



The Concept and Essence of Anti-Corruption Compliance Control

Umid Karshiev

Student of the Master's Degree of the Academy of Law Enforcement of the Republic of Uzbekistan, "Combating Corruption" specialty

umidqarshiyev1999@gmail.com

Abstract

In this article, before the definition of the concept of anti-corruption compliance control, the concept of corruption is also briefly touched upon. Also, the concept of anti-corruption compliance control and its content are described. In particular, the word "Compliance" has been analysed according to its dictionary meaning and its use in international standards. In addition, an analysis of the content and essence of anti-corruption compliance control was carried out according to the legislation of the Republic of Uzbekistan. Some international standards are stated and compared with national legislation. Additionally, as a conclusion, the concept of anti-corruption compliance control is mentioned, and a proposal for the legislation of the Republic of Uzbekistan is also given. A list of used literature and sources is also recorded.

Keywords: Anti-corruption compliance control, corruption, "ISO 19600:2014 Compliance management systems, ISO 37001:2016 Anti-bribery management systems, Anti-Corruption Agency of the Republic of Uzbekistan, conflict of interest, anti-corruption policy.

Introduction

The concept of corruption should be emphasized in this article. In accordance with Transparency International, corruption is the abuse of entrusted power for private gain [1]. Another definition of corruption that the World Bank defined, and utilizes more in the state sector, is the abuse of public office for private gain [2]. Moreover, in the law of the Republic of Uzbekistan on "Combating Corruption", the concept of corruption is defined. According to this



law, corruption is illegal use by a person of official or duty position with the aim of obtaining tangible or intangible benefits in personal interests or in the interests of other persons, and an unlawful provision of such benefit. It should be added that there is a clear theoretical perspective on the concept of corruption.

Before discussing the concept of compliance control system, we need to pay attention to the dictionary meaning of this word. In Cambridge Dictionary, this term is noticed as the act of obeying an order, rule, or request [3]. "ISO 19600:2014 Compliance management systems is implied as the international standard, especially, according to "ISO 19600:2014 Compliance management systems - Guidelines", "compliance is a system that consists of organizing the activities of a company or organization in accordance with the established requirements and rules". Moreover, there are several objections in this regard. In particular, "Compliance" means observance of the provisions of the law, standards and other important regulation [4]. In addition, compliance allows companies to avoid potential liability by complying with all legal regulations relevant to their operations. Compliance at a certain level means an organizational model that includes processes and systems that ensure compliance with the law, internal standards, and the basic requirements of the company's owners and shareholders.

In my opinion, to put it briefly, compliance control is the operation and compliance of all organizations, institutions, and state bodies in accordance with existing laws, regulations, standards, and internal procedures. At the same time, it is appropriate to dwell on the concept of anti-corruption compliance control. In particular, ISO 37001:2016 Anti-bribery management systems is the main international standard in this regard. Although this international standard is not specifically about corruption, it is a standard for combating bribery. This standard can also be used to fight other types of corruption. Therefore, it is necessary to emphasize the function, management, content, and essence of fighting against bribery presented in this standard. According to this document, the organization



shall establish, document, implement, maintain, and continually review and, where necessary, improve an anti-bribery management system, including the processes needed and their interactions, in accordance with the requirements of this document. The anti-bribery management system shall contain measures designed to identify and evaluate the risk of, and to prevent, detect and respond to, bribery [5].

What's more, anti-corruption compliance can be defined as the set of measures and procedures adopted by an organization to prevent and detect breaches of probity (corruption and influence peddling in particular) by the company itself, its management, its employees or third parties with which the organisation has dealings [6]. In addition, the concept of an anti-corruption compliance system is presented in the manual and textbook created by the initiative of the Anti-Corruption Agency of the Republic of Uzbekistan. In accordance with it, the anti-corruption compliance system is a system that ensures that the activities of state bodies and business entities, banks and the private sector are organized in accordance with international standards in the field of combating corruption, the law, and other regulatory legal documents, the risks of corruption and is an effective system that incorporates a number of preventive measures, such as timely detection and termination of conflicts of interest, reporting of violations of the law and corruption-related offenses [7].

In order to understand the concept of anti-corruption compliance control, it is necessary to know its historical origin and research its causes. Therefore, let's briefly touch on the history of compliance control. The field of compliance was developed by various organizations and institutions in order to protect consumer rights at the beginning of the 20th century. It began to manifest itself as the establishment of centralized state control for public safety. For instance, the modern regulatory functions of The Food and Drug Administration in 1906 responded to public outcry over food processing, sparked by publications such as



Upton's, to provide consumers with basic protections such as product labels, "Pure Food and Drugs Act" was adopted. During the 1970s, events such as the passage of the Foreign Corrupt Practices Act and the creation of the Environmental Protection Agency and Drug Enforcement Administration led to a shift in the structure of compliance programs from public initiatives to internal functions within organizations. Creating these initiatives acknowledged that it was the contractor's responsibility to ensure ethical business practices on behalf of the government [8].

However, according to another category of researchers, compliance control appeared in Germany, it is noted. In particular, the establishment of the Accident Prevention & Insurance Association is considered to be the creation of a compliance system. In order to better understand the essence of anti-corruption compliance control, it is necessary to dwell on the implementation of the activities of this field based on what kind of legal documents. In particular, ISO 37001:2016 Anti-bribery management systems and the documents developed by the Anti-Corruption Agency of the Republic of Uzbekistan, which should be accepted as recommended documents in the anti-corruption compliance control departments, are described. ISO 37001:2016 Anti-bribery management systems require the following documents to be accepted. Especially, ethics rules, an act on conflict of interest, the procedure for training employees against corruption, risk assessment, and due diligence procedures, the procedure for conducting a service inspection on the corruption cases against employees, anti-bribery policy, whistleblowing policy, screening of candidates for employment, monitoring the effectiveness of fighting against corruption, reporting on corruption. These measures are set out in ISO 37001:2016 Anti-bribery management systems [9].

The Anti-corruption Agency of the Republic of Uzbekistan issued the following recommendations for acceptance in compliance control units based on this standard. Including: 1) Anti-corruption policy of state bodies and organizations; 2) Methodology of assessment of corruption risks in state bodies



and organizations, their regional and structural units; 3) Regulation on conflict of interest management in state bodies and organizations, their territorial and structural units; 4) Regulation of reception and review of reports received by state bodies and organizations, their regional and structural units, about corrupt behaviour through communication vehicles; 5) Instruction on organization of training of employees of state bodies and organizations, their territorial and structural units in the field of ethics and fight against corruption; 6) Instructions on checking counterparties in state bodies and organizations, their regional and structural units; 7) Instructions on the examination of candidates for employment in state bodies and organizations, their regional and structural units; 8) Methodology of monitoring and controlling the effectiveness of anti-corruption procedures in state bodies and organizations, their regional and structural units; 9) Regulation on the formation and submission of a report on the state of the anti-corruption system in state bodies and organizations, its territorial and structural units; 10) Regulation on conducting service inspections on cases of corrupt behaviour and violations of the rules of ethics of employees of state bodies and organizations, their territorial and structural units; 11) Model rules of etiquette for employees of state bodies and organizations, their territorial and structural units [10].

Conclusion

It can be said that, anti-corruption compliance control is a system of preventive measures implemented by the organization based on international legal norms and standards, as well as local legislation and internal procedures. In addition, this article should be noted as a proposal for legislation. Based on ISO 37001:2016 Anti-bribery management systems, as mentioned above, the recommended documents are presented for adoption in compliance control units. These documents have been presented as recommendations by the Anti-Corruption Agency. In practice, the implementation and use of these documents in compliance



control structures are mandatory, so they may not be fully implemented. It is necessary to establish that these recommendation documents must be accepted within the framework of the law.



REFERENCES

1. Combating corruption. Handbook. // Responsible editor: A.SH. Bekmurodov: – Tashkent: “Academy”, 2022. – 344 p.
2. Samples of the main internal departmental documents on fighting corruption in state bodies and organizations [Text]: Handbook / compilers: T.Haydarov [and others]. –Tashkent. Baktria press, 2022, -152 p.
3. "Anti-corruption compliance control in BRICS countries: Monograph" (Ivanov E.A.) ("Jurisprudence", 2015).
4. ISO 37001:2016 Anti-bribery management systems.
5. ISO 19600:2014 Compliance management systems.
6. Law of the Republic of Uzbekistan on “Combating Corruption” (www.lex.uz).
7. The French anti-corruption policy framework comprises the Transparency, Anti-Corruption and Economic Modernisation Act 2016- 1691 of 9 December 2016, its implementing regulations, the AFA recommendations to help private and public sector entities prevent and detect corruption, factsheets and practical guides, and FAQs published on the AFA website.
8. Cambridge Dictionary.
9. The definition of Transparency International (www.transparency.org).
10. The definition of World Bank (www.worldbank.org).