



INTERNATIONAL STANDARDS AND RECOMMENDATIONS FOR IMPLEMENTING AN ANTI-CORRUPTION “COMPLIANCE-CONTROL” SYSTEM IN THE PRIVATE SECTOR

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Abstract. A number of standards and recommendations have been adopted to regulate the “compliance-control” system in the field of combating corruption in the private sector from an international legal perspective. These standards focus primarily on the timely identification of corruption risks in the private sector, and then on the activities of state agencies and organizations, their prevention, ensuring openness and transparency, and timely elimination of corruption-related offenses by improving internal departmental control mechanisms.

Key words: Compliance control, private sectors, international recommendations and standards, compliance management systems, internal auditing standards, anti-bribery management system, tone at the top, zero tolerance to corruption, transparency.

Аннотация: Принят ряд стандартов и рекомендаций, регламентирующих систему «комплаенс-контроль» в сфере противодействия коррупции в частном секторе с международно-правовой точки зрения. Данные стандарты ориентированы, прежде всего, на своевременное выявление коррупционных рисков в частном секторе, а затем на деятельность государственных органов и организаций, их предупреждение, обеспечение открытости и прозрачности, своевременное устранение коррупционных правонарушений путем совершенствования механизмов внутриведомственного контроля.

Ключевые слова: Контроль за соблюдением требований, частный сектор, международные рекомендации и стандарты, системы управления соответствием требованиям, стандарты внутреннего аудита, система управления противодействием взяточничеству, тон сверху, нулевая терпимость к коррупции, прозрачность.

Annotatsiya: Xususiy sektor faoliyatida korrupsiyaga qarshi kurashish sohasida “komplayens-nazorat” tizimini xalqaro-huquqiy jihatdan tartibga solishga qaratilgan qator standart va tavsiyalar qabul qilingan. Mazkur standartlarda asosiy e'tibor birinchi navbatda xususiy sektor faoliyatida, undan keyin esa davlat idoralari va tashkilotlari faoliyatida korrupsiyaviy xavf-

xatarlarni o'z vaqtida aniqlash, ularni oldini olish, ochiqlik va shaffoflikni ta'minlash hamda ichki idoraviy nazorat mexanizmlarini takomillashtirish orqali korrupsiyaga oid huquqbuzarliklarni o'z vaqtida bartaraf etish masalalarini o'z ichiga oladi.

Kalit so'zlar: komplayen nazorat tuzilmasi, xususiy sektorlar, xalqaro tavsiyalar va standartlar, komplayensni boshqarish tizimlari, ichki audit standartlari, poraxo'rlikka qarshi boshqaruv tizimi, korrupsiyaga nisbatan "0" darajadagi murosasizlik munosabati, oshkoralik.

Introduction. In recent years, the issues of combating and preventing corruption in our country have risen to the level of state policy, and a number of measures are being defined in state strategies and programs. In particular, the 89th goal of the Decree of the President of the Republic of Uzbekistan No. PF-158 dated September 11, 2023 on the "Uzbekistan – 2030" strategy is to increase the effectiveness of the system for eliminating corruption factors, to continue intensively the work on forming an intolerant attitude towards corruption in society, and to achieve an increase of at least 50 points in the Corruption Perceptions Index published by the international organization "Transparency International" as one of the performance indicators of the goals to be achieved by 2030.¹

Method. *The following standards and recommendations aimed at international legal regulation of the institution of "compliance control" can be cited:*

- United Nations Convention against Corruption;
- ISO 37001:2016 International Standard "Anti-bribery Management Systems" (ISO 37001 Anti-bribery management systems)
- ISO 37301:2021 "Compliance management systems – Requirements with guidance for use".
- Standards and recommendations adopted by the Organization for Economic Co-operation and Development (Organization for Economic Co-operation and Development);
- Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OBCT);
- "Good Practice Guidance on Internal Controls, Ethics and Compliance" (Good Practice Guidance on Internal Controls, Ethics and Compliance);

¹ Decree of the President of the Republic of Uzbekistan dated 11.09.2023 No. PF-158 "On the Strategy of Uzbekistan-2030"

- “Global Principles for Combating Corruption. Guidance.”
- “Global Principles for Combating Corruption” developed by the “Partnering Against Corruption Initiative”;
- “Compliance and the compliance function in banks” adopted by the Basel Committee on Banking Supervision.

Research. The United Nations Convention against Corruption (UNCAC) is the first binding global instrument to combat corruption. Every 5 years, States Parties to the UNCAC are required to review the implementation of the main chapters of the Convention. The purpose of the Convention is to promote, facilitate and support international cooperation in preventing and combating corruption, including asset recovery; and to promote integrity, accountability and sound management of public affairs and public property.

For example, Article 12 of this Convention, entitled “**Private sector**”, Article 21, “Bribery in the private sector”, Article 22, “Obligation of property in the private sector”, and Article 39, “Cooperation between national authorities and the private sector”, contain recommendations on the identification of corruption risks and the implementation of preventive measures to prevent them.

Article 12 of this Convention states that “each State Party shall, in accordance with the fundamental principles of its domestic law, establish procedures to prevent corruption in the private sector, to strengthen accounting and internal auditing standards and, where appropriate, to impose effective, proportionate and dissuasive civil, administrative or criminal penalties for non-compliance with these measures”.²

The next international document is ***the ISO 37001:2021 “Compliance management systems – Requirements with guidance for use”*** standard. This standard includes requirements for implementing a “compliance control” system, developing rules, evaluating and monitoring it, establishing principles, and continuously improving the “compliance control” system, which is appropriate for both private sector activities and government agencies.

The following recommendations aimed at the international legal regulation of the “compliance control” system are the standards and recommendations adopted by the Organization for Economic Co-operation and Development. The OECD adopted the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. This convention

² Law of the Republic of Uzbekistan dated July 7, 2008 “On the accession of the Republic of Uzbekistan to the United Nations Convention against Corruption (New York, October 31, 2003)”.



establishes the following as norms for preventing corruption in the activities of the state and the private sector;

- ✓ “Control over the maintenance of accounting records;
- ✓ Reflection of requirements related to the external auditor;
- ✓ Improvement of internal control mechanisms;
- ✓ The Convention itself sets out the following recommendations in

these categories:

- ✓ Development and adoption of corporate ethics standards;
- ✓ Information on the activities of internal control mechanisms and the prevention of corruption in the annual reports of the organization’s management;

✓ Establishing and activating systems in companies that ensure reporting of such corruption cases by persons who do not want to violate established professional and ethical norms under improper instructions or pressure from senior management, and creating clear guarantees for the protection of the rights of whistleblowers in this process.” These listed preventive measures are necessary elements that make up the “compliance control” system.³

The next international standard related to the international regulation and implementation of the “compliance control” institution is the “Global Principles for Combating Corruption”, developed by the “Partnering Against Corruption Initiative”.⁴

This international standard sets out 6 basic principles for implementing the “compliance control” system.

According to him:

“Tone at the top - demonstrating the organization's leadership's desire to compromise on corruption to the team based on a personal example, that is, the principle of a personal example of a leader.

- Zero tolerance to corruption - creating a culture of “0” level of tolerance for the occurrence of corruption;
- Transparency - ensuring that the activities of organizations are organized on the basis of the principle of openness and transparency;
- Compliance - ensuring compliance with laws and other regulatory documents in all areas of the organization's activities;

³ OECD (2016) Committing to Effective Whistleblower Protection. <https://www.oecd.org/corruption/anti-bribery/Committing-to-Effective-Whistleblower-Protection-Highlights.pdf>

⁴ OECD (2014) Guidelines on corporate governance of state-owned enterprises//: <https://www.oecd.org>



- Counterparty - establishing relationships with partners who adhere to high ethical and anti-corruption standards;
- Regularly supporting and encouraging anti-corruption initiatives".⁵

The next international document on the introduction of a "compliance control" system in the private sector is the 2005 Basel Committee document "On Compliance and the Compliance Function in Banks". It sets out recommendations for the organization of a compliance control system in banks and other organizations and the organization of an anti-corruption policy by the compliance service:

- clearly define the status, rights and obligations, scope of authority of the "anti-corruption "compliance control" structure and create mechanisms to ensure its independence;

- clearly define the scope of internal relations between the "compliance control" structure and other structural divisions of the bank, for example, the internal audit service, based on local documents;

- if cases of performing "compliance" functions by different departments of the bank are determined, then the management should clearly separate the tasks between them, it is advisable to determine the performance of functions mainly as the activities of this service, since the duplication of tasks affects the efficiency and independent activities of this structure;

- ensure the right of the "compliance control" structure to have all the information necessary in the process of performing its duties and determine the obligation of its employees to cooperate in providing information on corruption;

- Ensuring the right to freely provide and disclose necessary documents on corruption cases to executive bodies without any influence and to report on corruption cases to management;

- Determining the status of the "compliance control" structure's subordination to management.⁶

Analysis. It should be noted that the recommendations in this document mainly include ensuring the independence of the "compliance control" system, defining the limits of its powers, developing a system for reporting on corruption cases, and submitting reports to the first manager.

These recommendations have been implemented in the "compliance control" system in foreign developed countries, in particular, in countries such

⁵ "Improving the organizational and legal framework of the "compliance-control" system in the field of combating corruption" Doctor of Philosophy in Legal Sciences S. Mamanov, dissertation, Tashkent-2024, pp. 64-65.

⁶ Базельский комитет по банковскому надзору//Руководство Принципы корпоративного управления для банков https://www.cbr.ru/Content/Document/File/36687/Basel_cgpb.pdf

as the USA, Great Britain, France, Indonesia, Thailand, and Singapore. These recommendations set out rules for implementing the “compliance control” system in the activities of all organizations (state bodies, state-owned organizations, and the private sector).

Conclusion. To summarize, as we can see, international standards and recommendations set requirements such as, firstly, introducing a "compliance control" system into all organizations, both in the public sector and in the private sector; secondly, ensuring maximum independence of this system (organizing its functions as a separate structure without assigning them to other departments); thirdly, clearly defining the boundaries of its powers, rights and obligations; fourthly, systematically improving the mechanisms for implementing internal control structures; fifthly, this structure must be subordinate only to the first manager and must constantly submit reports to him; sixthly, reporting on corruption cases.

References:

1. Decree of the President of the Republic of Uzbekistan dated 11.09.2023 No. PF-158 “On the Strategy of Uzbekistan-2030”;
2. Базельский комитет по банковскому надзору//Руководство Принципы корпоративного управления для банков https://www.cbr.ru/Content/Document/File/36687/Basel_cgpb.pdf;
3. OECD (2016) Committing to Effective Whistleblower Protection. <https://www.oecd.org/corruption/anti-bribery/Committing-to-Effective-Whistleblower-Protection-Highlights.pdf>;
4. OECD (2014) Guidelines on corporate governance of state-owned enterprises//: <https://www.oecd.org>;
5. “Improving the organizational and legal framework of the “compliance-control” system in the field of combating corruption” Doctor of Philosophy in Legal Sciences S. Mamanov, dissertation, Tashkent-2024;
6. Law of the Republic of Uzbekistan dated July 7, 2008 “On the accession of the Republic of Uzbekistan to the United Nations Convention against Corruption (New York, October 31, 2003)”.

