 of the UN Convention specifies the methods of controlled delivery, which can also include intercepting the goods, allowing the goods to continue intact, or their removal or replacement in whole or in part. Subparagraph i) of Article 2 of the UN Convention provides a definition of "controlled delivery," namely it is a method, under which illegal or suspicious goods are allowed to be transported out of, through or into the territory of one or more states, with the knowledge and under the supervision of their competent authorities, with the purpose of investigating a crime or identifying persons involved in the commission of such crime.

Therefore, also taking into account the experiences of other countries, it is recommended to take appropriate regulations to define the types of the operational investigative activities, listed in Article 14 of the Law.

The Law allows conducting all of the operative investigative activities prior to the institution of criminal proceedings, provided that circumstances listed in Article 15 exist, however, judicial control of the operative activities is not provided for by the Law. For example, conducting operational investigative activities that limit the right to privacy of correspondence, telephone and other conversations, postal, telegraph and other communications transmitted by communication channels, as well as the right to inviolability of the home are permitted on the basis of a prosecutor's sanction.

Under Article 28 of the law, the decisions of bodies carrying out operative investigative activities and actions (omission) of their employees can be appealed to a higher authority, according to the subordination, the prosecutor or the court.

According to Article 19, the materials of the operative investigative activities may serve as grounds for initiation of a criminal case, may be submitted to the bodies of inquiry and investigation, the prosecutor in charge of the criminal case, to prepare for and conduct investigative actions, and also used while proving criminal cases in accordance with the provisions of the Criminal Procedural Code of the Republic of Uzbekistan.

The results of operative investigative activities conducted in compliance with Article 16 (*Conditions for Operative Investigative Activities*), may be recognized as evidence after testing and evaluation in accordance with the Criminal Procedural Code of the Republic of Uzbekistan.

No information was provided with respect to the practical application of these measures; Uzbekistan informs that the related statistical data is not collected.

Taking into account the above, Uzbekistan has fully complied with recommendation 2.8, as the Law on Operational and Investigative Activities providing for the use of controlled delivery and other special investigative techniques, including electronic surveillance, has been adopted in Uzbekistan and it also established the possibility of using information obtained from through special investigative techniques as evidence in court.

Therefore, Uzbekistan is fully compliant with the recommendation 2.8.

New recommendation 12

- ***Introduce statutory definitions of operative investigative activities, to fully align legislation and practice in this area with the UN Convention against Corruption.***

2.9. Investigation and Prosecution of Corruption

Recommendation of the first and second rounds of monitoring

Strengthen capacities and training in use of modern approaches and techniques of law enforcement bodies in charge of detection, investigation and prosecution of corruption crimes.

Consider adopting a more pro-active and targeted approach to investigating corruption, looking into main risk areas and conducting risk analysis.

The international standards require specialization of law enforcement agencies fighting corruption.³⁶ For effective fight of corruption, it is necessary to have specialized law enforcement units or personnel so that corruption cases are dealt with by employees who have received relevant training. It is equally important to ensure that those who are dealing with corruption cases are not only specialized, but that they enjoy necessary independence and autonomy free from improper influence and have effective means for gathering evidence, protecting the persons who help the authorities in combating corruption.

³⁷

³⁶ UN Convention against Corruption (Article 36); the Council of Europe Criminal Law Convention on Corruption (Article 20).

³⁷ Principle No. 3, Resolution (97)24 of the Committee of Ministers of the Council of Europe "On The Twenty Guiding Principles for the Fight against Corruption", www.coe.int. For more detailed information on the specialization of combating corruption see "Specialized anticorruption institutions: review of models", OECD network study, 2007, www.oecd.org, and "Anti-corruption specialization of prosecutors in some European countries", OECD network working report, 2011, www.oecd.org.

Bodies Responsible for the Investigation and Prosecution of Corruption

In Uzbekistan, there is no separated dedicated law enforcement institution for corruption cases. The anti-corruption specialization exists within the bodies of inquiry, preliminary investigation and criminal prosecution. The investigative jurisdiction on a criminal case is determined under the Article 345 of the CPC, according to which corruption offences and cases involving crimes by certain categories of officials lie within the competence of the investigators of the prosecution service.³⁸

Specialized prosecutors. The criminal law does not provide for the specialization of prosecutors in corruption cases. Uzbekistan indicates that the body responsible for the investigation of corruption cases is the **Unit for Combating Organized Crime and Corruption under the General Prosecutor's Office and its territorial divisions**. According to Uzbekistan, the Department employs 18 employees, among them 13 investigators conducting criminal investigations of corruption cases, and 5 prosecutors overseeing the observance of the legislation on anti-corruption. The monitoring group was unable to assess the level of specialization or the effectiveness of this Department, since the monitoring group has not received the relevant regulations or statistics.

Department for Combating Fiscal and Foreign Currency Crimes and Legalization of Criminal Income under the General Prosecutor's Office of the Republic of Uzbekistan is a specially authorized state body for prevention of legalization of proceeds from criminal activity and terrorist financing.³⁹ The Department is an independent specialized law enforcement agency combating crime in the tax, financial and monetary sphere, and carrying out operational investigative activities and inquiries (Article 38 of the CPC; Article 339.2 of the CPC).

The position of the head of the Department is equal in status to the Deputy Prosecutor General and is appointed by the President of the Republic of Uzbekistan. Divisions of the Department are staffed by economists, lawyers, experts in information technologies with practical experience in the law enforcement, regulatory or supervisory authorities or financial institutions, with analytical skills.

The Department independently initiates criminal proceedings on the revealed economic crimes and corruption cases. At the same time, by being in the prosecution system, the Department in its activity ensures close cooperation with the investigative divisions of law enforcement agencies. In the first quarter of 2015, the Department identified 291 corruption cases, including 126 cases of bribery. Along with this, the Department works closely with other law enforcement agencies. In particular, in the first 4 months of 2015, 154 cases of corruption were identified on the basis of joint actions.

Bodies of inquiry, authorized to combat corruption, include the Security Service, the State Customs Committee, the State Tax Committee, and the Ministry of Internal Affairs.

See also, recent guide by UNODC on the Status and Role of Prosecutors http://www.unodc.org/documents/justice-and-prison-reform/14-07304_ebook.pdf.

³⁸ Article 345 stipulates that: "The preliminary investigation in cases on crimes provided for by Articles 97 — 103, 141 — 149, 175, 184¹, 205 — 212, 215, 218— 221, 230 — 236, 241¹, 242, 265 of the Criminal Code, as well as in cases of crimes by certain categories of officials specified in the law, shall be conducted by prosecution investigators. "

³⁹ The regulation on the Department for combating tax, currency crimes and legalization of criminal incomes under General Prosecutor's Office of the Republic of Uzbekistan, Resolution of the President of the Republic of Uzbekistan dated 21.04.2006 No. PP-331

Article 37 of the CPC among the powers of the head of the investigative department lists the right to **transfer cases** from one investigator to another, to assign investigation to several investigators, as well as to participate in the preliminary investigation and personally conduct the preliminary investigation, while enjoying the powers of an investigator. Under the Uzbek law, the Prosecutor General of the Republic of Uzbekistan or his/her deputies, with the purpose of ensuring comprehensive, complete and objective investigation, are entitled to transfer, under substantiated decision, a criminal case from one preliminary investigation authority to another, regardless of the jurisdiction in certain cases (see Article 345 of the CPC). With regard to the transfer of cases from one investigator to another within the same investigative body, this is done by the head of such investigative unit; from one investigative unit to another – by the head of the higher-level investigative unit with the consent of the prosecutor; and from one preliminary investigation body to another – if permitted by a prosecutor order (Article 348 of the CPC). For the purposes of the criminal investigation of complex cases an investigation team could also be set up (Article 354 - 357 of the CPC).

Cooperation

In accordance with Article 4 of the *Law on Prosecutor's Office*, one of the main activities of the prosecution is to oversee the implementation of laws by bodies conducting operative investigative activities, inquiries, and preliminary investigations, and coordination of their efforts to fight crime.

Under Article 8 of the said Law, with the purpose to ensure the effectiveness of the fight against crime, the Prosecutor General and subordinate prosecutors are assigned the role of coordination of operations of relevant agencies engaged in the operative investigative activities, inquiry and preliminary investigation.

To coordinate the activities of these bodies, the prosecutor shall convene coordination meetings, organize working groups, requests necessary information, including statistical data, and exercise other powers in accordance with the law.

Coordination meetings are held based on the principles of the rule of law, equality of all stakeholders in the formulation of questions, making suggestions, developing recommendations and activities.

Responsibility for the implementation of agreed decisions lies with the heads of each law enforcement agency.

During the period of 2010-2014, based on examination of suspicious transaction reports, the Department has initiated five criminal cases of corruption that have been sent for investigation to the prosecutor's office.

Enforcement of Criminal Legislation and Statistics of Corruption Offences

Uzbekistan indicates that the General Prosecutor's Office, in cooperation with other government agencies, conducts regular systemic analysis of the current state of anti-corruption efforts in all spheres, the results of which are used to design appropriate measures. Analysis of the findings of sociological research, as well as the dynamics and trends of corruption criminality carried out by studying the materials of investigated cases, statistics and other sources of information, allows for timely identification of areas most prone to corruption.

According to the Uzbekistan’s response, corruption crimes are taking place in areas such as social services (education, health), the provision of public services, public procurement, legality and justification of the use of public funds.

The general statistics of criminal cases is maintained by Information Centre of the Ministry of Internal Affairs of the Republic of Uzbekistan and its territorial divisions. The general statistics on the results of considered criminal cases in courts is kept by the Supreme Court. Analysis of investigative work on corruption criminal cases is conducted by the General Prosecutor's Office. However, the monitoring group had the opportunity to review only the court statistics.

Further, the responses indicated that ministries and agencies practice measuring the effectiveness of their anti-corruption activities by conducting opinion polls, collecting statistical reports, as well as other studies. Such studies were not provided to the monitoring group.

It was also indicated that the General Prosecutor's Office carries out the analysis of statistical data on the types of corruption offences and categories of perpetrators of corruption offences, submitted by bodies of internal affairs, national security and other government agencies. However, the relevant statistical data and analysis has not been provided to the monitoring group. The relevant court statistics have been provided only (see, table 2 below). Statistical information on corruption offences is not published.

Table 2. Judicial Statistics

Articles of the CC	Number of Cases/Persons with the Conviction Judgement					
	2012		2013		2014	
	Case	Person	Case	Person	Case	Person
210. Passive Bribery	476	671	500	714	531	799
211. Active Bribery	66	87	94	121	99	143
213. Bribery of an Employee	-	-	1	6	1	3
214. Extortion of Bribe	55	58	58	70	80	98

As a part of the monitoring visit, the monitoring group was informed that the hotlines are actively used for reporting of corruption and consequently the criminal cases are initiated. According to the information provided by Uzbekistan, in 2014, hotlines of the country’s prosecution bodies received 1726 reports, 35 of these were on illegal interference in their activities (13 illegal inspections, 3 requests of excessive reporting, 3 giving illegal orders, 16 resolutions violating their rights), and 45 on untimely consideration of their appeals, etc. Upon consideration, 57 criminal cases were initiated.

During 5 months of this year, hotlines of the country’s prosecution bodies received 1450 reports from business entities, including 32 on illegal interference in their activities (5 illegal inspections, 1 request of excessive reporting, 4 giving illegal orders, 22 resolutions violating their rights), and 13 on untimely consideration of their reports, etc. Upon consideration, 27 criminal cases were initiated. In the month of July in 2015, the call centre has received 2150 reports, and reviewed 797. On 412 reports clarifications were given, 328 were satisfied, 37 denied, etc. In 22 cases criminal proceedings were initiated; the violated rights of 304 citizens were restored.

Pro-Active and Targeted Approach to Investigating Corruption Crimes

Uzbekistan indicates that a lot of trainings were held for law enforcement agencies, including those on the topics of combating corruption and money laundering. Training is conducted by the General

Prosecutor's Office, Legal Training Centre under the Ministry of Justice, and the bodies of internal affairs, national security, as well as customs and tax authorities.

Uzbekistan indicates that the General Prosecutor's Office, in cooperation with other government agencies, conducts regular systemic analysis of the current state of anti-corruption efforts in all spheres, the results of which are used to design appropriate measures. On the basis of the data obtained in the course of ongoing monitoring, periodic work plans for 2012 included a thorough study of the causes and conditions conducive to corruption in the spheres of public education and health, as well as in the tax area; for 2013 - higher and secondary special education, the use of gas and electricity, the banking sector; for 2014 – land use, public procurement, as well as public companies *UzHlopkoProm* and *UzZernoProdukt*. This approach to training of law enforcement agencies is welcomed and is encouraged to be continued. Training based on description of specific cases or exemplary research is also viewed positively.

Additionally, it is recommended to focus the training on investigations of complex corruption offences including studies of a multitude of financial transactions to detect cash flows or to monitor and determine the amounts of bribes and proceeds derived from the commission of corruption offences. Such investigations also require the collection of large volumes of materials, often in electronic form.

Law enforcement officials during the visit to the country explained that the greatest difficulties they had faced were in the process of financial investigations. It was mentioned that different countries use software to automate the process, and it would be useful if the same were implemented in Uzbekistan. The need for knowledge of financial analysis was also emphasized. The Monitoring Group recommends that prosecutors and investigators receive training on conducting complex financial investigations. It is also recommended that Uzbekistan allocates adequate resources for conducting such investigations, including by ensuring the availability of expertise in the fields of forensic accounting and information technologies.

Uzbekistan is largely compliant with recommendation 2.9.

New recommendation 13

- ***Increase the anti-corruption specialization of law enforcement and prosecution authorities; Increase independence of the structural unit of the General Prosecutor's Office responsible for investigation and prosecution of the corruption cases.***
- ***Consider including beneficial ownership information in the centralized register of bank accounts, which will be available to the investigating authorities***
- ***Train investigators and prosecutors in conducting investigations and criminal prosecutions in relation to complex financial crimes, allocate necessary human and financial resources, including the availability of expertise in the fields of forensic accounting and information technologies.***
- ***Provide public access to regularly updated statistics on criminal and other corruption offences, in particular, to the number of applications on such offences, the number of reported cases, the results of 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).***

PILLAR III. PREVENTION OF CORRUPTION

3.2 Integrity in Civil Service

Recommendation of the first and second rounds of monitoring

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.

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

Introduce regulation on prevention of conflict of interests and ensure it is properly enforced in practice.

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.

Provide general guidelines for codes of conduct of public institutions. Establish a rule that it is mandatory to adopt a code of conduct. Determine sanctions that can be imposed for failure to implement ethical rules.

Introduce regulations on accepting gifts by public officials and consider the possibility to set restrictions on post-office employment for public servants.

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

Public Service Framework and Reforms

In Uzbekistan, to date there is not a common legal framework on the civil or public service. The labour relations, the status, rights and duties of persons employed in public institutions in Uzbekistan are regulated by the Labour Code of the Republic of Uzbekistan and a number of sector-specific laws - in particular, the *Law on Courts*, the *Law on the General Prosecutor’s Office*, the *Law on Advocacy*, the *Law on Notary*, the *Law on Customs Service*, the *Law on Tax Service*, and other laws. The status of elected officials, namely, deputies of the Legislative Chamber and the Senate of the Parliament, the President, members of the Cabinet of Ministers, is also regulated by the relevant legislation.

Increasingly public service reform is being discussed among academia and various state bodies. During its visit to Uzbekistan, the monitoring group found out that the concept of the *Law on Civil Service*, as well as the draft *Law on Civil Service* (based on German model) have been developed. The overall impression was that the possibility of introducing a single law on public/civil service has more support than during the first and second rounds of monitoring. Nevertheless, there is no specific timeframe for implementation of such reform. Besides, the report of the first and second rounds of monitoring back in 2012 had mentioned that the *Law on Civil Service* was included in the list of legal instruments that Uzbekistan intends to develop, within the framework of its national anti-corruption program.

As noted during the visit to Uzbekistan, by a representative of academia, the German model of public service suits Uzbekistan. Employees of state and municipal governments in Germany are defined by the special status of an official and the terms for promotion. A German official has the status for life and is a member of a particular class. Only in few areas a civil service position, of, say, a burgomaster, is temporary. A supervisor can fire an officer only if he/she commits an official misconduct, and only after a formal investigation and sentencing by a disciplinary tribunal. Official relationships of "political officials", i.e. of senior officials-ministers, who are replaced with the change of the ruling parties, are subject to special regulations.

A common legal framework of public service is an opportunity to regulate in a uniform manner a range of issues related to recruitment in the public authorities, the legal status of civil servants and their legal guarantees, job classification, civil service issues, the introduction of restrictions for civil servants of anti-corruption nature, disciplinary issues, social guarantees of civil servants, the issue of the termination of public service, certification and other issues. One of principle goals of such law is to establish a single legal framework to protect the professionalism of civil servants.⁴⁰

Further, in Uzbekistan there is no central authority in charge of the implementation of common standards and rules in respect of civil servants and of the strengthening of integrity, efficiency and professionalism of the public service. Currently, the main body that regulates the activities of public servants is the Ministry of Labour and Social Protection. The Presidential Administration and the Cabinet of Ministers also have relevant services. The Ministry of Labour and Social Protection is the government body that is implementing policies in the area of labour, employment and social protection of the entire population. One of the functions of the Ministry is to coordinate the work of ministries, agencies and other organizations on the standardization of labour and the development of pay and qualification grids of skilled labour, specialized labour and servant.

Introduction of a Transparent, Competitive and Merit-Based Recruitment, Appointment and Promotion in the Civil Service

Currently, the selection of employees in the public service is carried out in each ministry and agency on the basis of internal regulations. In ministries and agencies, HR departments together with the heads of structural departments, are responsible for the recruitment of personnel, and the final decision is taken by the top management. While there are no common principles or rules of selection of personnel yet, during the visit to the country, it was stated that in many departments employees are replaced based on competition, and examples were given. However, the scale of this is not known.

The monitoring group welcomes the development of the draft Resolution the Cabinet of Ministers *on Measures for Further Improvement of Recruitment in Public Administration and Local Executive Authorities, As Well As for Improvement of Their Skills and for Creation of Candidate Pools* in Uzbekistan. This draft provides for the introduction of uniform rules of competitive selection of candidates for recruitment in the public administration and provisions on career in the public administration based on meritocracy, and thus would increase openness and transparency of recruitment promotion in the civil service.

This above draft Resolution was developed in 2015 by the Ministry of Labour and Social Protection discussed with a number of government agencies, as well as non-governmental organizations (Council of

⁴⁰ For more information on this issue see, for example, OECD (1996), "Civil Service Legislation Contents Checklist", SIGMA Papers, No. 5, OECD Publishing, <http://dx.doi.org/10.1787/5kml6g9vtkxw-en>

Federation of Trade Unions, CCI, TSUL, and Institute for Strategic Studies) and international organizations (UNDP). It is positive that the draft is publicly available on the single state portal.⁴¹ According to the information provided in October 2015, the draft Resolution the Cabinet of Ministers was sent by the Ministry of Labour and Social Protection to the Cabinet of Ministers for approval.

The development of common rules for recruitment of public officials is covered also by the Comprehensive Plan of anti-corruption measures for 2015. The Comprehensive Plan proposes the development of model provisions on common principles and rules of employment, as well as the development of institutional rules – on the competitive selection, placement and promotion of staff. The Comprehensive Plan provides for the introduction of four principles of recruitment: job advertisements in the media and on the official website; the introduction of competitive selection procedures; holding public meetings for the selection of candidates; and prevention of corruption in the selection and placement of staff.

The draft resolution of the Cabinet of Ministers, which was presented to the monitoring team, proposes the adoption of three model provisions. Procedure for the competitive selection of employees in the public administration stipulates a mandatory advertisement of the competition, describes test/written examination and interview procedures, the composition and functions of the Interview Panel, and it establishes the obligation to improve the qualifications of public officials. The provision on staffing introduces the obligation to create human resource services within all public bodies and organizations, and determines their activities. Among other functions, one of the tasks of the human resource services - is the screening, selection and placement of staff based on their qualifications, personal and professional qualities. In addition, there is a provision for the adoption of the Model provisions on the creation of candidate pools and working with them, which is supposed to reflect the order of creating candidate pools and practical measures for professional development. The draft document refers to such principles of the creation of candidate pools such as publicity during its creation; professionalism and competence of the persons included in the candidate pools; priority of forming candidate pools on a competitive basis. This provision also provides for professional training and education of persons who are included in the pool. On the promotion of the civil service it says that employees who have achieved the best results in work, show initiative, and are constantly improving their level of proficiency, have priority.

The Comprehensive Anti-Corruption Action Plan also stipulates that measures to prevent nepotism, favouritism and other manifestations of corruption in the selection and placement of staff should be developed. The draft Resolution of the Cabinet of Ministers on hiring, which was mentioned above, does not mention this issue. Perhaps this issue will be resolved through legislation on ethics, conflict of interest or in the *Law on Civil Service*.

Recommendation 3.2 does not just talk about the competitive selection, but also about “merit-based” selection. The draft resolution does not mention the principle or obligation to select personnel based on merit as such. Compliance with the principle of meritocracy is aimed at ensuring the selection of the most deserving personnel, their professional and career development based on the recognition of professional merits. Under meritocracy, the public service recruits the most decent, moral, competent, talented and hard-working professionals. Meritocracy in many developed countries has become the norm of the operation of the government apparatus. In this connection, it would also be useful for Uzbekistan be to consider the possibility to introduce this concept into national legislation, since meritocracy is defined as a fundamental value of the public service system.

⁴¹http://www.norma.uz/novoe_v_zakonodatelstve/proekty_npa_na_edinom_portale_priem_na_rabotu_v_gosorgany

Also, a more extensive practical use of "e-government" in Uzbekistan is a positive development in terms of transparency. More and more job openings are published on the sites of government agencies, as in accordance with the new *Law on Openness of Activities of State Authorities and Government Bodies*, this has become a requirement. For example, vacancies at the Ministry of Finance are posted on the single portal of interactive government services. Ministry of Labour and Social Protection of Population has set up a database of available openings, updated daily. This information is posted on the ministry's website and covers all existing vacancies for employment in the territory of the Republic of Uzbekistan. The website of this Ministry publishes information on job openings, of which 10% are in the public administration. The official website of the Supreme Court, www.supcourt.uz, publishes monthly information on vacancies for judges. In addition to the ministerial sites, there is also a website www.job.uz, where there are publications about the planned competitions. The transfer of public services online does not just make public access much easier, but also facilitates raising citizens' confidence in public institutions to a higher level, by ensuring transparency of their operations and reducing corruption risks.

As a final remark, the monitoring group notes the risk of the use of official capacity and informal personal networks for employment in state bodies. Uzbekistan has restrictions on employment with state-owned enterprises on the basis of kinship, provided in Article 79 of the Labour Code of the Republic of Uzbekistan (*Restrictions Relating to Relatives Holding Several Positions in State-Owned Enterprises*). This issue is planned to be addressed in the framework of the draft Code of Ethics of employees of state bodies. The damage from nepotism and favouritism is that a person is appointed to a new position without going through a professional selection and may not be a good specialist. Given that the selection to the civil service, as well as the issue of career promotion in the civil service, on the basis of community, kinship or personal loyalty, have components of corruption in them, it is deemed appropriate to pay special attention to this issue.

Definition of a Professional vs. Political Official

Just as before, Uzbekistan has not introduced the notions of professional and political officials. It is necessary to introduce a clear distinction between political and administrative positions in the legislation. Measures should be taken for the classification of civil servants, including clear identification of which positions are political appointees.

Transparent Remuneration in Public Service, and Rules and Criteria for Allocation of Variable Part of the Salary

No new steps have been taken on this part of recommendation 3.2., which calls on Uzbekistan to introduce a more transparent system of remuneration for public service employees, as well as rules and criteria for allocating the variable part of the salary, similarly to the report of the first and second rounds of monitoring.

Meanwhile Uzbekistan indicated that amendments were made after the first and second rounds of monitoring in a number of legal acts regulating the remuneration of public sector employees, as a result of which the level of salaries increased for those employed by prosecution services, for judges and also in the municipalities. Further, after the first and second rounds of monitoring in October 2012 the [Resolution of the Cabinet of Ministers No. 297](#) was adopted, *On the Approval of the Regulations on Secondary Employment and Combining Professions and Positions*, which provides in cases of combining

jobs in budget organizations for a premium of up to 30% to be paid of the salary of the additional post or profession undertaken.

Box 1. Main Legal Acts Relating to the Remuneration of Employees of Public Administration

Salaries of employees in public administration institutions are regulated by the following legal acts:

The **Labour Code** of the Republic of Uzbekistan, Chapter IX, Articles 153-164 *Remuneration*;

[Resolution of the Cabinet of Ministers No.147 dated 12.04.1996](#), *On the Introduction of Pay Grades for Employees of Government Authorities and Administration, Judicial Bodies and Notaries*, which sets grades the national, regional and district organizations, and provides for bonuses of up to the double of the monthly payroll and financial assistance in the amount of one monthly payroll.

[Resolution of the Cabinet of Ministers No.339 dated 03.07.1997](#), *On Twenty Percent Premium to Fixed Salaries of Civil Servants*, which approved the list of civil servant positions entitled to receive this incentive.

The provision on a special fund of material incentives of employees of budget institutions and organizations, registered with the Ministry of Justice as No.177 on 20.09.1995, and approved by the Ministry of Finance as No.98 on 08.09.1995. This provision established a special fund of material incentives of employees of budget institutions and organizations in the amount of 15 % of the payroll.

[Resolution of the Cabinet of Ministers No. 133 dated 11.03.1997](#) approved the procedure for providing guarantee payments associated with the performance of state or public duties by employees, as well as with the commitment of acts in the public interest, according to which an average salary is paid during the period of performing civil servant duties or functions in the interest of the state or society.

From the presented materials it follows that in Uzbekistan; wages are set on the basis of sectoral or local salary grids. Wages are paid by flat rate and this is the main minimum base salary of civil servants. The remaining part consists of bonuses and additional payments under the legislation (which includes pay increases, benefits, premiums, compensations, higher rates and bonuses).

According to some sources, government officials in Uzbekistan are prone to bribery because of low wages.⁴² During the visit to Uzbekistan, the monitoring group was told that the remuneration in public institutions has improved. The minimum wage of employees of the public service (zero grade) till September 2015 have been increased to 130,240 soums. Also, as said above, salaries of judges, prosecutors and mahalla officials were doubled. In general, the Uzbek authorities have assured that the work in the public service is well paid, wages are comparable with the private sector, and in addition there are various privileges, which are not available in the private sector.

Regarding the variable component in the remuneration it should be noted that in Uzbekistan employees in public institutions besides their basic salary can receive bonuses and premiums and this, according to information provided by Uzbekistan during the plenary meeting, can in average be 20-25 per cent of monthly income (gross salary).

⁴² <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/uzbekistan/show-all.aspx>

With the aim to prevent corruption risks for the managers, the Order of the Minister of Finance of the Republic of Uzbekistan No. 35 from April 22, 2014 gave an official interpretation of the provision on the special fund of material incentives of employees of budget institutions and organizations, according to which the premiums are cancelled or reduced if the quality of work deteriorates, and labour or production discipline is violated. During the period of a punishment, incentives do not apply to such worker. If there is disciplinary action against an employee, his/her supervisor has the right to cancel or reduce this incentive. It is believed that the right of the supervisor to take one of the alternative disciplinary actions against the guilty employee can breed corruption.

This suggests that the reform of the public service with an increase in the salaries of civil servants and the reduction of the variable part of remuneration could reduce the risks of engaging in corrupt practices and increase the transparency of payments both for government employees, and for the public.

Introduce regulation on prevention of conflict of interests and ensure it is properly enforced in practice

The legislation of Uzbekistan does not yet have general rules to prevent conflicts of interest or a definition of conflict of interest that would have been the same for all employees of public institutions. There is a Resolution of the Cabinet of Ministers of 1992, which prohibits employees of government agencies, law enforcement agencies, as well as senior officials and professionals in the public sector, whose functions include making decisions related to the field of business, from engaging in entrepreneurial activities. Article 79 of the Labour Code prohibits the joint service of relatives or people in relationship at the same public company, if their service is connected with direct subordination or supervision of one by the other.⁴³

Since the last reporting period, no new regulations have been introduced, but the Comprehensive Plan of anti-corruption measures in 2015 expressed the intention to consider this issue, and during the visit, the expert team learned about legislative drafts in this area.

The Comprehensive Plan of anti-corruption measures for 2015 envisages the following measure: "Study the possibility of legal regulation of the issue of conflicts of interest of employees of state bodies." For this measure are responsible the Inter-institutional Working Group on promoting the improvement of organizational, practical and regulatory framework for combating corruption, as well as the General Prosecutor's Office, Ministry of Labour and Social Protection and the Ministry of Justice.

The draft new Code on Administrative Liability contains four norms that aims to regulate conflicts of interest in the public service. The draft Code is presently in the process of inter-agency approval. A public discussion of the draft was conducted, including by posting on the official website of the Ministry of Justice. Then the draft will be submitted to the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan.

Also, during the visit of the expert group to the country the development of a draft Code of Ethics for Civil Servants was announced. This will include issues of conflict of interest (the developer is the General Prosecutor's Office). After the visit the draft *Code of Ethics for Employees of State Bodies* was provided. The draft has a section, *Conflicts of Interest*. It talks about how a conflict of interest situation may arise, possible conflicts of interest in the appointment to a position and during the performance of duties and the duty to inform about conflicts of interest.

⁴³ Response to the third round questionnaire, p. 85.

During the introduction of new rules on the prevention of conflict of interest it could be useful to study the experience of OECD countries, which is reflected in the recommendations of the OECD Council on Guidelines for Managing Conflicts of Interest in Public Service of 2003, as well as the Guide of 2005.⁴⁴ These documents provide a description of the various approaches to the definition of the term "conflict of interest". They emphasize that the conflict of interest cannot be avoided by a simple ban. It needs a definition, detection and resolution. The Guide provides information for effective detection and conflict resolution, namely "conflict of interest" – is a conflict between public duties and private interests of a public official, where his/her private interests can unduly influence the performance of his/her official duties or functions. There is also an explanation of what is an actual, visible and potential conflict of interest. In cases where the private interest had actually compromised the improper performance by a public official of his/her official duties, the situation is better viewed as an example of misconduct or "abuse of office," or even as a fact of corruption, rather than as a "conflict of interest." The proposed definition of "private interests," they are not limited to financial or material interests. A conflict of interest may be related to legal actions by an official as a private individual, his/her membership in other organizations or associations with them, the interests of the family. A special example is the employment of a public official after he/she had left the position held in the public sector - the negotiations on the future work prior to dismissal from public office in almost all countries are treated as a situation involving a conflict of interest.

As a conflict of interest often includes not only government officials but also other persons, some countries of the Istanbul Action Plan also developed a definition of related parties. In most of these countries, this definition includes close relatives – the official spouses, children and persons living together with such officials.⁴⁵

Whatever approach Uzbekistan chooses to preventing conflicts of interest in public service, it is not enough to just stipulate it in the legislation, according the experience of other countries of the Istanbul Action Plan. It is important to establish effective mechanisms to control conflicts of interest in the agencies and ministries, most likely as part of the system, aimed at preventing corruption in public bodies, referred to in the Comprehensive Plan of anti-corruption measures in 2015.

Codes of conduct and ethics for public servants and sanctions for failing to implement ethical rules

After the first and second rounds of monitoring the positive step is adoption of new codes of ethics in key sectors and for representatives of different branches of power, in which have been taken into account issues of practical implementation and sanctions. Resolution of the High Qualification Commission for selection and recommendation of judges under the President of the Republic of Uzbekistan dated 28 February 2013 approved the Rules for Ethical Conduct of Judges. On December 30, 2013 the Code of Ethics (Professional Ethics) for employees of prosecution bodies was approved. According to the provisions of this Code of Ethics, it is the official duty of any prosecution employee to have an uncompromising attitude towards corruption offences; issues of conflict of interest are regulated. Order of the Accounts Chamber of December 20, 2014 No. P-84 approved the Code of Ethics of the employees of the Accounts Chamber of the Republic of Uzbekistan. On April 30, 2015 the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan adopted Rules of Deputy Ethics of deputies of the Legislative Chamber No.122-III and established an Ethics Commission. These Rules regulate issues of receiving gifts and provides for the inadmissibility of the solicitation or acceptance of gifts by the deputies. These steps are evaluated by the monitoring group very positively.

⁴⁴ For more details see www.oecd.org/gov/ethics/conflictsofinterest

⁴⁵ For more details see OECD (2013), Anti-corruption Reforms in Eastern Europe and Central Asia, 2013

Moreover, the Comprehensive Plan of anti-corruption measures in 2015 provides for the adoption and implementation by every state body of ethical norms for its employees, defining the standards and requirements for the behaviour of government employees in professional activities and out-of-office, and ethics of and receipt of gifts in the form of a common code of ethics and agency codes.

As a result, as stated above, Uzbekistan has developed the draft *Code of Ethics of Employees of State Bodies*. As it was pointed out during the on-site visit, in this draft common ethics code for all public servants are taken into account the recommendation of the Council of Europe on a Model Code of Conduct for Public Officials, as well as other international practices. The relevant draft Resolution was sent to the Cabinet of Ministers by the General Prosecutor's Office.

After the visit, the monitoring group reviewed the draft *Code of Ethics of Employees of State Bodies*. It contains a number of principles, for example, fairness, integrity, honesty. A state employee shall not use his/her official position for personal gain and must counteract the corruption and assist in its prevention. The head of a body must have an impeccable reputation and be a model of professionalism. It is also said that compliance with the Code of Ethics by an employee of a state body is one of the criteria for assessing the quality of his/her professional and official conduct. Further, the Code contains provisions on the prevention of conflict of interest, on the receipt of gifts and there is a separate section on the liability for breach of the Code of Ethics.

As discussed during the visit to Uzbekistan, even now various ministries and agencies have their own codes of ethics, including several new codes of ethics introduced after the first and second rounds of monitoring. For instance, at the Ministry of Finance, Treasury employee handbook contains a section *Code of Ethics of Treasury Employees*. There is also a code of honour of a customs officer approved on November 3, 2011. The customs authorities have officer courts dealing with compliance with service discipline by employees and resolving conflicts of interest, with an important part of their work being prevention of crimes, forming principles of anti-corruption and law-abiding behaviour among the staff. Further, there are rules of professional ethics of employees of the State Committee for Nature Protection. The Ministry of Internal Affairs has a *Handbook of the Professional Culture of Employees of Internal Affairs of the Republic of Uzbekistan*, and a violation of its rules is considered a breach of service discipline, and involves the use of disciplinary action.

The unifying factors in the documents setting out rules of ethical behaviour of civil servants in Uzbekistan, according to the information, summarized by Uzbekistan are: moral qualities of a contemporary civil servant, professional etiquette, the basic principles of administrative morality, principles of official correspondence and especially the language of official documents, the requirements for business telephone conversations, the specifics of the organization and conducting official meetings, etc.

Employee ethics issues are sometimes governed by documents on the activities of such body. For example, in accordance with the *Regulations on Service in Customs Bodies*, employees who receive gifts (awards) during conferences, seminars, training sessions, official meetings and business trips, pass the gifts that represent a significant material value for storage to the museum of the State Customs Committee of the Republic of Uzbekistan.

The Monitoring Group believes that it is important to work to improve the content of the codes of ethics, and it is equally important to train government officials on the rules and encourage them to use them. The monitoring group had the impression that the compliance of civil servants with the ethical norms and their awareness are a matter that requires further attention.

Regulations on Accepting Gifts by Public Officials

A single document regulating the acceptance of gifts by public officials has not been adopted. At the same time, draft *Code of Ethics of Employees of State Bodies*, which was presented by Uzbekistan to the monitoring group, includes a section *Gifts*. If this edition of the code of ethics is adopted, Uzbekistan would have fulfilled this part of recommendation 3.2.

Restrictions on Post-Office Employment for Public Servants

Uzbekistan has developed a draft law providing for the introduction of a new article 761 *Conditions of Employment Contracts with the Former Employees of State Organizations, Institutions and Enterprises* to the Labour Code. Under this draft, citizens who had worked in government organizations, institutions and enterprises, will be entitled to fill the positions in commercial and other organizations only after two years after leaving such government organizations, institutions and enterprises, if their former functions included management of such organizations, or supervision of their activities. There is also a plan to introduce the norm, according to which the employer, upon execution of an employment contract with a citizen who had worked in a government organization, institution or enterprise, will be obliged to report the execution of such contract with such citizen to the state organization, institution or enterprise, where such citizen had previously worked within ten days after signing the contract.

It is planned that the liability for failure to fulfil the requirements of the proposed norm would be covered by the existing Code of the Republic of Uzbekistan on Administrative Liability, Article 49 (*Violation of Labour Legislation*).

The introduction of the proposed norm to the Labour Code would eliminate conflict of interest and corruption component related to the employment of a former state employee in a commercial or other organization.

In accordance with the UN Convention against corruption, each State Party shall take measures to prevent conflicts of interest by imposing restrictions on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or work are directly related to the functions that such public official was performing during his/her tenure of office or which he/she had supervised.

Declaration of Income and Assets of Public Officials

Information about changes since the previous round of monitoring was not provided by Uzbekistan, and the issue of income and assets declarations for public servants remains not regulated.

It should be noted that the introduction of declarations of income and assets by public officials is quite a popular measure of preventing corruption and such declarations have been introduced in most countries of the OECD Anti-Corruption Network for Eastern Europe and Central Asia.⁴⁶ At this stage the focus is already on effectiveness of this measure, emphasizing the importance of verifying the declarations and of their public availability.

The UN Convention against Corruption in Article 8 calls on countries to seek to establish measures and systems that require public officials to provide information about their out-of-office activities,

⁴⁶ See for example OECD (2011), *Declaration of Assets of Public Servants*, OECD Publishing.

occupations, investments, substantial benefits, which can lead to conflicts in connection with the performance of their duties.

Protection of Whistle-Blowers Reporting Corruption

In Uzbekistan, there is no separate law or separate provisions in the law on the protection of persons who report corruption. During the visit, Uzbekistan in relation to this issue referred to the *Law on Operational Activities*, the *Law on Administrative Actions*, the *Penal Code* and the *Law on Appeals*.

The draft *Code of Ethics of Employees in State Bodies* provides a norm that the management of a government body must ensure the inadmissibility of dismissal or prosecution of a person in any other form in connection to his/her appeal on violations of the law or to an expressed opinion or criticism contained in the appeal, as well as for coming out with a criticism in some other form.

New issue: Ethics and Anti-Corruption Training in Public Service

In April 2012, the President of Uzbekistan signed a *Decree on Measures on Further Improvement of Training in Public Administration*. Its main objective was to improve the training and retraining of personnel in public administration, meeting modern requirements.

In 2012, the Public Service Academy under the President of the Republic of Uzbekistan underwent a considerable reorganization. The Academy has recently been developing programs on public policy and to build the capacity of civil servants, responding to the ideas of a modern professional civil service. Today, the Academy is a higher educational institution for training and retraining of managerial staff for national and local bodies of state power and administration, and self-government bodies. Upon completion of training at the Academy, students receive a Master's degree. In a year they number about 112 people, and they are trained for two years. There is also a four-month advanced training course for managerial personnel.

The Public Service Academy does not teach a separate subject on countering corruption; however these issues are incorporated in other subjects. In particular, the Academy issues special textbooks for the public service, the magazine *Management and Society*, which published articles related to the fight against corruption. In addition, experts reported that in July 2015 it is planned to print two articles on the subject, as well as to introduce short anti-corruption courses.

The Comprehensive Plan of anti-corruption measures for 2015 includes measures to strengthen the anti-corruption themes in the teaching of disciplines at institutions for training and retraining of employees of public bodies. During the visit, it was said that these plans have already been approved.

In Uzbekistan in some ministries and public institutions ethics and corruption prevention training is provided. In 2013, in training courses for capacity building for employees of government financing institutions prevention of corruption was included as a separate subject-matter, and this theme is included also in capacity building training in the area of state financial control. According to the information provided by Uzbekistan, in 2014 the anti-corruption subject-matter was covered in courses attended by 2101 persons (government financing institutions, including managerial level from regional financial centres and the Treasury). In 2015 training on these issues within the Ministry of Finance continued.

The monitoring team is of the opinion that it could be useful to conduct an overall analysis how the issues of prevention of corruption are included in the curricula of different organizations that are responsible for the professional development of civil servants in different sectors. During the visit to Uzbekistan an example of a training program was given – for the staff of the Ministry of Justice, attorneys, legal services of state institutions and enterprises, where a training course *Professional Ethics of an Employee of the Ministry of Justice of the Republic of Uzbekistan* was introduced since 2012.

Conclusions

During the third round of monitoring visit to Uzbekistan, a series of steps have been taken that, upon final adoption, could indicate progress in the implementation of the recommendation 3.2. The concept of the *Law on Civil Service* the draft *Law on Civil Service* and the draft rules on competitive recruitment in public administration were developed, but for the later it is still important to point out that the selection of candidates is based on merit (their personal and professional achievements). Also, the draft common code of ethics of civil servants in Uzbekistan has been developed, which includes also norms for the prevention of conflict of interest, receiving gifts and whistle-blowers protection. Transparency about vacancies in public institutions is increasing after an obligation to publish such information on the Internet has been introduced. Since 2012, new codes of ethics have been adopted for the deputies of Parliament (the Legislative Chamber of the Oliy Majlis), prosecution services, judges and Accounts Chamber. Amendments to the Labour Code have been developed with the purpose to introduce restrictions on the employment of former government employees. At the same time, on a number of parts of this recommendation, such as the concepts of a professional and political official, transparent system of remuneration of public service employees, income and assets declaration of public servants, new steps were not taken.

Uzbekistan is partially compliant with recommendation 3.2 and the recommendation remains valid under number 14.

New recommendation 15

- ***Develop the concept and draft unified law on public service.***
- ***Purposeful implementation in practice of the norms on integrity in public service through their distribution, availability of training and effective institutional mechanism in agencies and ministries, by including these issues in agency plans to combat corruption and by engaging professional development and training institutions for civil servants in this work.***
- ***Include issues of ethics and corruption prevention in the four-month refresher course for the managerial staff at the Public Service Academy and introduce short-term courses on anti-corruption.***

3.3 Administrative Procedures

Recommendation of the first and second rounds of monitoring

Establish a requirement of mandatory anti-corruption screening of legal acts; adopt rules regulating procedure of the screening and the consequences if the screening reveals provisions fostering corruption.

Adopt measures aimed at simplification of regulation in different sectors; consider the possibility to develop and adopt a single code of administrative procedures.

On December 24, 2012, the new *Law on Legal Acts* was adopted, providing for mandatory anti-corruption screening of draft legal acts as a part of the legal expertise by the Ministry of Justice. Anti-corruption screening of legal acts is aimed at revealing provisions, creating conditions for corruption and other violations in the public administration system, as well as introducing excessive administrative and other restrictions (Article 22). Provisions related to anti-corruption screening are also provided in other legal acts.⁴⁷

The procedure of screening. The Minister of Justice approved the methodology for conducting anti-corruption screening developed based on the international practice. According to this methodology corruption factors that give the law enforcer unjustifiably wide scopes of discretion or the possibility for unjustified use of exceptions to the general rules are:

- The breadth of discretionary powers (authority of an official, from the content of which it is impossible to define the limits of such authority), where there is no timeframe, conditions or grounds for the decision, or the timeframe, conditions or grounds for the decision are uncertain, or there are overlapping powers of state bodies (their officials);
- Presence of norms in drafts, which create the possibility of different or varying interpretations, including norms that do not have a specific mechanism for their implementation;
- Unreasonable definition of powers with the phrase "has the right to", that is, creating the possibility of specific actions with respect to citizens and organizations at the discretion of state bodies (their officials);

⁴⁷ The Law of the Republic of Uzbekistan on the Procedure of Preparing Draft Laws and Their Presentation to the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan, dated October 11, 2006, No. ZRU-60; Resolution of the President of the Republic of Uzbekistan on Measures for Further Improvement of the Activities of the Ministry of Justice of the Republic of Uzbekistan dated August 23, 2011, No. PP-1602; Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 469 on Measures to Provide Legitimacy of Regulatory Acts of Ministries, State Committees and Agencies, dated October 9, 1997; Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 62 on the Procedural Rules of the Cabinet of Ministers dated February 14, 2005; Order of the Minister of Justice of the Republic of Uzbekistan on Approving Instructional Guidelines on the Procedure of Preparing, Legal and Technical Presentation and Conducting Legal Review of Draft Legal Acts Presented by State Administration and Management Bodies and Local Authorities to the Cabinet of Ministers of the Republic of Uzbekistan, registered on April 9, 2012, under No. 2352); Order of the Minister of Justice of the Republic of Uzbekistan on the Approval of the Instruction on the Procedure of Preparing, Legal and Technical Presentation and Conducting Legal Review of Draft Legal Acts Presented by Local Authorities, registered on February 1, 2013, under No. 2420; Order of the Minister of Justice of the Republic of Uzbekistan on the Approval of Rules for Preparing and Adopting Departmental Regulatory Legal Acts, registered on February 28, 2014, under No. 2565.

- Selective changes to the scope of rights, i.e. creating the possibility for making unjustified exceptions to the general rule for the citizens and organizations at the discretion of the state bodies (their officials);
- Excessive freedom in making subordinate rules, i.e. the presence of blanket and reference rules, leading to the adoption of by-laws, infringing on the competence of the state body that made the original legal act;
- The adoption of legal acts by government bodies that do not have the authority to adopt such acts;
- Establishing mandatory rules of behaviour in the by-law when there is an indication in the law that the relevant public relations should be regulated by the act itself;
- Departure from competition (auction) procedures for granting relevant rights (powers) towards fixed administrative procedures for granting such rights (powers).

As a result of anti-corruption screening, an opinion is made and sent to the body that made the corresponding draft legal act. Such body is obliged to review the relevant provisions of the draft, or to prepare justifications in case of disagreement. Having said that, in case if corruption-fostering factors are found in the departmental normative legal acts, such acts are rejected from state registration. For example, only in 2014, the state registration of 5 departmental normative legal acts was rejected due to the presence of provisions that create conditions for corruption.

Uzbekistan indicates that the requirement for anti-corruption screening at the stage of drafting legal acts has already shown a positive impact on the legislative process.

Uzbekistan stressed that all of the legal acts developed in the country were subjected to the Ministry of Justice's anti-corruption expertise. During 2012-2014 the Ministry of Justice and its territorial bodies carried out legal examination of **7186** draft legal acts. As an example of the effectiveness of the established mechanism one can say that in 2014, the state registration of 5 acts was rejected due to the presence of provisions that create conditions for corruption.

In addition, employees of the Ministry of Justice also provide anti-corruption expertise on the **existing** legal instruments. For example, during 2012-2013, 384 laws of the Republic of Uzbekistan (1992-2012) were subjected to a critical analysis on the presence of reference rules that are not supported by legal mechanisms of implementation. The analysis revealed a number of standards in the effective legislation, the execution of which is constrained due to lack of implementation mechanisms, relevant sub-regulations or other acts. Thus, 136 reference rules were identified in 60 laws (the wording "in the prescribed manner", "in accordance with the law", "in the manner prescribed by law"), which have not been further elaborated in the sub-legal acts. As a result of this work provided a Resolution No. PP-2003 of the President of the Republic of Uzbekistan was developed and adopted on July 15, 2013, *On Approval of Plans for the Development of Legal and Other Acts Aimed at Implementing the Reference Rules of the Laws*. The results of anti-corruption screening are **not published**.

Further Uzbekistan indicates the initiative on the **assessment of impact of legislative acts** on entrepreneurial activity starting from January 1, 2015, in accordance with the Resolution of the Cabinet of Ministers No. 328 dated December 2, 2014, *On Measures to Implement the System of Impact Assessment of Legislative Acts on the Business*. The procedure requires the developers of draft legal acts

that have an impact on business, to assess by discussing such drafts on the single portal of interactive government services my.gov.uz (from May 27 of this year, this part was also transferred in the test mode to a separate site – regulation.gov.uz). Developers consolidate the proposals of panellists and post relevant information on their acceptance or justification of their rejection on the single portal.

Simplification of Regulation

Considerable progress has been made by Uzbekistan in the process of simplifying regulation. Uzbekistan notes that in the period of 2012-2014, more than 30 legal acts were adopted aimed at the simplification of regulation in different sectors. More than 160 or 44% of permit procedures have been cut, 25% of licensed activities were cut, statistical, tax and financial reporting forms and frequency for business entities were cut 1.5-2 times.

On June 21, 2013 the *Law on Licensing Procedures in Entrepreneurship* came into force. The adopted law lists the following basic principles of licensing procedures: ensure protection of the rights and legitimate interests of businesses, and the inadmissibility of establishing licensing procedures restricting competition. The document also provides for transparency, openness and clarity of licensing procedures, the uniform requirements to the procedure of issuing permits and the issuance of such documents under the principle of "one-stop-shop".

The Presidential Decree *On measures to ensure reliable protection of private property, small business and private entrepreneurship, the removal of barriers to their rapid development*, dated May 15, 2015, provides for, inter alia, the simplification of all kinds of registration, authorization and licensing procedures, procedures for the implementation of foreign economic activity, and identifies 12 areas for activities.

During the visit, the non-governmental bodies praised the work of the state towards simplification of regulation. Uzbekistan's rating of in the World Bank's "Doing Business" index is gradually improving (2015 - 141; 2014 - 146; 2013 - 154; 2012 - 166; 2011 - 150).

Additionally, the developments in the area of public service delivery should be highlighted. Under the Decree of the President of Uzbekistan of 28 September, 2015, №ПП-2412 on Measures for further overhauling of the regulations of service delivery for the entrepreneurs the one shop stop centres are being created.

E-government

A comprehensive program of developing the national information and communication system of the Republic of Uzbekistan for 2013-2020, approved by the Decree of the President of the Republic of Uzbekistan, *On measures for further development of the national information and communication system of the Republic of Uzbekistan*, dated June 27, 2013 includes tasks such as the provision of the population with the possibility to exercise relations with public authorities in an electronic form, the implementation of the principle of "one-stop-shop" in the system of governance. The program also sets out the activities to create complex information systems and databases for the "electronic government" system. To evaluate the effectiveness of the proposed measures for the implementation of the "Electronic

government" system, targets and indicators in different areas and fields of interactive government services have been set.⁴⁸

During the visit, the Uzbek authorities have provided the Monitoring Group with information on achievements and plans in this direction. E-government services and contemporary initiatives aimed at the openness of government agencies deserve a special highlight.

Open data portal data.gov.uz was launched in the framework of the Governmental portal of the Republic of Uzbekistan. The portal allows accessing information in a machine-readable format, with the possibility of its multiple, free use without payment. Ministry for the Development of Information Technologies and Communications of the Republic of Uzbekistan is responsible for the creation and development of the open data portal of the ROU. Heads of state and economic management bodies, local public authorities are personally responsible for the timely delivery and accuracy of the information posted on the open data portal of the Republic of Uzbekistan. The portal serves as a single point of access for users and allows **feedback** from the users to suppliers of public data on the relevance of posted open data, consideration of proposals for the publication of new open data, and improvement of user experiences in the receipt of open data, ensuring transparency of state bodies and enabling users to take effective economic decisions using open data placed on the Portal. Currently the portal already has data sets available.

Legislation portal lex.uz. Free access without payment to the national database of legislation is provided through the Internet. Currently, the portal includes more than 31 thousand acts of legislation. Systematic updating of the legislation is ensured. Every day, its services are used by more than 5-6 thousand people, including through mobile phones. The Monitoring Group and the OECD Secretariat used the portal in the course of work on this report. Indeed, the portal allows easy search and access to the legal framework.

Unified portal of interactive government services my.gov.uz. A single portal of interactive government services has been launched, which allows, inter alia, requesting electronic information from more than 600 government bodies and agencies, as well as from their structural and territorial divisions in regions. Services are monitored by the state and economic management bodies and local public authorities on a quarterly basis, with subsequent presentation of information to the Cabinet of Ministers. Currently, public authorities provide more than 600 online government services through the Government Portal of the Republic of Uzbekistan (www.gov.uz). There is MyGov application for mobile phones.

The task of building and constant technical support of a special section on the **Single portal of interactive government services** to discuss developed drafts of regulatory and legal acts, and the introduction of a mechanism for evaluating the impact of legislative acts on the business environment is achieved by running a special section on the single portal.

A system to discuss the drafts of developed regulatory and legal acts and assessment of the existing regulations affecting business was launched on the single portal. General public and business entities can take part in the discussion of the development drafts and adopted legal acts covering entrepreneurship. Comments and suggestions of users left on the single portal are considered by state bodies. Additionally, users can participate in the evaluation of the impact of already existing regulations on business activities by filling out a special questionnaire posted on the portal.

⁴⁸ Centre for developing "Electronic Government" system http://www.egovernment.uz/ru/about_center/done_work/

The portal of government programs (<http://programms.gov.uz>), which serves as a tool for transparency of government agencies, and regulation.gov.uz, through which it is possible to discuss the regulatory and legal acts, should also be noted.

State authorities pay special attention to the creation of the mutual electronic exchange of information, and full transition to an electronic system of operation. For example, in 2014 a new version of the official website of the State Tax Committee was put into operation, which hosts a large number of electronic services and interactive services to citizens and businesses. The approved list of public services rendered by the State Tax Service includes 65 items, of which 63% is currently available in an interactive form. In addition to the 10 basic online state services, on its own initiative the STC introduced another 49 kinds of online public services, and to date, 59 kinds of interactive state services are rendered to businesses and the public on the official website.

Administrative Procedural Regulations

A draft Law on administrative procedures has been developed by an expert group, which includes representatives of various agencies. The draft is at the development stage, during which a variety of events are taking place. Results of the study, prepared by the Expert Group, have been issued in the form of analytical materials, which are used in the development of this draft. The draft law was presented to the monitoring group; it appears that it includes necessary elements of the administrative procedural law. The monitoring group has not had the opportunity to review the draft law in detail. The draft law is assessed positively by representatives of international organizations, which the monitoring group had interviewed. Representatives of government agencies made it clear that the initiation of the draft law to the legislative body is scheduled for the fourth quarter of 2015. Additionally, Uzbekistan informed that comments from 50 institutions have been received on the law on administrative procedures and the public hearings are held. The draft was published on the web-page of the Ministry of Justice and the unified Government services portal. The draft is currently agreed with the interested ministries and agencies and is finalized by the Special Commission created for the elaboration of the draft normative acts.

Conclusions

Uzbekistan carried out commendable measures to introduce e-government in the system of public administration. Tangible progress has been made in the process of modernization and e-government. Uzbekistan is currently well advanced in this regard. Good practices of Uzbekistan could become a positive example for other countries in the network. These include the work on electronization of services and implementation of electronic government portals, in particular, the open data portal, legislation and government services portals. At the same time, it would be advisable to consider the possibility of consolidating multiple portals under one. This approach would allow the state to save resources, and the public to make better and easier use of them.

Further simplification of regulations, increase in transparency and efficiency of public services could lead to significant improvements in governance. It is recommended to continue the work on the administrative reform that would allow for the simplification and minimize the discretion in rendering services to natural or legal persons.

Anti-corruption screening of legal acts is performed regularly. However, the screening results are not published. Uzbekistan has developed the draft *Law on Administrative Procedures*. It is recommended to swiftly proceed with the adoption of this law.

In Uzbekistan, the legislative process is fairly well-developed. However the legislation is oversized with the number of the secondary legislation acts. Systematic approach and introduction of the primary legislation in many areas would contribute to the higher quality of legislation. Regulatory Impact Analysis of the draft laws (RIA) in Uzbekistan is not practiced.⁴⁹ It is recommended to move to the next level of legislative drafting and introduce RIA at least in the process of elaboration of major draft legislation.

Uzbekistan is fully compliant with recommendation 3.3.

New recommendation 16

- ***Adopt the Law on Administrative Procedures based on best international practice.***
- ***Ensure regular publication of the generalized results of the anti-corruption screening of legislation.***
- ***Continue implementation of e-government tools to reduce direct contact between users of public services and state bureaucracy and to reduce corruption risks.***
- ***Take further steps to ensure transparency in the public administration, including the by intensifying efforts to increase transparency in areas of risk, including the tax and customs systems.***
- ***Ensure further simplification of all kinds of registration, authorization and licensing procedures, on the basis of the developed methodology.***
- ***Ensure introduction of Regulatory Impact Analysis (RIA) in the legislative process (at least for the most important laws – specify categories).***

⁴⁹ See Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA) <http://www.oecd.org/gov/regulatory-policy/50240574.pdf>; for comparative analysis of the best practices of OECD countries see: <http://www.oecd.org/gov/regulatory-policy/35258828.pdf>

3.4 State Financial Control and Audit

Recommendation of the first and second rounds of monitoring

Introduce anti-fraud and anti-corruption audits in the scope of activities of the Accounts Chamber of the Republic of Uzbekistan.

Ensure transparency of public expenditure via adopting rules setting mandatory requirement to make this information public.

Create internal audit units in executive bodies. Ensure operational independence of the internal control units. Set unified regulations for the performance of internal control units acting in different state bodies, organizations.

Provide trainings in the field of corruption and fraud detection to the auditors of the Accounts Chamber, employees of structures carrying out internal audit.

The legal system of Uzbekistan uses the notion of state financial control. The bodies of state financial control in Uzbekistan are the Accounts Chamber, Ministry of Finance and its authorized subordinate bodies. State financial control is carried out in the form of audits, inspections and investigations.

In contrast to the traditional approach based on control and inspection, where the goal is the identification of specific cases of violations in the light of the rule of law and compliance, the modern model of the state internal controls (financial management and internal audit) is aimed at assessing the effectiveness of the system for the identification and prevention of risks, and its work is checked by an independent supreme body of state external audit.⁵⁰ It is believed that the establishment of such modern system of internal control is an effective measure to prevent corruption and fraud.⁵¹

State Financial Control

Main Control and Revision Office (GlavKRU) of the Ministry of Finance of Uzbekistan is engaged in auditing financial and business activities. Uzbekistan provided information on the role of GlavKRU in the fight against corruption. During the visit to Uzbekistan, the monitoring group was informed about the audits and inspections by GlavKRU and its territorial divisions, during which signs of corruption and fraud are systematically identified.

Table 2. GlavKRU and its territorial units Controls and Inspections, 2012-2014

Year	Total Controls and Inspections	Controls and Inspections with Signs of Corruption and Fraud
2012	14319	3482
2013	17375	5566
2014	18151	4170

Source: Ministry of Finance of the ROU

⁵⁰ Main source of international standards on this issue - INTOSAI Guidelines for Internal Control Standards for the Public Sector, http://www.issai.org/media/13329/intosai_gov_9100_e.pdf

⁵¹ European Commission, Public Internal Financial Control, http://ec.europa.eu/budget/library/biblio/documents/control/brochure_pifc_en.pdf

Also, according to the results of the audits and inspections letters are sent indicating the violations and shortcomings to ministries and agencies to take appropriate action. During the visit, a representative of the Ministry of Finance pointed out that such prescriptions are always fulfilled and very often they are talking about corruption.

GlavKRU and KRU also receive complaints and suggestions from citizens and legal entities, including the problems of corruption. GlavKRU and KRU always check the facts and information about corruption mentioned in such appeals. Audit results are systematically reported to the Minister of Finance. GlavKRU and KRU's efforts on the fight against corruption are periodically published in the print media.

The Accounts Chamber of Uzbekistan and its Role in the Fight Against Corruption

The Constitution of Uzbekistan does not contain a separate article on the Accounts Chamber, including on its independence. The Constitution states only that the head of the Accounts Chamber shall be appointed by the President with the consent of Senate of the Parliament. There is not a separate law on the Accounts Chamber either.

Accounts Chamber of Uzbekistan was established based on the 2002 Decree of the President of the Republic of Uzbekistan No. UP-3039 *on the Establishment of the Accounts Chamber*. The Regulation on the Audit Chamber was adopted on April 4, 2005 in the form of an appendix to Decree No. UP-3592 *On improvement of activity of the Accounts Chamber*. In accordance with this Regulation, the Chamber of Uzbekistan is an independent Supreme Audit Institution, which oversees the intended and effective use of the state budget. Accounts Chamber of Uzbekistan is accountable to the President and the houses of the Parliament.⁵² The Regulation also lists tasks, functions and powers of the Accounts Chamber. There is also an internal document - Rules of the Accounts Chamber.

At the same time, the International Organization of Supreme Audit Institutions INTOSAI standards suggest that the independence of a Supreme Audit Institution is provided by its constitutional status and a separate law.⁵³ During the visit to Uzbekistan it was indicated that a consolidated law on the Audit Chamber may be adopted in 2016.

Based on the audit results, the Accounts Chamber issues binding instructions to the relevant ministries, agencies and local authorities. In general, as indicated by Uzbekistan during the visit, the Chamber is a strong public authority and its opinion is valued. Regarding the availability of information on the findings of the Accounts Chamber, it would be useful to publish on the website of the Accounts Chamber information on its audits and the annual reports of the Accounts Chamber.

After the first and second rounds of monitoring two new steps can be noted, namely the new Rules of the Accounts Chamber of the RoU have been approved by order of the Accounts Chamber of the Republic of Uzbekistan No. P-23 on 9 March 2012, as well as on 20 December 2014 a Code of Ethics for employees of the Accounts Chamber has been adopted.

Introducing system of controls and inspections to detect fraud and corruption by the Accounts Chamber. The new Rules of the Accounts Chamber of Uzbekistan approved on 9 March 2012 take into account this OECD recommendation. In particular, they introduced Article 33 of the Rules of the Accounts

⁵² For example, The Accounts Chamber Reports on 2014, http://news.uzreport.uz/news_5_r_129549.html

⁵³ See clarification in an INTOSAI document

http://www.intosai.org/fileadmin/downloads/downloads/4_documents/Folder_English_2012.pdf

Chamber *Selected issues of combating corruption and fraud*. According to Uzbekistan, this article introduces a system of audits (controls and inspections) to identify fraud and corruption. After the analysis of this article, it can be concluded that the Rules establish the obligation of the Accounts Chamber to identify elements of corruption and fraudulent offences in the framework of their inspections. In addition, with respect to corruption, the Rules include measures of explanatory nature / propaganda work by the Accounts Chamber (see Box 2). It should be noted that Article 33 explains in detail the characteristics of a fraud, with the purpose of helping uncover it during audits of the Accounts Chamber, but nevertheless the signs of corruption are not detailed, which can be an obstacle in the identification of corruption by inspectors of the Accounts Chamber.

Box 2. The Rules of the Accounts Chamber. Excerpts from Article 33 “Certain Issues of Combating Corruption and Fraud”

“The Accounts Chamber and its inspectors shall constantly be involved in activities to combat corruption and fraud in the following ways:

conduct **promotional work** on combating corruption and fraud at the inspection object by distributing leaflets and posters of the Accounts Chamber, containing an explanation of the rights and responsibilities of those who are being inspected and inspectors, listing main provisions of the UN Convention against Corruption, as well as other posters and leaflets of the Accounts Chamber, denouncing corruption and fraud;

anonymous **survey of the management and employees** of the inspected object on the professional qualifications and ethics of employees of the Accounts Chamber using special Accounts Chamber anonymous questionnaire;

identifying during audits signs of offences of corruption or fraudulent nature;

transmission of inspection materials, containing elements of the offences of corruptive and fraudulent nature to the law enforcement authorities in an order established by the present rules;

prevention of violations of corruptive and fraudulent nature through seminars, "round tables" and other activities aimed at explaining to a wide range of people, including management and senior officials of the inspected objects, on the main irregularities and shortcomings, as well as ways of their elimination and prevention in future.”

During the visit, a representative of the Accounts Chamber confirmed that indeed special inspections on fraud and corruption are conducted, in collaboration with law enforcement authorities. During the visit, the monitoring group was provided examples of schemes of corruption and fraud identified during the audits of the Accounts Chamber. One of such schemes entailed illegal issuance of permits for the collection and export of wild plants, which revealed collusion of private enterprises, the State Committee for Nature Protection and the local customs authorities. Other area – it is the issuance of counterfeit diplomas by universities. During the visit, representatives of Uzbekistan reported favourably on such audits conducted by the Accounts Chamber, that based on this example with universities within the Ministry of Higher and Secondary Specialised Education the register of valid university diplomas has been created. Also, it was noted that it was the Accounts Chamber, which has identified problems within the State Committee for Nature Protection after years of lack of reforms.

Since the previous report, the number of joint inspections on violations with corruptive nature, by the Accounts Chamber in cooperation with the law enforcement agencies has increased: in 2012 such inspections were conducted at 73 objects; in 2013 and 2014 – at 100 objects per year.

The materials of audits conducted by the Accounts Chamber itself, with signs of corruption crimes, are also transmitted to law enforcement agencies for legal evaluation and actions to compensate for damages. Comparative statistics is not available.

It should be noted that the previous report also mentioned Article 6 of the Law on Prosecutor's Office, according to which the prosecutor may request the Accounts Chamber to conduct an inspection. According to Article 69 of the CPC of Uzbekistan, which is entitled *Specialist*, an inspector of the Accounts Chamber can be called to assist the inquirer, investigator, prosecutor or the court during investigation or trial.

As stated above, the Accounts Chamber of Uzbekistan participates in the anti-corruption propaganda. The same about Uzbekistan is also mentioned in a recent OECD Anti-Corruption Network study *Prevention of corruption in the public sector in Eastern Europe and Central Asia*.⁵⁴ On an annual basis, the Accounts Chamber publishes 100 copies of various posters of promotional nature, aimed at preventing and fighting corruption and fraud, and disseminates them to the organizations audited by the Accounts Chamber. The Accounts Chamber also prepares 4 types of leaflets of 500 copies each, intended for employees of organizations audited by the Accounts Chamber, which list the basic rights, powers and responsibilities of those who are being audited and those who are auditing, on the basis of the current legislation of the Republic of Uzbekistan and the UN Convention against Corruption. In addition, the booklets list hotline numbers, to call to report illegal actions of employees of the Accounts Chamber, or to communicate important facts concerning employees of the audited organizations.

Table 3. Activities of the Accounts Chamber on Detecting Fraud and Corruption, 2012-2014

Indicator	2012	2013	2014
Total inspections tasked with detection of signs of fraud and corruption	73	241	144
Total cases initiated on the grounds of fraud and corruption	41	81	87
Total officials against whom cases were initiated on the grounds of fraud and corruption	105	262	137

Source: Accounts Chamber of the RoU

As a closing remark, it could be noted that that the Accounts Chamber, in accordance with the *Law on financing of political parties*, controls the receipts and the intended use of the funding and other resources by political parties. The more details are available in Section 3.7. *Political corruption*.

Introduction of Internal Audit in Public Institutions

As during the previous round of the monitoring, the system of internal public audit in the Republic of Uzbekistan has not yet been introduced, and no internal audit units have been set up in public institutions.

During the visit to Uzbekistan, the monitoring group learned about a system of risks developed within the Treasury. Also on the basis of the order of the Ministry of Finance of 26 December 2012, the position of treasury operations control specialist was reduced in the district (city) departments of the territorial treasury offices, which since January 1, 2013 was included in the structure of the Treasury territorial departments themselves and converted into treasury operations control department.

⁵⁴ OECD (2015), *Prevention of Corruption in the Public Sector in Eastern Europe and Central Asia*, see full report at <http://www.oecd.org/corruption/acn/ACN-Prevention-Corruption-Report.pdf>

During the visit, examples of entities were given that, in the opinion of Uzbekistan, have similar functions to the internal audit: within the Tax Committee there is a special control department, which deals with specific violation cases, Functions Inspection Directorate of the Chief Customs Committee and other structural units that contribute to the identification of corruption risks.

The monitoring group reminds that as already mentioned above, the internal audit, in accordance with INTOSAI standards and best practices, is a part of the internal controls system. Internal audit, as opposed to control and inspection, is not engaged in the suppression of offences, but advises the public authority's management on the construction and operation of the managerial and operational control systems, including anti-corruption controls.

The monitoring group calls on Uzbekistan to explore the modern system of internal controls, of which a part is the internal audit; it would also be useful to study the experiences of other countries participating in the Istanbul Action Plan and international standards and to consider its introduction in Uzbekistan.

Anti-corruption Training in Accounts Chamber

During 2012-2015, the Accounts Chamber held 16 workshops and training seminars for its employees on the subject of improving practical mechanisms for identifying cases of corruption during inspections. In particular, in July 2013, the Accounts Chamber held a seminar, *Practical measures against corruption: the need for further improvement of the legislation in this direction*. It remains unclear whether there were any practical courses on identifying corruption conducted in 2012 for the Accounts Chamber employees themselves.

A number of activities were conducted to improve the skills of the financial workers in detecting corruption cases.

In May 2013, inspectors of the Accounts Chamber made presentations at the training seminar dedicated to the improvement of public procurement and the fight against corruption, organized jointly by the General Prosecutor's Office and the Treasury for the employees of financial bodies and budget organizations.

In 2013 and 2014, a separate subject to raise awareness of the fight against corruption was included in the two-week course for training and retraining of financial workers. This included teaching the methodology of detecting corruption cases. These were attended by employees of the Treasury, Financial Management, Audit Office, as well as reserve personnel. In 2013, 1792 students were covered, in 2014 – 1140 students.

In 2015, it is planned to train 217 groups of 62 categories of financial and treasury employees.

Transparency of Public Expenditure

In the previous report Uzbekistan was recommended to continue to work to ensure transparency in public spending, and in particular to make a timely disclosure of full and accurate information on budget revenues and expenditure. It was recommended to take advantage of the guidance of the OECD Best Practices for Budget Transparency.⁵⁵

⁵⁵ OECD Best Practices for Budget Transparency, OECD Journal on Budgeting, Vol. 1 (2001/2002), <http://www.oecd.org/dataoecd/33/14/1905266.pdf> (in Russian); <http://www.oecd.org/dataoecd/33/13/1905258.pdf> (in English)

Requirements for the official websites of state and economic management bodies, local public authorities, as well as the list of indicators used to determine the state of development of information and communication technologies were introduced with the Cabinet of Ministers Resolution No. 355 dated December 31, 2013, *On measures for the implementation of the evaluation system the state of information and communication technologies in the Republic of Uzbekistan*. The list of information required to be posted on the official website of the Ministry of Finance (<https://www.mf.uz/mf-resources-menu/mf-state-budget-menu.html>) (Order of the Ministry of Finance dated March 19, 2014, No. 28) was approved.

But in particular, a new Budget Code of the Republic of Uzbekistan was adopted, which entered into force on January 1, 2014 (amended on September 4, 2014). In order to ensure transparency of the budgeting process, Article 17 of the Budget Code provides:

- Openness to the public and the media of procedures to review and adopt the state budget and the budgets of the state trust funds;
- The publication of information on the approved state budget and budgets of state trust funds in the media and on the official website of the Ministry of Finance of the Republic of Uzbekistan;
- Publication in the media, as well as posting and updating on the official website of the Ministry of Finance of the Republic of Uzbekistan, of information on the execution of the state budget and budgets of state trust funds.

Uzbekistan indicates that the requirement of Article 17 of the Budget Code of the principles of transparency is observed by broadcasting on national television and in the press the course of consideration and adoption of the state budget and budgets of state trust funds. Parameters of revenues and expenditures of these budgets, as well as reports about their use are published in the media, electronic informational resources, and on the official website of the Ministry of Finance.

In addition, in order to prevent corruption, violations in the area of accounting, abuse of office and theft, as well as to further strengthen control over intended and effective spending of budgetary funds, the Ministry of Finance and budget organizations have implemented a software system called *UzASBO*. From January 1, 2014, all budget organizations do their accounting and reporting in this system. *UzASBO* allows for electronic exchange of accounting documents and reporting without personal contact of representatives of budget organizations and members of the Ministry of Finance.

Conclusions

In general, it is positive that GlavKRU and the Accounts Chamber in their inspections and audits are systematically identifying signs of corruption and fraud, and that information is afterwards transmitted to law enforcement agencies, as well as imposing requirements, which, per the impression of the monitoring group, are in practice taken into account and executed. An important step was the introduction of amendments to the Rules of the Accounts Chamber, pursuant to this recommendation, which resulted in the Accounts Chamber auditors being required to identify, as part of their control activities, signs of corruption and fraud, and such inspections are carried out in practice. Nevertheless, it is important to provide a clear explanation of the signs of corruption, with the purpose to stimulate their identification, as is already done with the signs of fraud. From 1 January 2014 the new Budget Code came into force, which envisages increased transparency of the budget process. At the same time, the system of the internal public audit has not yet been introduced in the Republic of Uzbekistan.

Uzbekistan is largely compliant with recommendation 3.4.

New recommendation 17

- *Analyse international standards and best practices in developing internal control systems and public sector audit and use this analysis for further developments in this area in Uzbekistan.*
- *Consider the introduction of a modern system of internal financial controls, including internal audit.*
- *Provide explanation of signs of corruption for the Accounts Chamber staff that performs inspections with the objective to identify signs of corruption, for example, in the Rules of the Accounts Chamber.*
- *Provide practical training of the personnel of the Accounts Chamber and GlavKRU, who conduct inspections, on the signs of corruption and methods of its detection.*

3.5 Public Procurement

Recommendation of the first and second rounds of monitoring

Review the existing public procurement legislation by introducing provisions that will ensure transparency at all stages of procurement process; expand the use of competitive procedures; ensure that single-source and emergency procurements are based on law and properly controlled.

Set clear regulation in regard to the review mechanism by public authorities to establish an independent and effective complaint procedure. Establish an independent public procurement review body competent to review appeals filed by participants of the tendering procedures, introduce a “freezing period” for the results of tenders to allow for filing of complaints. Adopt provisions stating that the eligibility criteria for bidding in the public procurement include the absence of a history of corruption. Create a register (black list) of debarred entities.

Provide anti-corruption training to the staff of the bodies responsible for public procurement. Ensure statistical information and analysis of data on procurement values, methods, complaints and other relevant information.

Regulation of Public Procurement in Uzbekistan

Today the issues of public procurement are governed by the norms of the Civil Code, the Budget Code, a number of Decrees of the President of the Republic of Uzbekistan, Resolutions of the Cabinet of Ministers, etc. The main normative documents regulating the procedure of public procurement is the Resolutions of the Cabinet of Ministers 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 system of competitive bidding in capital construction*. Of great importance is Presidential Resolution No. PP-1475, *on the optimization of the public procurement system and expanding it to include small business entities*, Resolution of the Cabinet of Ministers No. 100, *on measures to improve the legal framework for the organization of public procurement*, and others. In this way, public procurement is regulated by various legal acts.

At the same time, in part because there is no single body with regulatory, supervisory and coordinating powers in the field of public procurement, there is no single approach, and not all stages and aspects of public procurement are governed. Furthermore, the above mentioned legal documents are poorly coordinated with each other and contain gaps.

Upon realistic assessment of the weaknesses of the existing system, currently Uzbekistan is conducting a serious and a large amount of work with the purpose to improve the legislative framework of public procurement. *The concept for the development and improvement of public procurement system in the Republic of Uzbekistan during 2015-2025* and the draft *Law on public procurement* have been developed, and a number of the aforementioned subordinate acts that are currently regulating government procurement, are being regularly reviewed.

The above draft documents were extensively discussed with experts of concerned ministries and agencies, procurement organizations and consulting companies. Currently, the draft documents are at the stage of finalization. Adoption of the Concept is planned for the end of 2015. The draft *Law on Public Procurement* is planned to be completed over the next six months, and to be presented to the Parliament in early 2016.

The monitoring group welcomes the work undertaken by Uzbekistan for the development of these drafts, and notes that the adoption and implementation of the above-mentioned Concept and Law will help significantly reform the entire system of public procurement through the improvement and strengthening of the institutional, regulatory and methodological framework, including better compliance with the international standards and best practices.

As part of the joint projects of UNDP and the World Bank with the Ministry of Finance of the Republic *Budget System Reform in Uzbekistan* and *Improving the system of public procurement*, respectively, practical, methodological and financial support for these important initiatives of Uzbekistan is being provided.

After reviewing the draft *Concept for the development and improvement of public procurement* it can be concluded that the document provides for: 1) improving the legal and regulatory framework of public procurement; 2) institutional strengthening of the system; 3) further computerization (automatisation) of procurement process; 4) planning, funding and monitoring of procurement; and 5) implementation of measures related to organisational-technical, technological and staff issues. All these measures can also help to increase integrity and transparency in government procurement. The draft is based on the principles of a model UNCITRAL law.

The draft provides for the creation of a framework law that will establish the basic concepts and principles of public procurement, the powers of government agencies, the stages of procurement, procedure for appeals, monitoring, etc. This law involves the development of a number of subordinate acts and documents that will detail the regulation of various aspects of procurement and that will significantly improve, will streamline and simplify the legal framework of procurement.

In addition, the questionnaire responses of the third round of monitoring list some other legislative initiatives in public procurement during the period of 2013-2015: the procedure for using electronic trading on the Commodity Exchange and publication of information about the upcoming procurements organized by the Uzbek Republican Commodity Exchange, including for natural monopolies and state enterprises, on the portal of the Uzbek Republican Commodity Exchange and the newspaper *Birja*; the

organization and execution of e-procurement; the procedure of procurement of essential goods (works, services) through the electronic trading. The *Law On E-Commerce* was adopted on 22 May 2015.

Moreover, a number of government decrees on procurement are being revised. The following are examples of the revision of legal acts:

- The main resolution used in public procurement – Resolution No.456 was revised, amended in 2012 (5 times); 2013 (1); 2014 (2); 2015 (4 times) to bring it into line with the new requirements in the procurement, in particular in e-procurement;
- Resolution of the Cabinet of Ministers No. 69 of 26 March 2015, *On approval of the procedure for organizing public procurement of essential goods (works and services) from businesses through electronic trading on the special information portal of the Uzbek Republican Commodity Exchange*;
- Resolution of the Cabinet of Ministers No. 166 of June 11, 2013, *On additional measures to improve the process of public and corporate procurement*;
- Resolution of the President the Republic of Uzbekistan No. 1948 from April 5, 2013 *On the optimization of the public procurement system and expanding it to include business entities*;
- Resolution of the Cabinet of Ministers No. 260 of September 6, 2012, *On the Approval of the Regulation on the order of organizing and holding electronic auctions lowering the starting price at the Uzbek Republican Commodity Exchange in the new edition*.

In any future work on the reform of public procurement, which is being carried out in Uzbekistan, it is important to take into account main international standards and best practices in this area. In particular, the OECD has developed a set of principles and summarized best practices of OECD member countries in the field of public procurement, including the OECD Principles of 2008 for enhancing integrity in public procurement.⁵⁶ The OECD Principles emphasize such basic principles as transparency at all stages of the cycle of public procurement; competition in order to ensure equal treatment of all parties interested in the procurement process; efficiency of public procurement to achieve public policy objectives; transparent dialogue with partners (suppliers, business associations); modernization of procurement processes including through e-procurement; evaluation of the effectiveness and results; and integrity by encouraging high general standards, the use of different practical integrity tools, and the availability of regular training for procurement specialists, and so on.

Article 9 of the UN Convention against Corruption stipulates that in public procurement and management of public finances, Member States shall take the necessary measures to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making and are effective in preventing corruption. The UN Convention against Corruption highlights four major requirements for public procurement: 1) public dissemination of information; 2) establishment, in advance, of the terms of purchase and their publication; 3) clear criteria for decision-making on public procurement and effective internal control and appeals; and 4) the requirements regarding personnel responsible for procurement, including declaration of interest and professional training.

⁵⁶ See <http://www.oecd.org/gov/ethics/public-procurement.htm>

It is encouraging that these principles are incorporated in the Concept of further development of public procurement during 2015-2025, and in the draft *Law on Public Procurement*. Accordingly, they should also be reflected in the subordinate regulations.

Review Mechanism and Independent and Effective Complaints Procedure

The Government Commission on public procurement under the Cabinet of Ministers was established on February 7, 2011 by Presidential Resolution No. PP-1475. Its duties include:

- implementation of systematic control over intended use of the funds from the state budget and other centralized sources, as well as compliance with the legislation on public procurement;
- continuous monitoring of the efficiency of public procurement, development and adoption of necessary measures for its improvement;
- creating favourable conditions for active and large-scale involvement of small businesses in the process of public procurement; and
- contribute to the professional development of representatives of all entities involved in the tender and the stock exchange bids, the introduction of international norms and standards.

In addition, the Commission should monitor the processes of procurement and initiate the development of draft legal acts regulating public procurement process, and aimed to improve access for small and medium-sized businesses to be awarded government contracts to supply goods (works, services), ensure openness, transparency and a competitive environment.

In response to the third round questionnaire it was also stated that the **Accounts Chamber** has the function of control. In the course of its audits to verify the execution of the state budget it focuses on public procurement. As a result of the control measures by the Accounts Chamber, the Treasury and the Ministry of Finance are presented informational materials on the detected violations and deficiencies, including recommendations that are made on how to improve the transparency and openness in public procurement.

Also, according to the Regulations on the procedure for organizing and conducting electronic auction bidding to lower the starting price at the Uzbek Republican Commodity Exchange (UZEX), approved by the Cabinet of Ministers on September 6, 2012, No. 260, a **special commission on disputes and disagreements in public procurement** has been set up within the Uzbek Commodity Exchange and its objectives have been determined. It has the powers to consider such disputes on electronic public procurement *prior to the execution of contracts*.

The draft *Law on public procurement* and the draft subordinate regulations⁵⁷ **provide for new, more effective procedures for appeals**. In particular, Articles 32 and 34 of the draft Law establish the right of the bidders to appeal and the appeal procedure. By-laws and subordinate regulations should set forth a clear procedure for the submission and consideration of complaints. In addition, the Regulations on the procedure for conducting tender bids for public procurement of goods (works, services) provide a description of procedures on this matter.

⁵⁷ "Regulation on the Procedure of Conducting Tender Bids for Public Procurement of Goods (Works, Services)" (new edition) and "Regulation on the Competitive Selection in Public Procurement of Goods (Works, Services)"

Currently, a quite clear complaints system is designed and is functioning on the e-procurement portal. Disputes and disagreements on procurement issues are considered by the special commission set up by the Regulation of the Ministry of Finance and the Republican Commodity Exchange, *on the procedure for considering disputes and disagreements on matters of public and corporate procurement at the Uzbek Republican Commodity Exchange*. Its functions include, first and foremost, "the pre-trial settlement of disputes and disagreements between the parties of the electronic auction sale on issues related to public and corporate procurement and processing of their results." The Commission reviews the applications within five working days of receipt. In case of disagreement with the decision of the Commission, the parties have the right to go to court.

The government plans to further electronize public procurement on the basis of this portal. The current system is, according to the monitoring group, a good basis for a unified electronic system for appealing procurement. During the visit, Uzbekistan pointed to changes in the Civil Code in 2014, which resulted in an opportunity to suspend purchases, including due to complaints. This creates the possibility of suspending the public procurement and is a remarkable achievement in the field of improvement of procurement.

"Black List" of Unreliable Suppliers

Requirements to establish a register or "black list" of unreliable suppliers in Uzbekistan were already set out in the Government Resolution On Conducting Electronic Procurement of 1 April 2011 Nr. 100. Uzbek authorities informed that such "black list" has been created in 2012 and is available on the information portal of the Uzbek Republican Commodity Exchange. Starting from 2012, 484 suppliers of goods (works, services) have been included in the "black list". The monitoring team was informed during the on-site visit, that about 40 companies are right now on the portal's "black list".

Since 2013, companies included in the register of unreliable suppliers are not allowed to participate in tenders for 6 months, in accordance with the Regulations on the procedure for organizing and conducting electronic procurement, approved by the Cabinet of Ministers on 11 June 2013, No.166.

The functions of the above-mentioned Government Commission on public procurement also includes establishing the liabilities of suppliers for refusal or evasion from signing contracts or other breaches of the terms of trading, listing suppliers in the register of unreliable suppliers and removal of suppliers from the register of mala fide suppliers.

Anti-Corruption Training for Procuring Entities

Uzbekistan provided information about the training programs, a number of seminars and training sessions in 2013 and 2014; and developed training manuals. In 2013-2015, Training Centre of the Ministry of Finance organized training sessions for the Treasury by regions of Uzbekistan regarding procurement procedures, as well as on anti-corruption issues. Within the three years, seminars on participation in public procurement for small and medium-sized businesses were organized. To support e-procurement, for training in trading on the electronic portal, the Exchange had organized 184 trade points.

The monitoring group was given the Concept of a 2-day training seminar, *improving the public procurement system and combating corruption*. On this basis, a training seminar was held on May 22, 2013 for the staff of financial agencies involved in public procurement, entitled *Improving the public procurement system and ensuring transparency and openness*. The event was conducted by the Training

Centre of the Ministry of Finance and the Chamber of Commerce, with the participation of the General Prosecutor's Office and the Legislative Chamber. During the visit, it was noted that such seminars will also be held for budget organizations.

Analysis of Completed Procurements and Efficiency of Procurement System

During the visit, the monitoring group has been advised that the Treasury in the Ministry of Finance collects statistics on completed procurements, and there are some steps aimed at collecting and analysing the information, but a more comprehensive approach is required.

It is expected that in the future, the Treasury will carry out the functions of regulation and monitoring of public procurement. This means that the Department of Monitoring Procurement at the Treasury should be strengthened and should monitor and analyse public procurement. The existing capacity of the Department should be strengthened accordingly.

New Issues

Uzbekistan has a special information portal of the Uzbek Republican Commodity Exchange (UZEX) www.dxarid.uzex.uz for potential bidders, which contains information about the placement of state orders for the procurement of goods (works, services). According to UNDP analysis, the strength of the public procurement system in Uzbekistan is in the creation of a single information portal and in posting of all procurement announcements on it.

In addition the portal is used to purchase most of the goods and services not exceeding the equivalent of USD 100,000, by the state bodies and budget organizations. The system was examined by the World Bank and it was recommended for use in the Bank projects for small purchases. Regarding the requirements for the elimination of conflict of interest and ethical rules with respect to decision-makers in public procurement. Such requirements are provided in the *Regulation On the competitive bidding in capital construction in the territory of the Republic of Uzbekistan*, approved by the Cabinet of Ministers on July 3, 2003, No. 302. This revised Regulation fixed the above-mentioned fundamental requirements, but these principles should cover all types of state procurement. The *Law on public procurement* that is under development and the relevant subordinate regulations, if necessary, will legalize the issue of conflict of interest and compliance with the rules of ethics in a more systematic and more complete fashion.

The desire of the Government and concrete steps in the field of future electronization of procurement covers all types of procurement, provisionally called UzePS, will significantly improve the transparency, objectivity and integrity in public procurement. This will significantly address the issues of corruption because the human factor is considerably limited.

Conclusions

Uzbekistan has taken important steps to reform the public procurement system. The concept for the development and improvement of public procurement system for 2015-2025 and draft *Law on Public Procurement* have been developed. It is positive that these documents were widely discussed with experts. In addition, a number of subordinate acts on government procurement are being systematically reviewed. There is also progress in the consideration of disputes and disagreements on public procurement; a functional "black list"; anti-corruption trainings are being conducted for employees of purchasing organizations and for buyers. If the aforementioned Concept and the Law are adopted, it will

help strengthen the institutional, regulatory and methodological framework of public procurement, and these measures can also help to increase integrity and transparency in this area.

Uzbekistan is largely compliant with recommendation 3.5.

New Recommendation 18

- *Ensure soonest completion of the development, adoption and enforcement of the Concept of further development of the public procurement system during 2015-2025 and the Law on Public Procurement to provide the necessary transparency, clarity and fair operation of the entire procurement system and prevent corruption in procurement.*
- *Upon adoption of these fundamental documents, ensure the reform of the public procurement system; ensure compliance with basic international standards, in particular the OECD guidelines and UNCITRAL principles.*
- *Encourage the establishment of an independent, transparent and effective system and procedures to appeal for participants in public procurement.*
- *Expand e-procurement portal and register ("black list") of mala fide suppliers with the purpose of covering all government tenders. Further development of e-procurement should ensure greater transparency of procurement; minimize bureaucratic and subjective factors in the procurement, the organization of a unified database for statistical analysis of the results, all necessary parameters of the procurement.*
- *Enhance the capacity of the working body/Secretariat in the area of monitoring and analysis of public procurement.*

3.6 Access to Information

First and Second Round of Monitoring Recommendation

Ensure that legislation on free access to information limits discretion of officials in refusing to provide information; set precise definitions of the "state secret" or "other secret provided by the law".

Carry out campaigns to raise citizens' awareness about their rights and responsibilities in regard to the access to information regulations. Ensure systematic training of officers who are responsible to provide information to the public on the access to information.

Establish a unified electronic system of publication of information by public institutions, define the list of information to be published by them mandatory and ensure this publication including of all legislative acts, court decisions and information about state budget income and expenditure, including information about income from export and how it is used. Ensure free public access to this information.

Ensure a special agency or an existing body (for instance, the Ombudsman) is responsible for the enforcement of the access to information legislation, performs surveillance over the implementation of the regulations, independent review of complaints and can apply sanctions in this area.

Ensuring effective access of public to information should be an element of corruption prevention mechanism, since access to information is an important tool for authorities' accountability and corruption control. UN Convention against Corruption (Article 13) refers to it as one of measures to strengthen civil society participation in prevention and fight against corruption. The Convention also encourages to take measures to enhance transparency in public administration, particularly as regards organization, functioning and decision-making process (Article 10).

Access to information in Uzbekistan is regulated by the Constitution of Uzbekistan and two special laws. Article 29 of the Constitution declares the right of everyone to «seek, receive and disseminate any information, except for information aimed against existing constitutional system and other restrictions set by law». Article 30 of the Constitution provides that all state authorities, public associations and officials of Uzbekistan are obliged to ensure that citizens be able to get acquainted with documents, decisions and other materials concerning their rights and interests.

During the previous monitoring, the legislation on access to information in Uzbekistan consisted of two laws: the 1997 Law on Guarantees and Freedom of Access to Information and the 2002 Law on Principles and Guarantees of Freedom of Information, which have identified serious deficiencies, and were duplicating and contradicting each other. Access to information was restricted by the vague definitions of the “state secret” and “other secret provided by the law”. Functions of surveillance over the implementation of the right to access have not been fully put into practice in state apparatus and they have not been fulfilled.⁵⁸

On 5 May, 2014 a new Law on Openness of Activities of State Authorities and Public Institutions was adopted (hereinafter referred to as the Law).⁵⁹ The main **objectives** of the Law are: ensuring access of individuals and legal entities to information about activities of state authorities and public institutions, guaranteeing the right of access to the information about the activities of state authorities, strengthening the responsibilities of state authorities and their officials for decision-making, as well as determination of the procedures for dissemination of the information about activities of state authorities. The Law defines the basic **principles of openness** of activities of state authorities and public institutions.

The **process** of the new Law drafting got the positive assessment. The representatives of state authorities informed the monitoring team that the Law was drafted by using pilot legal scheme. In particular, the time limits for responding to a request have been reviewed, and based on the results some other new, shorter deadlines were defined.

Nevertheless, both previous Laws still remain in force. This situation creates red tape, since three different laws govern the same sphere. Although, the representatives of state authorities noted during the meetings that the governing sphere of the relevant Laws was different, the monitoring team did not agree to this. It is sufficient to note that the new Law provides other, shorter deadlines for responding to a request for information (Article 19: 7 and 15 days), whereas the 1997 Law (Article 6) provides longer deadline (30 days). The existing regulations need to be reviewed and consolidated into one law.

The scope of the Law. It is essential for the laws on access to information to cover all types of information. The recent laws on access to information commonly define the information held by state authorities rather than the list of documents with access provided. The Law applies to state authorities

⁵⁸International Right to Information Rating “Global Right to Information Rating”, www.rti-rating.org gives low score to the 1997 Law, was ranks 95th among 102 countries. 59 score points out of 150.

⁵⁹ The relevant text of the Law is available on the website www.lex.uz.

and public institutions, their structural and regional affiliates. The Law clarifies the meaning of **the information about activities of state authorities**. Thus, it includes: legislation regulating the legal status of state authorities and their affiliates, acts adopted by state authorities and information about their implementation, information about draft projects of statutory regulations, acts and other legal instruments under development of state authorities, implementation of state and other programs, about public events and activities, collaboration with other state authorities, individuals and legal entities as well as foreign and international organizations.

Information about activities of state authorities also includes: data on key performance indicators, including economic and social development, which characterize situation in the industry (territory), covered by activities of state authorities, and dynamics of its development, information about open bids (tenders) and auctions, held (organized) by state authorities, information about vacant jobs, open collegial meetings of state authorities schedules, including draft agenda, date, venue and time of meetings, procedure of meeting attendance (Article 5). Information about activities of state authorities and public institutions may refer to other information in accordance with the legislation.

In line with this Article, state authorities and public institutions shall approve the list of information about their activities.

Thus, definition of public information does not include **any information held by state authorities**. Definition of public information becomes more vague in the wording of Article 3: «The present Law does not apply to: certain types of information about activities of state authorities and public institutions, which might be provided based on the specific features set forth in some other legal acts», since there is no explanation of such information.

Furthermore, in line with international standards, a request for access to information should cover all branches and levels of governmental authorities (including legislative and judicial) and local self-government bodies, as well as state-owned corporations and private organizations to the extent they perform their public functions or receive government funding.

Proactive disclosure. A separate chapter of the Law is devoted to the procedure of ensuring the openness of activities of state authorities and public institutions. It describes methods of ensuring the openness of activities of state authorities, such as disclosure of information, publication and updating of information on official websites, in public places and areas, information providing through information libraries and archives, information users' attendance of open collegial meetings of state authorities, and information providing orally and in writing (including in electronic format) upon the request.

The procedure of responding to requests. The Law defines the procedure for consideration of request to provide information about activities of state authorities. A request means "an inquiry of the information user orally or in writing (including in electronic format), sent to the state authorities and public institutions and (or) their officials about providing information on activities of these bodies".

The request should be reviewed within a period not exceeding 15 days from its registration date. The request by mass media for providing information about activities of state authority and about arrangement of interview with officials should be reviewed within a period not exceeding 7 days. If the request is refused, a reasoned response should be sent to information user. These amendments have a positive assessment.

The Law specifies that state authorities accessible in public places and other specially designated places are obliged to display information stands and (or) any other similar installations for users to be able to get acquainted with information about activity of the relevant state authority.

To ensure the openness the representative power bodies (Chamber of Oliy Majlis of the Republic of Uzbekistan, Joqargy Kenes of the Republic of Karakalpakstan, province, district and city Kengash local councils, their committees (permanent commissions) and commissions provide timely disclosure (publication) of information about their activity, including information about scheduled meetings and events, issues, proposed for consideration, and adopted decisions.

Pursuant to the Law, the collegial meetings of state authorities and public institutions are held in public, except for cases provided by the legislation. State authorities should enable information users to attend the open collegial meetings.

In addition to state authorities, the requirements for openness of activity also apply to state-owned and other companies.

For example, on 2 July, 2014 the Cabinet of Ministers adopted the Decree “On Measures for Further Enhancement of Corporate Management System in Joint-Stock Companies”, which defined the list of types of information to be published by them mandatory on the corporate website of the company.

The regular updating of the National Law Resources Database (NBDZ) on the website www.lex.uz, currently comprising more than 34 thousand legal acts, is provided. Access to NBDZ via the Internet is open and free. The number of permanently connected to NBDZ users exceeds 43.6 thousand people, more than 5-6 thousand people use it every day, including access through mobile phones.

Review of public interest and discretion of officials in possible refusing to provide information. This remained unchanged. The Law does not provide such review, as it was recommended in previous round. But in case of refuse to provide information, the reasoned response should be sent to information user.

Surveillance and appeal. A refusal to provide information can be appealed to courts. As far as surveillance concerned, there are no significant changes. It is positive that the Law provided a new function of senior state authorities’ officials with respect to ensuring the openness, monitoring and control over openness of activities, and defining of officials responsible for providing information about activities of state authorities and public institutions, which is more important (Article 8). In addition, the Law provides functions of information departments of state authorities and department of preparation and dissemination of information about their activities.

Table 4. Requests to provide information relating to the Ministry for Development of Information Technologies and Communications Development, pursuant to the Law “On Openness of Activities of State Authorities and Public Institutions” (first half of 2015)

Number of requests	Number of responded requests	Number of refused requests	Including requests from media
12	12	-	4

Precise definitions of the “state secret” and “other secret provided by the law”. On 11 September, 2014 the Law “On Commercial Secret” was adopted, the registered No. ZRU-374, which governs the relations in the field of protection and use of commercial secret. Pursuant to the Law, a commercial secret should be understood as information, which has a commercial value in scientific and technical area, technological,

productive, financial and economic and other spheres by virtue of its being unknown to third parties; there is no free legal access to such information, and the owner of information takes measures to ensure its confidentiality. The definition of state secret remained unchanged.

Campaigns to raise citizens' awareness about their rights and responsibilities in regard to the access to information regulations. Uzbekistan reports on various campaigns but they do not strictly apply to the access to information.

Training of officials responsible for the access to information. The information, provided about training, refers only to information technologies and electronic government, but not the access to information. Nevertheless, it is very important to conduct the relevant training, since the law provides a new function in this regard.

The unified electronic system of publication of information by state authorities and public institutions. This system has not been established yet; information is published separately on websites of public institutions. Besides, the e-mail requests can be sent through website www.my.gov.uz.

The state budget transparency. The Budget Code of the Republic of Uzbekistan came into effect on 1 of January, 2014, which provided openness of procedures for review and adoption of the State budget and budgets of state designated funds for public and mass media; disclosure (publication) of information about approved State budget and budgets of state designated funds in mass media and on official website of the Ministry of Finance of the Republic of Uzbekistan; publication in mass media as well as publication and updating of information on the progress of implementation of the State budget and budgets of state designated funds on official website of the Ministry of Finance of the Republic of Uzbekistan. For the moment, access to annual budget documentation on website of the Ministry of Finance www.mf.uz is free for public; texts, information graphics, tables and charts are weekly published there.

Defamation

Defamation and insult are still criminalized in Uzbekistan by Articles 139 and 140 of the Criminal Code. Special protection from defamation is granted to the President by Article 158.3 of the Criminal Code.

The previous report indicated that “reportedly there are a number of cases of sanctioning under these articles, including prison terms and hefty fines”.

There also exists an administrative liability for libel and insult, provided accordingly by Articles 40 and 41 of the Code of Administrative Liability. Definition of administrative offence is the same as in the Criminal Code, however, criminal liability for these types of administrative offences is triggered if the person was earlier sanctioned for libel or insult under the Code of Administrative Liability (however, no previous administrative sanction is required for aggravated crimes of libel and insult, e.g. when committed through the mass media or printed materials).

The retention of liability for libel and insult has an extremely negative impact on freedom of speech and activities of mass media, in particular, on investigate journalism and expose corruption cases. It is recommended to repeal the liability for libel and insult as well as specific crime components, related to insult on the honor and dignity of the President. The relevant relationship should be governed by

Conclusions

Despite significant improvement of the legislation (time limits for response, proactive disclosure, and the scope of covering) the issues identified in the previous report in the area of access to information legislation, still remain unsolved. There are three laws in force that have virtually identical spheres of application and govern the same relations, but sometimes contradict each other, the issue of duplication and contradiction between these three different laws regulating access to information should be resolved by consolidating necessary regulations into one law. Furthermore, issues, outlined in previous report still remain valid: broad discretion of officials in refusing to provide information; vague and unclear definitions of the state secrets, the absence of the authorized body to monitor the access to information, etc. The Government does not perform monitoring over the implementation of the right to access information, as seen by absence of any reports, analytical research or general statistical data. Thus, there are no mechanisms of monitoring over the implementation of the right to access information. The progress, which was achieved by publication of information, including free access to data on websites (See above 3.3), is encouraged. It is recommended to repeal the liability for defamation and insult. The relevant regulations should be provided by civil law.

Uzbekistan has partially implemented recommendation 3.6., which remains valid under the number 19.

New recommendation 20

- ***Repeal criminal and administrative liabilities for defamation.***
- ***Take practical steps to assign officers to be responsible for access to information in all state authorities.***
- ***Review the legislation on access to information by consolidating the relevant provisions within one law and bringing other relevant legislation (in particular the law on state secrets) in line with the law on access to information. Ensure implementation of the law on openness of state bodies including, where necessary by adopting the relevant bylaws.***

3.7 Political Corruption

First and Second Round of Monitoring Recommendation

Further strengthen transparency of political party's financing and financing of electoral campaigns, ensuring this information is widely disseminated and easily available.

Ensure that responsibility and effective sanctions are provided for violations of party financing and financing of electoral campaigns rules, as well as for failure to make the financial reports of the political parties public.

Further elaborate principles and rules aimed at prevention of corruption and conflict of interests for political officials and effectively implement them.

There are four steadily functioning political parties in Uzbekistan: the leading party the Liberal-Democratic Party of Uzbekistan (UzLiDeP), People`s Democratic Party of Uzbekistan, Democratic Party "Milliy Tiklanish", Social-Democratic Party "Adolat", as well as the Ecological Movement. These parties were represented in the Legislative Chamber Assembly in 2009, and they are represented currently after

parliamentary elections in 2014. To register a new party it is required to provide 40 thousand signatures, but since previous elections in 2007 there were no attempts to do so. Candidates from registered parties can stand for elections.

As a consequence of legislative election to Oliy Majlis in 2014 and presidential election in March 2015, the reforms of election-related legislation took place in Uzbekistan, including enhancement of role of Central Election Commission (CEC) and clarification of the procedure of spending of state funding by political parties during electoral campaigns. Administrative liability for violation of the election process was established as well.

On 17 April, 2014 the amendments to the Constitution came into force, which enshrined the establishment of Central Election Commission (CEC). Amendments to the Constitution defined the principles of CEC activities as well, including independence, legality and publicity.

On 1 January, 2014 a new Budget Code of Uzbekistan came into force, where Article 70 particularly defined that CEC is financed from the republican budget. Article 70 also specifies that “the expenditures of Central Election Commission of the Republic of Uzbekistan related to preparation and conduct of elections and referendums, including financing (..) of political parties” are also financed from the republican budget. In other words, the state budget funds are allocated to CEC for further transfer by the latter to political parties.

Besides, on 11 September, 2014 CEC adopted the Instruction on the Procedure of Budget Funding and Funds Use for Preparation and Conduct of Election to Legislative Chamber. This Instruction provides more details about the procedure of disbursement and spending of budget funds, based on the rules of the Law on the Financing of Political Parties and Law “On Elections to Oliy Majlis of Uzbekistan”.

Participation of political parties in elections in Uzbekistan is financed from the state budget only. The candidates are prohibited to use any other funds for participation in elections, except for the state budget funds. This rule is underlined in the Law “On the Financing of Political Parties”, Law “On Elections to Oliy Majlis of Uzbekistan” and the Instruction of CEC. The exception is donations to be made through CEC for further distribution to all parties, though no such cases have even been brought in practice. The statutory or day-to-day activity of the parties is financed from the state budget funds and donations of individuals and legal entities, and from membership fees as well. In practice, the activity of political parties is mainly financed from the state budget funds. This can be estimated from the budget of UzLiDeP party for 2014. It should be noted that, based on international regulations, the state financing of political parties should be limited to reasonable contributions.⁶⁰

⁶⁰ Council of Europe (2003) Recommendation to member states on common rules against corruption in the funding of political parties [http://www.coe.int/t/dghl/monitoring/greco/general/Rec\(2003\)4_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/general/Rec(2003)4_EN.pdf)

Table 5. Budget of Political Party UzLiDeP in 2014

Total budget	UZS 13 billion 9 million 299 thousand
including:	
Funds from the state budget to finance the statutory activity	UZS 11 billion 92 million 75 thousand
Funds, allocated from the state budget for participation in elections	UZS 657 million 550 thousand
Membership fees	UZS 1 billion 173 million 224 thousand
Charities	UZS 11 million 140 thousand
Finances, derived from entrepreneurship activities	UZS 75 million 310 thousand

Source: Article about UzLiDeP in the newspaper “XXI asr”

Transparency and reporting in the system of financing political parties and electoral campaigns

The legislation provides a number of obligations for political parties to submit financial reports to monitoring bodies; since it is mainly the funds from the state budget, a number of bodies, responsible to monitor the state budget, and CEC conduct a financial audit of political parties.

In order to get the state funding for elections, the representative of a political party and the representative of the Ministry of Finance estimate the cost of elections, which is to be approved by CEC, whereupon the candidates shall be registered. The monitoring team learned during the visit that decision on distribution of money for elections shall be made during internal meeting of particular party. CEC and the Treasury shall discuss with political parties and identify the level of resources required, the purpose of spending of allocated funds and what forms of political advertising shall be purchased.

Pursuant to the Law “On the Financing of Political Parties”, the annual financial report should be prepared by political parties, which shall include information about the amount of funds received and on the expenditure of these funds, separate information on expenditure of the state budget funds and funds for elections (but there is no obligation to separate such information about each candidate). Such report shall be submitted to State Tax Service, Audit Chamber and the Ministry of Justice.

In addition, according to the new Instruction of CEC, the Article “Accounting and reporting” establishes an obligation for political parties to submit a financial report to CEC about proper use of the allocated funds within 20 days from the date of elections. Afterwards, the CEC shall review this report and submit it to the Ministry of Finance. The CEC shall hold hearing of the reports on funds spent by political parties, in the presence of international observers.

The state budget of Uzbekistan contains a separate line about allocation of funds to be used through a single treasury account for the purpose of supporting and financing of political parties. Funds from this account shall be transferred to the account of CEC, for further distribution among the parties. CEC shall hold tenders and public procurements; the relevant contracts shall be submitted to the Treasury for approval. The tender committee for tender procedures shall be established as well. Financial activities of CEC shall be reviewed by the Main Control and Revision Department (KRU) within the Ministry of Finance.

Based on estimates of costs developed by CEC, the Treasury shall monitor the proper use of funds by political parties. The Ministry of Finance shall perform preliminary and ongoing financial control; preliminary control is related to the proper use of funds, and ongoing control shall be implemented upon

the issue of the Certificate of Completion. Besides, the database of costs estimates, contracts and expenditures is maintained. Additionally, one member of CEC is responsible for the issue of financing of political parties on regular basis.

Apart from that, the Audit Chamber shall verify, whether the revenues of political parties are generated in full or not, and proper use of these revenues. The Audit Chamber conducts annual audit of political parties in terms of spending of the state funds, the appropriateness of reporting and publication of the reports by political parties in mass media. Adherence to limitations to receive donations shall be also checked. This issue was outlined in the report of Audit Chamber for 2014 to Legislative Chamber: “For the purpose of implementation of the Law on the Financing of Political Parties, the completeness of the revenues generation and their proper use have been checked”.⁶¹ Uzbekistan said that, based on these results, the major violations were identified: failure to publish the data, use of additional funds for political campaigns (including funds receiving from different companies), and incorrectly completed reporting documents.

Bearing in mind that participation of political parties in elections in Uzbekistan is provided from the state budget funds only, CEC or Audit Chamber can identify the cases of external financing, and they can issue an order to eliminate the violations. Nevertheless, there is no information provided about such cases.

Public access to the information about financing of political parties and electoral campaigns

Information on the financing of political parties should be publicly available. This principle, in accordance with the Law “On Financing of Political Parties”, states that “political parties should publish information about amounts and sources of their activities’ financing”.

The Law provides that political parties submit their annual budgets and this information is publicly available. The Law specifies that political parties shall publish their annual financial reports and submit them to the Legislative Chamber. The reports shall be reviewed with attendance of mass media and organizations concerned. In line with the Law, the parties shall publish the reports on use of their funds in print media and on their websites, as well as on website of CEC.

During the visit the monitoring team was provided with examples of the articles accessible in Internet and print media, which were prepared by political parties and which included the information about their budgets for 2014 and 2015; for example, such articles were published about UzLiDeP and Adolat parties. These articles provided the information about sources of financing and amount of allocated financing, as well as information about expenditure of these funds.⁶²

Besides, the monitoring team was informed about the seminars, conducted by parties on issues related to financing. For example, about the seminars of UzLiDeP party for Chiefs of Staff of regional Kengashes and Heads of accounting departments of province Kengashes of this party.

In general, the monitoring team got the impression that during electoral campaign in 2014 Uzbekistan had strived to improve transparency of election process and use of funds by political parties. The representatives of Uzbekistan authorities indicated that CEC works as open as possible: the representatives of political parties are invited to all meeting of the CEC, the information about funds

⁶¹ «Депутаты рассмотрели отчет Счетной палаты», 11.03.2015 <http://uza.uz/ru/politics/deputaty-rassmotreli-otchet-schetnoy-palaty-11-03-2015> (Article in Russian)

⁶² See <http://uzlidep.uz/ru/news/novosti-partii/informaciya-ob-ispolnenii-byudzheta-uzlidep-na-2014-god-i-osnovnyh-parametrah> ; <http://adolat.uz/2015/03/byudjet-ijrosining-asosiy-kursatkichlari>

allocated and spent was published. The OSCE Report on elections in 2014 also indicated that CEC made efforts to improve transparency of its work and to inform the public including Internet website and events for the parties' representatives.⁶³ During the visit to Uzbekistan, political parties emphasized that they held more active discussions internally; including meetings with all candidates were organized. It was also said that information regarding financing was disseminated by political parties, including leaflets showing the existing rules, how funding can be spent.

Responsibility and sanctions for violation of rules on financing of political parties and election campaigns

Administrative liability for violation of electoral legislation was established in Uzbekistan by adoption on 4 September, 2014 of the Law on "Amendments to Some Legislative Acts of the Republic of Uzbekistan". To the Code of Administrative Violations was added a new chapter V¹ entitled "Administrative responsibility for violations in the area of organisation and conducting of elections and referenda". In this chapter only Article 51⁸ "Violations of rules of financing elections and referendum" relates to this recommendation (see below Box 3). With this article a general responsibility for violations of rules relating to financing of election and referenda is established.

Box 3. Responsibility for Violations of Financing Of Elections

Code of Administrative Responsibility of the Republic of Uzbekistan
(amendments of 4 September 2014)

Article 51⁸. Violation of rules of financing elections and referendum

Violations of rules of financing elections or referendum —

A fee can be imposed in the amount of 5 – 10 minimal wages on citizens and from 10 – 20 minimal wages on public officials.

Nevertheless, this responsibility has never been applied in practice. As it is noted in the OSCE report on elections in 2014, it is not clear which bodies to apply to report about such violations and who can review them.

Before the liability for violations related to election law was established in criminal law only; moreover, the elements of such criminal offences were not detailed enough. The Criminal Code of Uzbekistan criminalizes the offences, related to election process: Article 146 (Violation of the legislation on organization and holding of election or referendum), Article 147 (Impediment to exercise the voting rights or powers of agents).

Besides that, according to the information, provided by Uzbekistan, information campaigns regarding impermissibility of violation of election law are conducted through television and Internet.

However, responsibility and sanctions are not introduced for violations of political party financing outside the election time or for failure to make the financial reports of the political parties public, as it was recommended to Uzbekistan.

⁶³ <http://www.osce.org/odihr/elections/uzbekistan/142576?download=true>

Prevention of Corruption among Political Officials

The main initiative since previous monitoring round has been the adoption of Deputies' Ethics Rules for deputies of Legislative Chamber at the Parliament Session on 30 April, 2015. The rules are mainly referred to behaviour of deputies (attendance of the meetings, relationship with other deputies, correctness of utterances, etc.). Chapter 5 of the Rules entitled "Impermissibility of inappropriate use of status of Deputies" provides more important corruption prevention rules. For example, the Deputy should not use his status to obtain improper advantage for himself or his relatives. Moreover, the limitations are established for members of Parliament to use information for personal gain. Recommendation encourages effective implementation of these rules, although the monitoring team did not get any information about it.

Moreover, the monitoring group learned that since the previous round of monitoring political parties have adopted codes of ethics and created ethics commission, and that the codes of ethics and information on membership of ethics commission is available on websites of political parties. In 2014, the Liberal-Democratic Party of Uzbekistan UzLiDeP adopted the rules of ethical behaviour of its members and established an ethics commission. In 2013, the Democratic Party "Milliy Tiklanish" adopted a code of ethics. In 2014, Social-Democratic Party "Adolat" adopted Rules of Integrity and proper behaviour of its members and an ethics commission was put in place.⁶⁴

As far as practice of detection of ethical violations is concerned, according to the information provided by Members of Parliament during the on-site visit, one Deputy has been recalled during the previous convocation because of entrepreneurship activity conducted.

Uzbekistan authorities also indicated during the visit that the principles of corruption prevention among the political officials were established in the Constitution of the Republic of Uzbekistan, the Law on the Procedures for Deputies Recall, which is a major constraint, and the Law on the Status of Deputy of the Legislative Chamber and the Senate.

Conclusions

Since 2014, the changes have been made to electoral legislation. Central Election Commission and political parties themselves provided information on the financing of political parties during Parliamentary Elections in 2014 more actively and publicly. At the same time, it would be helpful to establish the time limits and forms for publication of such information in order to ensure that information provided about budget of parties is full and clear to the general public. In the field of prevention of corruption among political officials, the monitoring team welcomes the adoption of the Deputies' Ethics Rules and a series of ethical rules for political parties and encourages Uzbekistan to actively disseminate and discuss these new rules in the context of other rules for prevention of corruption and dilemmas that such officials encounter in practice.

Uzbekistan largely implemented recommendation 3.7.

⁶⁴ See, for example, UzLiDeP's Rules of Ethical Behaviour, <http://uzlidep.uz/ru/news/novosti-partii/reglament-po-etike-povedeniya-chlena-dvizheniya-predprinimateley-i-delovyyh>; Rules of Integrity and proper behaviour of of «Adolat» <http://adolat.uz/rus/pravila-nravstvennosti-i-prilichiya/>

New recommendation 21

- *Establish time limits and forms for the purpose of timely and regular disclosure of financial statements of political parties, oblige them to publish them in Internet and reflect sufficient and understandable to the general public information on budgets of political parties, including use of state budget funds by every deputy if it is information about elections.*
- *Establish a liability for violation of obligation to disclose information on financial statements of political parties.*
- *Continue to develop the principles and rules for prevention of corruption and conflicts of interests of political officials and ensure their effective implementation.*

3.8 Integrity in the Judiciary

First and Second Round of Monitoring Recommendation

Ensure transparency of the judiciary, including but not limited to such means as establishing and publicizing the criteria for the selection and promotion and reasons for dismissal of judges; ensuring that high-profile corruption and human rights cases are transparently tried.

Adopt and implement a Code of Conduct for judges in line with the Bangalore Principles of Judicial Conduct.

Ensure access of public to the decisions of courts through the adoption and implementation of the relevant rules.

Judicial Independence

According to the Article 106 of the Constitution of the Republic of Uzbekistan, the judiciary in the Republic of Uzbekistan shall function independently from the legislative and executive branches, political parties or other public associations. The Article 112 of the Constitution states that judges shall be independent and they are subject only to the law. Any interference in the work of judges for the administration of justice shall be inadmissible and punishable by law. It is prohibited to demand any explanation from judge on the merits of resolved or pending cases as well as provide them to anyone to get familiar with them, except for under the circumstances and procedure, established by law.

However, based on international research, judiciary in Uzbekistan remains corrupt and it depends on the executive branch. Thus, the Final review of Fourth Periodic Report of the United Nations Committee against Torture dated 10 December, 2013 indicated that “Committee remains concerned that judicial system has all remained weakness, ineffectiveness and exposure to influence of the executive branch, that positions are not guaranteed to judges and that appointment of judges of lower level is implemented by executive authorities, which reappoint judges every five years (Articles 2, 12 and 13). The State party should take measures to ensure full independence and impartiality of the judiciary in the exercise of their functions; the procedure for appointment, promotion and release of judges from their duties should be reviewed in accordance with the relevant international standards including the Basic Principles on the Independence of the Judiciary (endorsed by the General Assembly in its resolutions 40/32 dated 29

November, 1985 and 40/146 dated 13 December, 1985”.⁶⁵ The study “Countries in Transition” (2014) identified that judiciary works like a tool in the hands of executive authorities and serves the interests of the President.⁶⁶

Uzbekistan reported on adoption of the following legislative instruments since the previous monitoring (described below in the relevant sections):

1. Decree of the President of the Republic of Uzbekistan adopted on 02.08.2012, No. UP-4459 “On Measures to Radically Improve the Social Protection of the Judiciary Staff”;
2. Presidential Decree adopted on 30.11.2012, No. UP-4486 “On Organizational Measures for Further Improvement of the Courts Functioning”.
3. Decision of the President of the Republic of Uzbekistan adopted on 29.12.2012, No. R-3949 “On Improvement of Activity of Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan”
4. Law adopted on 21.01.2014, No. ZRU-365 “On Amendments to Some Legislative Acts of the Republic of Uzbekistan”, in accordance with this Law, the amendments were made for the purpose of improvement of system and providing greater material support for judges.
5. President’s Decree adopted on 04.10.2013, No. UP-4570 “On Measures for Improvement and Increasing Efficiency of Activities of District and Municipal Courts of General Jurisdiction”.

Uzbekistan reported that measures have been taken to introduce modern information and communication technologies into the courts activities to radically improve the quality of legal education and training of legal professionals. As indicated in UNDP Report, the government of Uzbekistan makes efforts⁶⁷ to introduce modern information and communication technologies into judicial proceedings, thus providing increased public access to courts.

Nevertheless, it appears that reforms are mainly aimed at the improvement of logistics environment and information technologies in courts, without making a provision for independence of judges in practice.

Selection, Appointment and Promotion of Judges

Authorized bodies. Independence of judiciary can be undermined if political parties play a decisive role in judicial appointments. If political parties participate after all in the process of selection of candidates to judicial appointments, then their role should be just nominal, and they should guide all their actions, based on decisions of independent judicial councils. In line with international standards, an independent judicial council consists at least of majority of judges elected by other judges from different levels of the

⁶⁵See here:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2fCO%2f4&Lang=ru

⁶⁶ Freedom House, *Nations in Transit* (2014) available here: https://freedomhouse.org/report/nations-transit/2014/uzbekistan#.VUdR6_mUdHV; see below: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/uzbekistan/show-all.aspx>

⁶⁷ UN Common country assessment on governance, May 2014

judicial system. Its status and functioning should be regulated by law and guarantee necessary independence from political institutions.⁶⁸

It is very important that bodies, responsible for selection and training of judges should not be subject to control of executive authorities and should function independently. Members of such bodies should be appointed by the judicial council from among the representatives of legal profession including judges. The composition of judicial council should guarantee that political considerations will not prevail over professional knowledge and qualification of candidates to judicial appointments.⁶⁹

It is indicated in Kiev Declaration that in case the President is empowered to appoint the judges, he may refuse to approve the candidate, proposed by selection committee based on procedural grounds only, and the refusal should be motivated.⁷⁰

In Uzbekistan the judges are appointed by the President or elected by the Parliament for five-year term. In accordance with the Article 63 of Law on Courts, the judges of regional courts, Tashkent city municipal courts, inter-district, district (municipal) courts, military courts, economic courts of provinces and Tashkent city are appointed by the President of the Republic of Uzbekistan, based on proposal of Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan (hereinafter referred to as the Commission). The judges of Supreme Court and Supreme Economic Court are elected by the Senate of Oliy Majlis, based on proposal of the President of the Republic of Uzbekistan.

The main role in the selecting of judges belongs to the Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan.⁷¹ Its membership is approved by the President of the Republic of Uzbekistan, which is comprised of seventeen (17) members appointed for five-year term. The Commission is composed of representatives of the Senate and Legislative Chamber of Oliy Majlis, Supreme Court, Supreme Economic Court, the Ministry of Justice, the Ministry of Internal Affairs, General Prosecutor's Office of the Republic of Uzbekistan and other highly qualified specialists in law, as well as community representatives. Currently, the Commission is headed by the Deputy Chairman of the Senate of Oliy Majlis. Four members of the Higher Qualification Commission are the permanent staff members. Only three members of the Commission are represented by judges.

Since the previous round of monitoring, the President of the Republic of Uzbekistan by his Decision adopted on 29.12.2012, No. R-3949 "On Improvement of Activity of Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan" approved the amended Regulations on Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan. Nevertheless, the composition of the Commission remained the same.

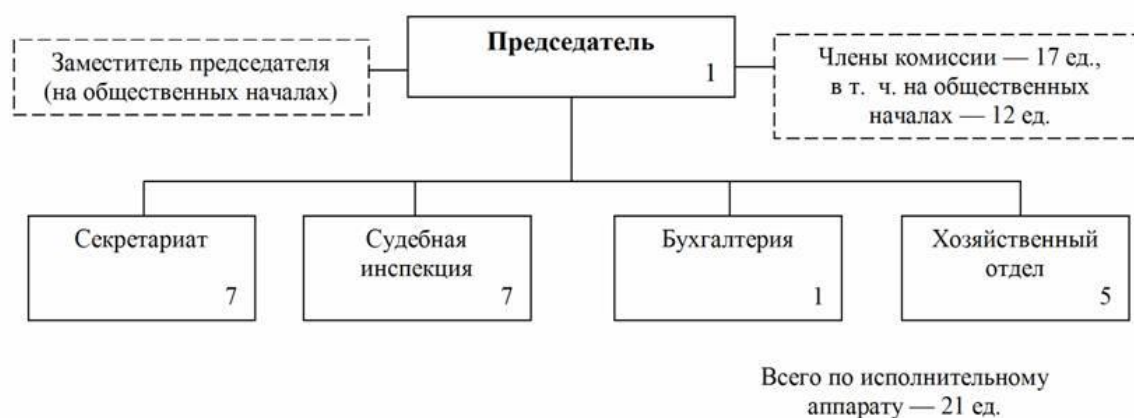
⁶⁸ The Joint Report of First and Second Round of Monitoring in **Uzbekistan** within the framework of Istanbul Anti-Corruption Action Plan (p. 73-74, www.oecd.org).

⁶⁹ Kiev Recommendations, Clauses 3-4 and 8.

⁷⁰ Kiev Recommendations, Clause 23.

⁷¹ Created in 2000 by a President's Decree.

Figure 3. Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President Organization Chart



Criteria and selecting procedure. One of the most important prerequisites to ensure judicial independence is the procedure for selecting, appointment and dismissal of judges. To ensure transparency and objectivity of the procedure, the criteria for selecting and dismissal of judges should be clearly defined by the legislation, based on objective factors, and there should be no divergence in interpretation. Accordingly, “Establishing and publicizing the criteria for the selection and promotion of judges” was recommended to Uzbekistan.

Criteria for the selecting of judges since the previous monitoring have not been explicitly defined by the legislation. Article 61 of the Law on Courts determines only general criteria to become a judge, namely: a minimum age of 35, university degree in law and judicial experience, mainly, in law enforcement bodies. There are no clear criteria for adoption of the Commissions’ decisions by the President. There are no clear criteria for appointment of judges after expiration of initial five-year term, too.

Procedure for selecting of judges includes two stages. First and foremost, a reserve of candidates for judge position is established. Judges, included into reserve shall receive training. When positions for judges become available, candidates from reserve shall apply for the position. Commission shall interview the candidates and make a decision on recommendation of the candidates to the President. Decision shall be made by Commission by show of hands and shall not be subject to appeal.

At the same time, transparency and objectivity of the process of selecting and decision making raise concerns, since decisions of the relevant bodies are not subject to justification or appeal, and they are not accessible for candidates. Similar deficiencies have been identified in the procedure for appointment of the judge for new term and to other positions.

More detailed procedure for selecting and appointment of judges is as follows: the reserve of candidates for **judge position appointed for the first time**, shall be established by Commission taking into consideration the proposals, received from judicial bodies, prosecutor’s office, internal affairs bodies, and from their staff to be included into the reserve of judges, and based on the applications of citizens. The reserve would be updated every year, in accordance with the procedures, established by Commission. The requirements for including into reserve are specified in the Regulations of the Commission, and they are the same as stipulated in the Law on Courts. In addition, it is emphasized that candidate for judge position shall be selected from well-trained and highly qualified lawyers with solid life experience and

impeccable reputation.⁷² Within the framework of the monitoring team visit, it was explained that a definition of impeccable reputation is given in the scientific literature, though it is defined in the legislation, too.

Commission shall review the proposed lists of candidates, recommended to be included into the reserve. The procedure for including candidates into the reserve is governed by the Regulations of the Commission. The Regulations of the Commission was not published (not available on the relevant websites). Neither it was provided to the Monitoring Mission, although members of the Commission responded to all questions of Mission's members, related to the procedure of including of candidates into reserve. It appears that the Regulations of Commission are not publicly available, which fails to ensure the required transparency of the process of selecting and appointment of judges.

Supreme Court and Supreme Economic Court in cooperation with the Ministry of Justice of the Republic of Uzbekistan provide special **training** to candidates from the reserve in the Judicial Training Center under the Ministry of Justice, as well as traineeship in the relevant courts of the Republic of Uzbekistan. The training and traineeship programs are approved by Supreme Court, Supreme Economic Court and the Ministry of Justice of the Republic of Uzbekistan, respectively; these bodies shall monitor the implementation of programs. As it was explained during the monitoring team visit, the candidates pass different tests and exams during training.

Upon the results of training (traineeship), the Judicial Training Center shall issue a **certificate** to candidate and submit the conclusion on the readiness of candidate, from theoretical and practical point of view, to function as a judge, to the Commission, Supreme Court or Supreme Economic Court of the Republic of Uzbekistan. During the meeting with monitoring team the representatives of the Judicial Training Center explained that the certificates are issued to everyone, who got any mark above the bad grade, i.e. candidates, who got poor marks, should also get the certificates and conclusions on their readiness, from theoretical and practical point of view, to function as a judge shall be submitted to the relevant bodies. In practice, as a rule, only 5-10% of candidates fail to obtain the certificate.

Upon the results of training (traineeship) and **comprehensive review**, Supreme Court and Supreme Economic Court may submit their proposals to the Commission to exclude the candidate from the reserve. The Commission in cooperation with Judicial Qualification Boards of the relevant courts shall continuously monitor the activities of candidates, organize seminars and other events. The judicial bodies, prosecutor's offices, courts and internal affairs bodies shall promptly inform the Commission about misconduct of candidates impugning their honor and dignity, as well as about change of personal data of the candidate and his **close relatives**.

The candidate shall be included into reserve for a maximum period of two years. If a person, included into reserve, was not recommended for a position of judge within this period of time, then he would be excluded from the reserve. In case of **vacant position** of judge appears, the person, registered in the reserve should submit an application for participation in the selecting to fill vacant judge posts. The Commission including competent bodies involved shall review the level of competence, business proficiency and personal qualities of the candidates, applied for participation in the selecting to fill vacant posts.

The positive results of the above review shall allow the candidates to be **interviewed** by the Commission. During the meeting with monitoring team the representatives of the Commission explained that criteria

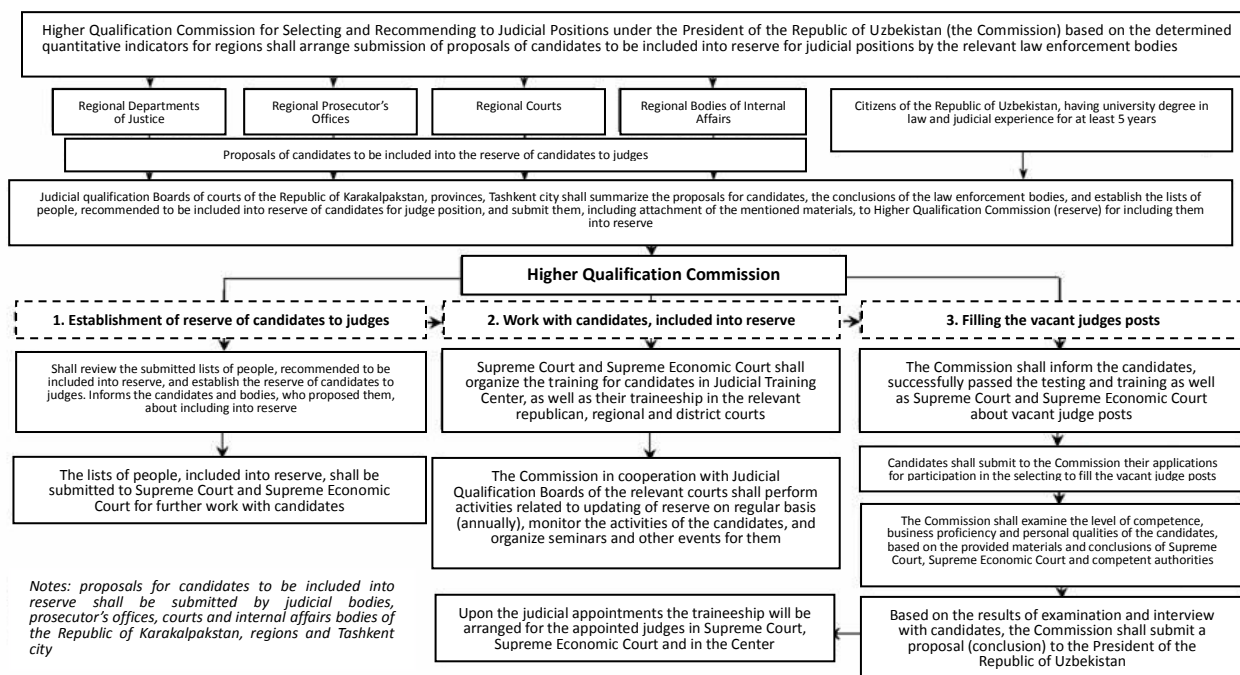
⁷²Clause 8 of the Regulations.

for evaluation of the interviews results have not been developed yet, the questions do not have any particular form; the members of the Commission make a decision, based on the results of interview by show of hands. The Commission shall submit to the President of the Republic of Uzbekistan for consideration the conclusions for candidates, who have successfully passed the interview. The decision of the Commission is not subject to appeal.

On an exceptional basis, the candidates, who have skills required, high business proficiency and personal qualities, an impeccable reputation and sufficient work experience in decision making positions in law enforcement and other state bodies, may be appointed to judicial position for the first time by the President of the Republic of Uzbekistan **without going through the relevant** procedures.⁷³

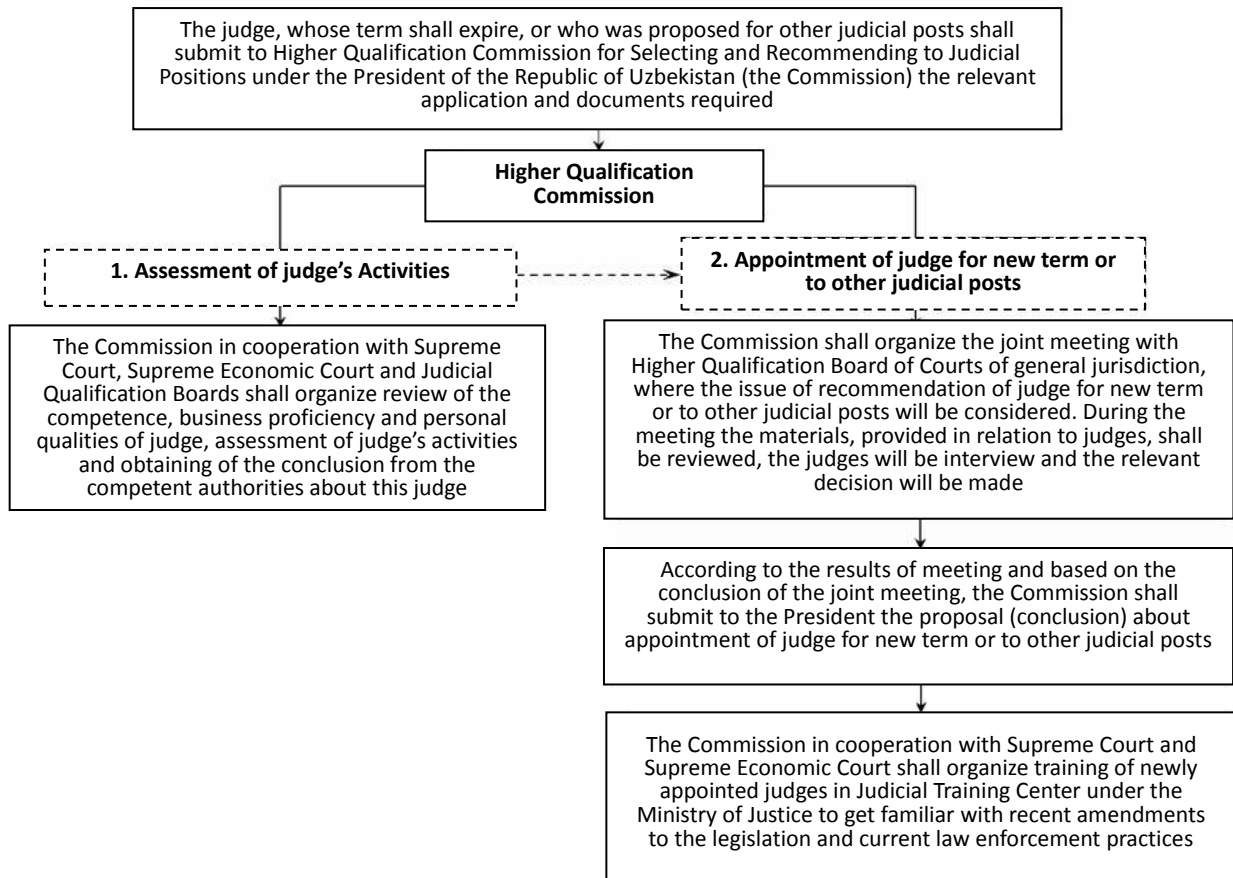
The President should not argue his decision about appointment or refusal to appoint the candidates. There is no procedure for appointment by the President of candidates, recommended by the Commission. It is not clear, what grounds may exist for the President not to support the recommendations of the Commission. The monitoring team was informed that in practice the President does not appoint only one-third of the recommended candidates.

Figure 3. Chart of Selection and Appointment of Judges For Initial Term



⁷³Clause 21 of the Regulations on Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan adopted on 29.12.201, No. R-3949 "On Improvement of Activity of Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan"

Figure 4. Chart of Appointment of Judges for a New Term and to Other Positions



Uzbekistan authorities state that disclosure of criteria for selecting of judges, their promotion and grounds for their dismissal are provided by the Law on Courts and in the Regulations on Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan. The above mentioned Regulations define that the Commission shall inform Supreme Court and Supreme Economic Court about vacant judge posts; this information is published on their official websites.

Uzbekistan authorities note that, according to Presidential Decree adopted on 30.11.2012, No. UP-4486 “On Organizational Measures for Further Improvement of the Courts Functioning”, the program of measures for further reform of the system of selecting, training and recommendation of judiciary staff is provided.

Access to Court Decisions

“Ensuring that high-profile corruption and human rights cases are transparently tried”

“Ensure access of public to the decisions of courts through the adoption and implementation of the relevant rules.”

According to the Article 19 of Code of Criminal Procedure, the proceedings in all courts are public, except for cases when they run counter to the state secrets protection and sexual assault cases. The private court hearing is allowed, based on the court order concerning the cases involving offences, committed by offenders under 18 years of age and other cases in order to prevent disclosure of personal information of citizens or information detrimental to a citizen’s honor and dignity, and in cases, when the interests of ensuring the safety of victims, witness and others people, involved in the case so require, as well as of their family members or close relatives.

Uzbekistan authorities state that “Bulletin of the Supreme Court of the Republic of Uzbekistan” publishes the materials on summary of judicial practices, actual bribery cases and other information on a regular basis.

On 18 July, 2012 Supreme Court approved the rules of mandatory publication of the economic courts’ decisions on websites of the courts. On website of Supreme Economic Court (<http://oxs.uz>) the database of the economic courts’ decisions from all regions of the country is published and from 1 June, 2013 the economic courts’ decisions have been published. Information about publication of courts’ decisions on criminal proceedings was not provided. The mandatory publication of such decisions is not provided by the legislation. The monitoring team was informed during discussions that courts’ decisions on criminal cases are not available for public.

Code of Judicial Ethics

“Adopt and implement a Code of Conduct for judges in line with the Bangalore Principles of Judicial Conduct”

In line with international standards, the judges should be guided by principles of professional ethics during performance of their duties. These principles include not only obligations, on which disciplinary sanctions may be imposed, but they provide guidance for judges on judicial conduct as well. Codes of judicial ethics should include these principles. Judges should play a leading role in the development of such codes. Judges should be able to seek advice on ethics from the body within the judiciary.

Rules for judicial conduct are established in the Article 66 of the Law on Courts, according to which the judges should strictly follow the Constitution and other laws of the Republic of Uzbekistan, ensure protection of human rights and freedoms of citizens, their honor, dignity and property, rights and interests of enterprises, institutions and organizations, protected by law, and be impartial and fair; they should respect honor of judge, abstain from actions denigrating judicial authority and honor of judge or causing doubts in impartiality of a judge; should not disclose judicial deliberations and information, obtained during private court hearings; they may not be senators or members of the representative bodies of state power; they may not be members of political parties, and participate in political movements as well as be involved in any other type of paid activity, except scientific and educational. Violation of these rules can lead to consequences, specified in Articles 71 and 72 of the Law on Courts, namely: suspension or early termination of judge’s powers.

Decision of Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan, adopted on 28 February, 2013, No.5 approved the Rules for judicial conduct, which establish the rules of ethical conduct mandatory for judges in their professional activities and during off-duty time.⁷⁴ According to Article 2 of the Rules, the judges should strictly follow ethical principles and abstain from actions denigrating judicial authority and honor of judge or causing doubts in impartiality of a judge.

The Judicial Inspectorate of Higher Qualification Commission shall monitor the implementation of rules for judicial conduct. The Judicial Inspectorate shall submit proposals to Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan about relevant actions, imposed against a judge, who violated the present Rules (see below disciplinary proceedings). In addition, every judge shall have the right to apply to the relevant Qualification Judicial Board in case of violation of the present Rules.⁷⁵ According to Article 5 of the Regulations on Higher Qualification Commission for Selecting and Recommending to Judicial Positions under the President of the Republic of Uzbekistan, the Commission is authorized to submit recommendations to the Chairmen of the relevant courts on imposing disciplinary actions against judges (see below disciplinary proceedings).

Uzbekistan authorities stated that during the 2013-2014 period, 5 judges applied to the relevant Qualification Boards reporting that they have been offered a bribe to make decision in favor of the bribe-giver. Based on the results of the judges' reports review, the bribe-givers and persons, who interfered in the judges' activity of administering justice, incurred criminal liability. During the 2013-2014 period, disciplinary proceedings have been instituted against 15 judges, and the powers of 7 judges have been early terminated.

Upon the approval of the Rules for judicial conduct, all currently working judges have received the copies. Besides, the following practices have been implemented: the authorities of Supreme Court and Supreme Economic Court shall hand over the Rules for judicial conduct to persons, appointed for judicial positions for the first time, after being sworn in.

The monitoring team encourages the adoption of the Rules for judicial conduct. At the same time, according to international standards, judicial disciplinary bodies should not be monitored by executive authorities. Thus, the role of the Commission in the process of monitoring the implementation of the Rules for judicial conduct, raise doubts. Moreover, it would be useful to authorize the body within judiciary, which the judges would be able to seek advice on ethics from.

Disciplinary Proceedings against Judges

International standards in the sphere of disciplinary liability of judges provide that, first, the grounds for disciplinary proceedings should be clearly defined, and, secondly, the procedure should comply with guarantees of independent judiciary, and disciplinary sanctions should not be used to influence the judges.

In accordance with international standards, the body adjudicating the disciplinary proceedings against judges is not entitled to initiate the proceedings, and members of such body do not have the right of this initiative. The procedure for adjudicating of cases should include all necessary procedural safeguards.⁷⁶

⁷⁴<http://supcourt.uz/ru/article/211/>

⁷⁵ Article 16. The Rules for Judicial Conduct.

⁷⁶ Kiev Recommendations, Clause 26.

Decisions of disciplinary body are subject to mandatory publication. The Chairman of court may not initiate disciplinary proceedings as well as make a decision on disciplinary cases.⁷⁷

Grounds. One of the main issues is that grounds for disciplinary liabilities of judges are too general. Grounds for disciplinary liabilities are set in the Article 73 of the Law on Courts. A judge can be disciplinary sanctioned only by the decision of Qualification Judicial Board for:

- Violation of legality when administering justice;
- Omissions in organization of judicial work due to negligence or lack of discipline, as well as for committing a service-related or a defaming wrongdoing;
- Violation of the Rules for judicial conduct (as amended on 20 January, 2014).

Reversal or modification of a judgment shall not trigger the liability of a judge, involved in making the court decision, provided he did not allow deliberate violation of the law or bad fair, resulted in serious sequences.

Procedure. The powers of Qualification Board on Disciplinary Cases of Judges are defined in the Article 73 of the Law on Courts and the Regulations on Qualification Judicial Boards.

Higher Qualification Judicial Board shall consider the disciplinary cases of: judges of Supreme Court of the Republic of Uzbekistan; the Chairmen and Deputies Chairmen of Supreme Civil and Criminal Courts of the Republic of Karakalpakstan, regional and Tashkent city Civil and Criminal Courts; the Chairman and Deputies Chairman of Military Court of the Republic of Uzbekistan.

Higher Qualification Judicial Board of courts of general jurisdiction shall be elected by the Plenum of Supreme Court of the Republic of Uzbekistan, and Qualification Judicial Board of economic courts shall be elected at the conference of judges of economic courts of the Republic of Uzbekistan for five-year term.

Qualification Judicial Boards of civil and criminal courts of the Republic of Karakalpakstan, regional and Tashkent city shall be elected for five-year term at the conferences of judges of Supreme Civil and Criminal Courts of the Republic of Karakalpakstan, regional and Tashkent city civil and criminal courts, inter-district, district (municipal) civil courts, district (municipal) criminal courts, respectively; Qualification Judicial Boards of Military Courts shall be elected for the same term at the conferences of judges of military courts.

Disciplinary cases against judges shall be initiated by **chief executive of the relevant court by issuing a ruling**, which should indicate the grounds for initiating a disciplinary case. One of the members of Qualification Judicial Board shall be appointed for additional review of the grounds for bringing judge to disciplinary liability.

Qualification Judicial Board can impose one of the following disciplinary sanctions on judges, brought to disciplinary liability: a) admonition; b) penalty in the amount not exceeding 30% of average monthly wage. When disciplinary sanction is applied, the following should be considered: the nature of violation and its consequences, seriousness of misconduct, personality of a judge, and degree of guilt.

Statistics on disciplinary liability. In 2012 the cases were initiated against 4 judges to bring them to disciplinary liability, and admonition was imposed on them as disciplinary sanction. In 2013 the cases

⁷⁷ Kiev Recommendations, Clause 14.

were initiated against 13 judges to bring them to disciplinary liability, admonition was imposed on 11 judges as disciplinary sanction, a penalty in the amount of 10% of monthly wage was imposed on one judge, and the disciplinary case against one judge had been dismissed. In 2014 the cases were initiated against 10 judges to bring them to disciplinary liability, admonition was imposed on 5 judges as disciplinary sanction, a penalty in the amount of 10% of monthly wage was imposed on 2 judges, 2 judges received a warning notice and one disciplinary case had been dismissed.

Statistics on dismissal of judges. In 2012 – 45 judges had been dismissed: 25 judges had been dismissed based on their resignation letters, 3 judges – due to the death, 2 judges – due to the acceptance to the Academy of Public Administration under the President of the Republic of Uzbekistan, one judge – for violation of judicial oath, and 14 judges – for serious violation in administering justice. In 2013 – 29 judges had been dismissed: 13 judges had been dismissed based on their resignation letters, one judge – due to the death, and 15 judges – for serious violation in administering justice. In 2014 – 20 judges had been dismissed: 5 judges had been dismissed based on their resignation letters, 2 judges – due to the death, 11 judges – for serious violation in administering justice, and 2 judges – for violation of judicial oath.

Table 6. Appointment and Dismissal of Judges, 2012-2014

Year	Appointed judges	Dismissed judges
2012	122	45
2013	210	29
2014	267	20
Total	599	94

Assignment of cases. Assignment of cases in judiciary should be either random or be based on clearly defined objective criteria to be approved by judicial board.⁷⁸ Abuses during assignment of cases to judges of the court create opportunities for corruption and illegal impact on administering. This should not be a function of the Chairman of the court. Assignment of case proceedings should be either random or be based on clearly predefined objective criteria to be defined by the judges' meeting of the court.⁷⁹

The procedure for assignment of cases is not determined by the legislation of the Republic of Uzbekistan. In practice, the cases, as a rule, are assigned to judges by the Chairman of the court by even distribution considering such factors, as scope and quantity of cases, which are currently under consideration of the judge, competencies of the judge or based on territorial principle.

Initiative and activities, related to testing and further introduction of the software program "E-SUD" (national informatics system of electronic proceedings) should be noted. The pilot project has been tested in Zangiata inter-district civil court, in terms of mandatory and ordinary proceedings. Additionally, "E-SUD" system is being introduced in 8 inter-district civil courts at present. "E-SUD" system has an option of automated assignment of cases to judges, based on their actual workload.

Salaries and social guarantees. Salaries for judges are not provided by law. Pursuant to the Decree of the President of the Republic of Uzbekistan adopted on 2 August, 2012, No. UP-4459 "On Measures to Radically Improve the Social Protection of the Judiciary Staff" the salaries of judges were doubled in

⁷⁸ Kiev Recommendations, Clause 12.

⁷⁹ OSCE Recommendations on Judicial Independence, Kiev; "The Chairman Role in Court", § 12, www.osce.org.

average. The procedures of providing granting of mortgage long-term loans to judges for house purchase on preferential terms, payment of monthly compensation for housing rent, and other social guarantees, were approved by the Decision of the Government. Amendments and supplements have been made to Labor and Tax Codes, Laws on Employment and Law on Courts, which provide additional guarantees in terms of employment of staff, selected or appointed to judicial positions, as well as guarantees, provided to judges after the end of their term. Below is the example of salaries of judges in economic courts. The example of the system of salaries in the Supreme Economic Court is shown in the Table 7.

Table 7. Remuneration in the Supreme Economic Court

Qualification grade of judge	1	2	3	4	5
Salary (thousand UZS)	3.347	2.911	2.829	2.748	2.734

The average nominal accrued annual wage for 2014 in the Republic of Uzbekistan, including recalculation and excluding small business and agriculture, is UZS 1,007,928.9.

Training. Training of judges is a function of the Judicial Training Center under the Ministry of Justice of the Republic of Uzbekistan. The training program includes the training courses on “Judicial ethics”, a special course on “International legal framework against corruption”, as well as themes “Corruption-related offences in the economic sphere and activities of business units”, “Ethics standards in administering justice”, “Corruption-related offences, committed by public officials”, and “Specific issues of judicial practices in cases of money laundering”. In 2014 the special themes were added to training programs of the Judicial Training Center under the Ministry of Justice of the Republic of Uzbekistan: “International legal framework against corruption” and “Anti-corruption norms in the criminal law of the Republic of Uzbekistan”. The training sessions on the above themes are held for groups of judges, candidates to judges (4 academic hours), lawyers, judiciary staff and legal advisors (2 academic hours).

Judicial self-governing body. Association of Judges of Uzbekistan has been functioning currently in Uzbekistan, which was established in 1997 on the initiative of the President of the Republic of Uzbekistan. It is a professional association with powers to participate in implementation of judicial and legal reforms, to unite and support the judges, and ensure independence of judiciary. Association is also involved in the sphere of generating public opinion about judicial systems and development of principles of professionalism and ethics among judges.

For the purpose of democratization and liberalization of judicial and legal system, enhancement of credibility and independence of court, ensuring legality when administering justice, prevention of interference with the activities of courts and delivery of improper judgements, the Research Center on Democratization and Liberalization of Judicial Legislation and Ensuring Independence of Judiciary under the Supreme Court of the Republic of Uzbekistan was established by Presidential decision, adopted on 23 June, 2008. The Center is independent information, analytical and consulting agency, which reports on its activities to the Chairman of Supreme Court of the Republic of Uzbekistan.

Unfortunately, none of the above-mentioned bodies has functions of self-government bodies, recommended by international standards (election of chairmen, settlement of budget-related issues, etc.)

Conclusions

Positive developments can be observed in increasing transparency of judiciary. In particular, publication of information about stages of selecting of judges and vacant judicial posts by the Commission is a positive step forward.

The monitoring team welcomes the adoption of the Rules for Judicial Ethics, nevertheless some concern are been expressed about role of the Commission in the process of monitoring the implementation of the Rules for Judicial Ethics. Approval by the Supreme Economic Court of the Procedures of mandatory publication of decisions of economic courts on websites of courts is assessed positively. It is recommended to apply the same requirements to decisions of other courts and ensure public access to all courts' decisions.

Adoption of the Rules for Judicial Ethics is encouraged by the monitoring team. At the same time, according to international standards, judicial disciplinary bodies should not be monitored by executive authorities. Thus, the monitoring team stressed the need to minimize involvement of political bodies in the process of selecting, appointment, disciplinary proceedings and dismissal of judge. It is recommended to improve the procedure for appointment, promotion and dismissal of judges in accordance with the relevant international standards.

Uzbekistan partially implemented recommendation 3.8.

New recommendation 22

- ***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.***
- ***Bring the membership of a body, responsible for selecting of judges (Higher Qualification Commission) in compliance with international standards, in particular, ensuring that it consists of majority of judges elected by other judges from different levels of the judicial system.***
- ***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 initial five-year term.***
- ***Adopt clear grounds for disciplinary liability of judges. Abolish the powers of the Chairman of Courts to initiate disciplinary cases. Ensure publication of decisions on disciplinary proceedings.***
- ***Introduce automated case assignment system and ensure its implementation in practice.***
- ***Provide access to the decisions of courts by making appropriate amendments to the legislation.***
- ***Provide by law and in practice the financial independence of judiciary.***

3.9 Business Integrity

First and Second Round of Monitoring Recommendation

Encourage private sector entities to adopt adequate internal control systems, including codes of business conduct and other anti-corruption compliance measures.

Involve private enterprises and the business sector at large in dialogue about necessary simplification of business regulation and other measures to improve business climate and prevent corruption in the country.

Mechanisms of Internal Control, Ethics and Corporate Governance in Business Sector

The following measures are reported to have been taken to implement the recommendation after first and second round monitoring.

Firstly, in 2014 a number of measures had been taken in Uzbekistan to increase efficiency and introduction of corporate governance systems in joint-stock companies (mainly state-owned enterprises), including a number of reorganized companies. A new Law “On Joint-Stock Companies and Protection of Rights of Stockholders” (the Law of the Republic of Uzbekistan, adopted on 06.05.2014, No.ZRU-370), established standards for implementation of monitoring the activities of a joint-stock company (Articles 107-110) including requirements to the functioning of audit committee (auditor). In 2014 the Regulation of the Requirements to Corporate Websites of Joint-Stock Companies was adopted.

On 31 March, 2015 the Commission on increase of efficiency of activities of joint-stock companies and improvement of the corporate governance system was established, pursuant to the Decree of the President; the Commission is chaired by First Vice-Premier. The Commission was assigned to develop and approve before 1 August, 2015 the Corporate Governance Code, in cooperation with other relevant ministries and agencies, and based on successful practices of Germany and other developed countries including development of rules in terms of increasing transparency of activities of joint-stock companies, as well as their accountability. The above are very important measures, however, there is no sufficient information on whether this code has been developed or not, what provisions it includes and how it will be distributed.⁸⁰

On 24 April, 2015 the Decree of the President of the Republic of Uzbekistan on Measures for Implementation of Modern Techniques of Corporate Governance in Joint-Stock Companies was adopted; it contains the program on improvement of the corporate governance systems, publication of annual financial statements, and external audit.

It can be reported that, according to the Law adopted in 2009 “On Combating Money Laundering and Financing of Terrorism”, the internal control systems should be established in all credit institutions of Uzbekistan.

As far as private sector enterprises support concerned, as stated in recommendation both for small and medium businesses, the monitoring team observed the efforts of the Trade and Industry Chamber, aimed to encourage the establishment of ethics codes. The Trade and Industry Chamber expressed its intention to organize the seminars to encourage corporate governance, based on the best practices.

⁸⁰ «АО перейдут на современные методы корпоративного управления», 24 April, 2015, www.gazeta.uz (article in Russian)

The monitoring team encourages that the Trade and Industry Chamber has developed the **Ethics Code of Business Conduct in Uzbekistan**, adopted in May, 2014. This Code includes a number of provisions in two parts – Integrity (including sections on Prevention of Corruption, Gifts and Entertainments, Political and Public Activities, Laws Enforcement, and others) and Responsible Business Conduct (including section on Conflict of Interests). The Code also contains information on investigation of violations and sanctions. It is expected that this code may serve as a code template for enterprises of Uzbekistan. However, there is no information about its promotion and implementation.

Representatives of business sector, interviewed during visit of monitoring team to Uzbekistan, provided many examples in terms of measures implementation for transparency and internal control in private sector enterprises, and in particular, foreign investment enterprises and those, engaged in financial and investments spheres and falling under the scope of the Law on Combating Money Laundering.

Many business owners told about measures, implemented by them. A number of business interlocutors told about increasing role of websites both for transparency of the enterprise activity and providing of specific services. One enterprise was given as example – a joint venture implemented a range of measures for corporate governance system introduction, including the following measures to prevent corruption: a corporate website was launched, anti-corruption policy of the enterprise was approved, the procedure for reporting on corruption and procurement procedures have been developed, as well as standards for business conduct, which all employees should sign. Other interlocutors provided examples of adoption of ethics code, code of corporate governance in banking, and a code template (provided by Association of Banks).

Dialogue with Business Sector on Simplification of Business Regulation and Measures to Improve Business Climate and Prevent Corruption

As mentioned earlier in this report, the monitoring team learned during their visit that draft laws should be discussed with business community through the Trade and Industry Chamber. As business interlocutors noted during the visit, the Trade and Industry Chamber holds regular meetings, and some of the proposals made are included in the comments of the Trade and Industry Chamber. Thus, the Trade and Industry Chamber was involved in discussion of Tax Code, Customs Code, and Comprehensive Anti-Corruption Activities Plan for 2015, as well as discussion of administrative and labor law.

During the visit, the Trade and Industry Chamber pointed out the importance of dialogue on such issues like introduction of “one-window” service, business license issuance, and monitoring of the activities of business entities. It should be noted that the Chairman of the Trade and Industry Chamber is a member of the Republican Council for Coordination of Activities of Supervisory Authorities. This Council has the information about expected inspections and may raise objection against certain inspections (no information about such cases is available).

The 20 December 2012 Law “On Permits in the area of Business Conduct” was discussed with various business representatives with intermediary of the Chamber of Commerce.

Other associations of Uzbekistan or enterprises have been also directly involved in discussion of draft projects of statutory regulations, for example, the Association of Auditors submitted its comments about draft law on audit activities, and the commercial bank submitted its comments about draft law on joint - stock companies.

As mentioned earlier in this Report's section about research on corruption, the Trade and Industry Chamber informed about conduct of research on business climate in Uzbekistan in cooperation with the Ministry of Justice, which included the issue of extortion research. However, as the monitoring team understood, this research is not publicly accessible. Moreover, in 2014 there were organized seminars for small and medium businesses on theme: "Issues on Protection of Rights and Legal Interests of Business Owners". These seminars were arranged by Independent Institute for Monitoring the Formation of Civil Society (IIMFCS) in cooperation with territorial departments of the Trade and Industry Chamber in regions of Uzbekistan and in Tashkent city. During seminars opinion polls were conducted including the issues of corruption perception by business community, identification of issues, related to the development of small business and private sector.

Within the framework of the Agreement with General Prosecutor's Office, the Trade and Industry Chamber can submit information about evidences of corruption offences in the activities of Government officials in their relationships with business entities. Unfortunately, this provision is poorly implemented, since, according to the representatives of the Trade and Industry Chamber, only one such case was reported in 2014. The Businesswomen's Association summarized information about 380 cases of complaints and proposals of businesswomen, 18% of which concerned the relationships with Government agencies.

Conclusions

In 2014 – 2015 Uzbekistan took steps to encourage corporate governance in joint-stock companies, mostly state-owned and industrial enterprises including initiating of the national corporate governance program development. Some private enterprises adopt internal control systems and codes of business conduct, but these are mainly foreign investment enterprises or credit institutions. This practice is not monitored; therefore, only a few cases are likely to take place. In 2014 the Trade and Industry Chamber developed the Code of business conduct in Uzbekistan. In total, the monitoring team encourages Uzbekistan to support more actively an open dialogue with businesses – both industrial enterprises and small and medium businesses – on issues of corruption, which they encounter, and how to improve business climate, disseminate the best practices of corporate governance and implementation of internal control systems in business sector.

Uzbekistan partially implemented recommendation 3.9. and it remains valid under the number 23.