



**Conference of the States Parties
to the United Nations
Convention against Corruption**

Distr.: General
1 August 2016
English
Original: Russian

Implementation Review Group

Resumed seventh session

Vienna, 14-16 November 2016

Item 2 of the provisional agenda*

**Review of implementation of the United Nations
Convention against Corruption**

Executive summary

Note by the Secretariat

Addendum

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* CAC/COSP/IRG/2016/1/Add.1.



II. Executive summary

Uzbekistan

1. Introduction: Overview of the legal and institutional framework of Uzbekistan in the context of implementation of the United Nations Convention against Corruption

Uzbekistan ratified the Convention through Act No. 158 of 7 July 2008 on the accession of the Republic of Uzbekistan to the United Nations Convention against Corruption (New York, 31 October 2003). Uzbekistan deposited its instrument of ratification with the Secretary-General on 29 July 2008.

National legislation against corruption includes the Constitution, the Criminal Code, the Code of Criminal Procedure, the Administrative Liability Code, the Civil Code and other laws and regulations.

Uzbekistan's institutional framework for combating corruption comprises the Office of the Prosecutor-General, the Ministry of the Interior, the National Security Service, the Ministry of Justice, the Ministry of Finance and other public authorities, including their specialized units.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

A description of the functions of officials is contained in section VIII of the Criminal Code. Officials include persons who are authorized to manage organizational, administrative and financial matters but do not have the status of a responsible official. The same section of the Code sets out a definition of "responsible officials", who are (1) Government representatives; (2) persons occupying posts involving the performance of organizational, administrative or finance-related duties and authorized to perform legal acts, whether elected or appointed, whether permanently or temporarily, in public enterprises, institutions or organizations; (3) heads of enterprises, institutions or organizations under other forms of ownership or civil society representatives vested, in accordance with established procedure, with authority in matters of public administration; or (4) persons occupying posts involving performance of the duties specified in (2) above in citizens' self-governing bodies. However, the articles of the Criminal Code that cover corruption offences refer to "official" rather than "responsible official", as a result of which it is unclear to what extent illegal acts committed by "responsible officials" are criminally punishable. It therefore appears that the definition of "official" in Uzbek legislation does not fully meet the requirements of article 2, paragraph (a), of the Convention. Moreover, article 15 of the Administrative Liability Code contains an additional definition of "official" that is not consistent with the definition in the Criminal Code.

Article 213 of the Criminal Code establishes criminal liability for bribery of a salaried employee who is not an official of a State body, enterprise, institution or organization, regardless of form of ownership, or of a civil society association or a citizens' self-governing body. According to articles 14 and 77 of the Labour Code, a

salaried employee may be any person aged 16 years or older who has entered into an employment contract with an institution, organization or enterprise.

Active bribery of public officials is a criminal offence under articles 211 (on active bribery) and paragraph 1 of article 213 (on bribery of a salaried employee) of the Criminal Code. The giving of an advantage to another natural or legal person (i.e. a person other than the official) is not covered. Articles 211 (on active bribery) and 213 (on bribery of a salaried employee) of the Criminal Code contain the element, not provided for by the Convention, of acting or refraining from acting in the interests of the person carrying out the act of bribery.

Active bribery through an intermediary is punishable under article 211 (on active bribery) of the Criminal Code, while acting as an intermediary is a criminal offence under article 212 of the Criminal Code (on intermediation in bribery).

Passive bribery, whether committed directly or through an intermediary, is a criminal offence under article 210 (on passive bribery), paragraph 2 of article 213 (on bribery of a salaried employee) and article 214 (on solicitation of a bribe) of the Criminal Code. Passive bribery does not include obtaining a bribe for a third person, whether natural or legal; articles 210 (on passive bribery) and paragraph 2 of article 213 (on bribery of a salaried employee) of the Criminal Code contain the element, not provided for by the Convention, of performance of or deliberate failure to perform an act in the interests of the person carrying out the act of bribery.

Bribes include tangible assets or property-related benefits, including services subject to service fees but offered free of charge. Non-property-related advantages as bribes are not covered.

The promise, offering and solicitation of bribes are not established as separate elements in the articles of the Criminal Code relating to bribery. According to information provided by official representatives of Uzbekistan, these elements are covered by the Criminal Code as preparation for an offence or attempt to commit an offence (art. 25 of the Criminal Code).

Bribery of a foreign official or of an official of an international organization is not a criminal offence under the legislation of Uzbekistan.

Active and passive bribery in the private sector are partly covered by articles 210 (on passive bribery), 211 (on active bribery), 212 (on intermediation in bribery), 213 (on bribery of a salaried employee) and 214 (on solicitation of a bribe) of the Criminal Code and by the provisions of the Criminal Code on preparation and attempt (art. 25 of the Criminal Code). In relation to bribery in the private sector, the giving or receiving of non-property-related benefits are not offences and the element of “for the person himself or herself or for another person” is not covered. Articles 210 (on passive bribery), 211 (on active bribery) and 213 (on bribery of a salaried employee) of the Criminal Code contain the element, not provided for by the Convention, of acting or refraining to act in the interests of the person carrying out the act of bribery.

The legislation of Uzbekistan does not contain a specific provision establishing criminal liability for trading in influence.

Money-laundering, concealment (arts. 23 and 24)

The legalization (laundering) of the proceeds of crime is a criminal offence under article 243 of the Criminal Code (on legalization of the proceeds of criminal activities).

The provisions on complicity (arts. 27 and 28 of the Criminal Code) cover the element of “helping any person [...]”, in accordance with the requirements of subparagraph 1 (a)(i) of article 23 of the Convention.

The provisions on complicity also apply with respect to the elements referred to in subparagraph 1 (b)(i) of article 23 of the Convention, together with articles 31 (on implication in a crime), 241 (on concealment of or failure to report a crime) and 171 (on acquisition or sale of property obtained by criminal means) of the Criminal Code.

Criminal liability for the elements set out in subparagraph 1 (b)(ii) of article 23 of the Convention is established under the provisions on complicity (art. 28 of the Criminal Code) and preparation and attempt (art. 25 of the Code) and under article 241 of the Code.

Article 243 of the Criminal Code does not set out any restrictions with respect to the range of criminal acts considered to constitute predicate offences, nor does it establish that an offence under that article shall not apply to persons who committed the predicate offence.

Concealment (art. 24 of the Convention) is covered by articles 243 (on legalization of the proceeds of criminal activities) and 241 (on concealment of or failure to report a crime) of the Criminal Code. Furthermore, a person who undertakes in advance to conceal an offender, evidence of an offence or tools or instrumentalities used in the commission of an offence, or things acquired by criminal means, or a person who undertakes in advance to acquire or sell such things, is deemed an assistant in the offence (art. 28 of the Criminal Code). Articles 31 and 241 of the Criminal Code may also be applied in the case of the concealment without any such prior undertaking of things obtained by criminal means.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Liability for the misappropriation or peculation of another person’s property entrusted to the guilty person, in both the public and the private sector, is established in article 167 of the Criminal Code (Embezzlement through misappropriation or peculation). Commission of this offence through the abuse of functions is established as an aggravating circumstance. Diversion of entrusted property in the absence of elements of the offence of misappropriation or peculation may constitute the offence of abuse of power or authority (art. 205 of the Criminal Code) or neglect of official duty (art. 207 of the Criminal Code). It is also possible to apply article 184-1 of the Criminal Code on violation of fiscal discipline.

Abuse of position is partially covered by articles 205 (on abuse of power or authority), 206 (on exceeding authority or powers) and 208 (on deliberate failure to exercise authority) of the Criminal Code. The reference in articles 205, 206 and 208 of the Code to serious damage or substantial harm to the rights or legally protected interests of citizens restricts the range of punishable acts in comparison with article 19 of the Convention.

At the time of the review, Uzbekistan was considering the possibility of criminalizing illicit enrichment as a separate offence. During the country visit, it was noted that Uzbekistan did not have a system for the mandatory declaration of

income of public servants, which is a serious obstacle to the implementation of this provision.

Obstruction of justice (art. 25)

Article 238 of the Criminal Code (on perjury) establishes liability for bribing a witness or victim to give false testimony, an expert to give a false expert opinion or a translator to translate falsely during initial inquiries, a pretrial investigation or court proceedings, and for compelling such persons to give false testimony by psychologically or physically intimidating them or their close relatives. The element of “interference in the production of evidence” is not reflected in article 238 of the Criminal Code, which refers only to witnesses, victims and translators and does not cover interference in the production of other evidence.

Article 235 of the Criminal Code establishes liability for the use of torture and other cruel, inhuman or degrading treatment or punishment in respect of persons involved in criminal proceedings where such acts are committed by a person conducting an initial inquiry, an investigator, a prosecutor or any other employee of a law enforcement authority or penal institution, whereas article 25 (a) of the Convention does not establish such restrictions.

Article 25 (b) of the Convention is partially covered by article 236 of the Criminal Code, which establishes liability for interference in an investigation or in judicial decisions, that is, illegal influence in any form on a person conducting an initial inquiry, an investigator or a prosecutor with the aim of obstructing a thorough, complete and objective investigation of a case or on a judge with a view to leading him or her to issue an unlawful judgment, decision, ruling or order. The aforementioned article of the Criminal Code does not cover the influencing of other judicial or law enforcement officials.

Liability of legal persons (art. 26)

In accordance with article 53 of the Civil Code, legal persons may be liquidated by court order if they carry out activities prohibited by law.

However, the legislation of the Republic of Uzbekistan does not establish the grounds and conditions for the application of the measure of liquidation where a legal person has participated in an offence established by the Convention. There is no clear legal mechanism for the application of that measure in the case of corruption offences as the term “prohibited activity” does not always cover the participation of legal persons in offences established by the Convention.

Uzbekistan has explained that the imposition on a legal person of sanctions for a corruption offence does not exempt a natural person guilty of participation in that offence from liability, and vice versa.

Existing measures for the liability of legal persons involved in the offences established by the Convention do not allow differential application according to the seriousness and other circumstances of the offence.

During the country visit, the representatives of Uzbekistan provided information on the work being carried out on draft laws providing for the criminal and administrative liability of legal persons.

Participation and attempt (art. 27)

Participation in a crime as perpetrator, organizer, assistant or instigator encompasses elements of complicity in a crime (articles 27 and 28 of the Criminal Code).

Preparation and attempt are defined in article 25 of the Criminal Code and are punishable under the same article of the Special Section of the Criminal Code as the offence itself.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Criminal sanctions take into account the gravity of the crime and are proportionate.

Under Uzbek law, inviolability is enjoyed by the President of Uzbekistan, deputies of the Legislative Chamber, which is the lower house of the Oliy Majlis (the parliament of Uzbekistan), members of the Senate, which is the upper house of the Oliy Majlis, deputies of provincial, district and city councils, the Human Rights Commissioner (Ombudsman) of the Oliy Majlis, judges and members of the prosecution service.

Under article 2 of the Act on Fundamental Guarantees of the Activities of the President of the Republic of Uzbekistan, the President enjoys inviolability and immunity, as does the former President of the Republic of Uzbekistan. Procedures for lifting the immunity of the President are not provided for.

According to articles 13 and 14 of the Act on the Status of Deputies of the Legislative Chamber and Members of the Senate, deputies and senators enjoy inviolability during their term of office. Deputies and senators cannot be criminally prosecuted, arrested, detained or subjected to administrative penalties imposed by a court of law without the consent of the Chamber concerned. The decision to strip a deputy or senator of the right to inviolability is made on the basis of a recommendation issued by the Prosecutor-General to the relevant Chamber of the Oliy Majlis. Deputies of provincial, district and city councils (*kengashlar*) also enjoy inviolability within the relevant districts (article 13 of the Act on the Status of Deputies of Provincial, District and City Councils).

The Ombudsman enjoys the right to inviolability and cannot be criminally prosecuted, arrested, detained or subjected to administrative penalties imposed by a court of law without the consent of the Chambers of the Oliy Majlis. Criminal proceedings against the Ombudsman may be brought only by the Prosecutor-General (article 18 of the Act on the Human Rights Commissioner (Ombudsman) of the Oliy Majlis).

Criminal proceedings against a judge may be instituted only by the Prosecutor-General of Uzbekistan. A judge cannot be criminally prosecuted or detained without the consent of the plenum of the Supreme Court or the plenum of the Higher Economic Court (article 70 of the Courts Act), as appropriate. A judge of the Constitutional Court cannot be criminally prosecuted or detained without the consent of the Constitutional Court (article 16 of the Constitutional Court Act).

The filing and preliminary investigation of criminal cases involving prosecutors and investigators are the exclusive responsibility of the prosecution bodies (article 49 of the Prosecutor's Office Act).

Detailed procedures for lifting immunity are provided for only with respect to deputies of the Oliy Majlis (article 14 of the Act on the Status of Deputies of the Legislative Chamber and Members of the Senate) and deputies of provincial, district and city councils (article 12 of the Act on the Status of Deputies of Provincial, District and City Councils).

However, during the country visit, the representatives of Uzbekistan indicated that problems did not arise with regard to the lifting of immunity in practice.

Early release or parole of convicted persons is granted in accordance with legislation and taking into account the gravity of the offence, the part of the sentence already served and the character of the person (articles 73 and 74 of the Criminal Code).

The grounds and procedure for suspending an accused person from office are provided for in chapter 29 of the Code of Criminal Procedure.

Article 45 of the Criminal Code (deprivation of a right) provides for punishment by deprivation of the right to hold certain posts or engage in certain activities.

Convicted officials may be disciplined.

Genuine remorse, admission of guilt, active assistance in uncovering an offence and voluntary restitution for damage suffered are mitigating circumstances (article 55 of the Criminal Code). Where there are mitigating circumstances as provided for in paragraphs (a) and (b) of the first part of article 55 of the Criminal Code, and no aggravating circumstances as provided for in the first part of article 56 of the Criminal Code, the sentence may not exceed two thirds of the maximum penalty provided for by the relevant article of the Special Section of the Criminal Code.

Article 57 of the Criminal Code regulates the imposition of lighter penalties. If a court considers that the circumstances mitigate the danger posed by the offence to the public, it may, in exceptional circumstances, impose a penalty below the lower limit established for that offence in the relevant article of the Special Section of the Criminal Code or impose a different, more lenient punishment that is not provided for by that article. On the same basis, the court may choose not to impose a mandatory additional penalty provided for by the relevant article of the Special Section of the Criminal Code.

Under article 66 of the Criminal Code, a person may be exempted from liability on the grounds of “active remorse”.

In accordance with article 211 of the Criminal Code, a person who has given a bribe is exempt from liability if the bribe was extorted from that person and if, within 30 days of committing the crime, the person voluntarily reports the incident, is genuinely remorseful and actively contributes to the investigation of the crime.

In accordance with article 212 of the Criminal Code, a person who has acted as an intermediary in bribery is exempt from liability if, within 30 days of committing the crime, he or she voluntarily reports the incident, is genuinely remorseful and actively contributes to the investigation of the crime. In this regard, the experts conducting the review noted that automatic exemption from liability could create difficulties in assessing adequately the guilt of the bribe-giver, but the representatives of Uzbekistan noted that in practice such obstacles had not been encountered.

Protection of witnesses and reporting persons (arts. 32 and 33)

The legislation of Uzbekistan contains general provisions on the need to protect participants in criminal proceedings where there is sufficient evidence of threats against them (article 270 of the Code of Criminal Procedure).

Certain measures relating to the non-disclosure of information on victims, witnesses and other participants in proceedings are provided for in the third paragraph of article 380 of the Code of Criminal Procedure.

The law does not establish a detailed list of measures for the protection of participants in criminal proceedings or an effective mechanism for their implementation.

There is also no mechanism allowing participants in criminal proceedings, including witnesses and experts, to give testimony in a manner that ensures their safety, such as the use of video or other means.

There are no special procedures in Uzbek legislation for the protection of persons who report information concerning acts of corruption. Limited protection measures may be implemented on the basis of the Act on Communications by Natural and Legal Persons and the Police Operations Act.

Freezing, seizure and confiscation; bank secrecy (arts. 31 and 40)

Articles 211, 284 and 285 of the Code of Criminal Procedure provide for the seizure of proceeds of crime in the forms of cash, effects and other valuables. However, the legislation of Uzbekistan does not provide for the seizure of all forms of proceeds of crime, such as income represented by rights or intangible assets.

Article 211 (paragraph 1) of the Code of Criminal Procedure provides that instruments of crime shall be confiscated and handed over to the appropriate institutions or destroyed, regardless of their ownership. However, the term “instruments of crime” does not include all property, equipment or other instrumentalities used in or destined for use in offences.

Article 284 of the Code of Criminal Procedure provides for the possibility of forfeiture to the State of an amount equivalent to the value of property that was the subject of an offence if that property cannot be found. The Code of Criminal Procedure does not establish a clear definition of “property that was the subject of an offence” or the correlation between that concept and the concept of “proceeds of crime”. The correlation between the concepts of “confiscation” and “forfeiture to the State” is also unclear. Uzbek criminal legislation does not contain a definition of the concept of “confiscation”.

Uzbek legislation does not contain specific provisions establishing a procedure for the confiscation of property into which proceeds of crime have been transformed or converted, in part or in full, or for confiscation where the proceeds of crime have been intermingled with property acquired from legitimate sources, nor does it contain special provisions establishing rules on income or other benefits derived from proceeds of crime or from property with which such proceeds of crime have been intermingled. However, during the country visit the representatives of Uzbekistan indicated that no difficulties had arisen in practice with respect to the

confiscation of those forms of illicit income under the existing provisions of the Code of Criminal Procedure.

Anyone who in good faith acquires property which, as the subject of an offence, has been forfeited to the State must be notified of his or her right to bring a civil suit against the convicted person for damages suffered as a result of seizure of the property (article 285, second paragraph, of the Code of Criminal Procedure). This provision is not sufficient to protect the rights of bona fide third parties.

The power of law enforcement agencies to access information in order to trace the proceeds of crime is provided for in the legislation governing their activities, in article 9 of the Bank Secrecy Act and, in part, in the Code of Criminal Procedure. Seizure is regulated by article 290 of the Code of Criminal Procedure.

Decision No. 200 of 15 July 2009 of the Cabinet of Ministers on strengthening the procedure for the seizure, sale or destruction of property subject to forfeiture to the State contains provisions aimed at regulating the administration by the competent authorities of frozen, seized or confiscated property.

According to the representatives of Uzbekistan, the implementation of paragraph 8 of article 31 of the Convention was not possible, as the mechanism provided for contradicted the principle of the presumption of innocence as understood in the current criminal law doctrine of Uzbekistan.

From the information provided by Uzbekistan, no clear conclusion can be drawn as to whether or not bank secrecy constitutes an obstacle to adoption of the measures set out in paragraph 7 of article 31 of the Convention for the purposes of article 55 of the Convention. According to article 8 of the Bank Secrecy Act, information considered to constitute a bank secret relating to the combating of money-laundering is submitted to a specialized body, the Department for Combating Tax and Currency Crimes and Legalization of the Proceeds of Crime, which is part of the Prosecutor-General's Office and acts as the country's financial intelligence unit. However, article 9 of the Act requires criminal proceedings to have been initiated in order for such information to be transferred to the prosecuting, investigative and initial inquiry authorities, which might pose practical difficulties in implementing the provision of the Convention in question. Nevertheless, during the country visit, the representatives of Uzbekistan indicated that problems in overcoming bank secrecy did not arise when conducting internal investigations.

Statute of limitations; criminal record (arts. 29 and 41)

Uzbekistan has established a sufficiently long statute of limitations period for offences established by the Convention (between three and fifteen years, depending on the gravity of the offence) and its legislation also provides for the possibility of suspending the statute of limitations where the alleged offender has evaded the administration of justice (article 64 of the Criminal Code).

Under article 34 of the Criminal Code, previous convictions by courts of other States are taken into account when considering whether to determine a person to be a particularly dangerous recidivist. The question of whether previous convictions by foreign courts may be taken into consideration is reflected in bilateral treaties concluded between Uzbekistan and other States on cooperation in legal matters.

Jurisdiction (art. 42)

Article 11 of the Criminal Code (on the applicability of the Code to persons who have committed an offence in the territory of Uzbekistan) establishes jurisdiction over offences committed in Uzbekistan and on vessels flying the Uzbek flag or registered at an Uzbek port.

Article 12 of the Criminal Code (on the applicability of the Code to persons who have committed an offence outside Uzbekistan) states that nationals of Uzbekistan and stateless persons residing permanently in Uzbekistan may be prosecuted under the Criminal Code of Uzbekistan for offences committed in the territory of another State if they have not been sentenced by a court of the State in whose territory the offence was committed. Foreign nationals and stateless persons not permanently resident in Uzbekistan are liable to prosecution under the Criminal Code of Uzbekistan for offences committed outside its jurisdiction only in the cases provided for by international treaties or agreements.

Article 12 of the Criminal Code does not contain explicit provisions to the effect that foreign nationals permanently residing in the territory of Uzbekistan may be prosecuted for offences committed outside Uzbekistan.

Uzbekistan has not established its jurisdiction over offences committed against its nationals or against Uzbekistan. However, part (b) of the second paragraph of article 11 of the Criminal Code extends jurisdiction to cover offences committed outside Uzbekistan where the effect of their commission arises within Uzbek territory, including the offences referred to in subparagraph 2 (c) of article 42 of the Convention.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Under article 116 of the Civil Code, a transaction is deemed invalid if it does not meet the requirements of the law and is entered into for a purpose known by the person carrying out the transaction to be in contravention of the law.

Uzbekistan has established various means of addressing the consequences of corruption, including compensation for material damage in civil or criminal proceedings (Chapter 33 of the Code of Criminal Procedure). According to the legislative provisions submitted by Uzbekistan, damages are not payable for other kinds of harm (such as psychological or physical harm). The Civil Code establishes that a transaction may be declared null and void if it was carried out as a result of deception, violence, threats, conspiracy between representatives of the parties or the concurrence of grave circumstances (article 123 of the Civil Code), or as a result of misapprehension (article 122 of the Civil Code).

Relevant provisions are also contained in other Uzbek legislation, such as the Concessions Act (Act No. 30) of 30 August 1995.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

The investigation of offences involving corruption is carried out by units of the law enforcement agencies of Uzbekistan, namely: within the Prosecutor-General's Office, the Department for Combating Economic Crime and Corruption; within the Ministry of the Interior, the Department for Combating Corruption, Racketeering and Fraud and the Unit for the Investigation of Corruption Offences; and the

Investigations Department of the National Security Service. The Financial Intelligence Unit is a law enforcement body and a department of the Prosecutor-General's Office.

There are no special legislative provisions in Uzbekistan concerning the procedure for appointment, removal from office, special funding or other aspects of ensuring the autonomy or effectiveness of anti-corruption units within law enforcement agencies.

During the country visit, the representatives of Uzbekistan provided information on the organization of systematic training programmes for law enforcement officials on combating corruption.

In August 2014, a coordination council on crime prevention was established, one of the main tasks of which is to prevent corruption offences. In addition, in June 2015, an inter-agency working group was established by decision of the Cabinet of Ministers of Uzbekistan to support improvement of the organizational, practical and regulatory frameworks for combating corruption. The inter-agency working group coordinates: (1) the monitoring of the implementation of anti-corruption measures; (2) legal awareness campaigns and engagement with civil society organizations on issues relating to the countering of corruption; (3) the preparation of proposals for improvement of the organizational, practical and regulatory frameworks for combating corruption.

Monitoring and inspection bodies are obliged by law to notify the Prosecutor-General's Office of any corruption incident that is detected.

The law enforcement agencies and Prosecutor-General's Office are taking measures to cooperate with private-sector entities. For example, the Prosecutor-General's Office has signed a memorandum of cooperation with the Chamber of Commerce and Industry that provides for the establishment of an information exchange mechanism.

Cooperation between financial institutions and law enforcement agencies in addressing corruption offences has been given attention with respect to the detection of suspicious transactions involving monetary or other assets, and training activities are organized for staff of the internal audit entities of financial institutions. The Prosecutor-General's Office and the Central Bank have issued a joint statement drawing the attention of commercial banks to the need, where they have identified cases of embezzlement or diversion of credit resources and other banking abuses, to submit the relevant materials to the prosecution agencies.

Citizens can report corruption offences to the law enforcement authorities through helplines. In order to encourage the cooperation of citizens with the law enforcement agencies, article 23 of the Police Operations Act establishes guarantees of social and legal protection for persons who assist those authorities.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- The establishment of acting as an intermediary in bribery (article 212 of the Criminal Code) as a separate offence, as a measure facilitating action against corruption;

- The establishment of an inter-agency working group to support improvement of the organizational, practical and regulatory frameworks for combating corruption.

2.3. Challenges in implementation

It is recommended that the Republic of Uzbekistan take the following steps in order to further strengthen its existing anti-corruption measures:

- Bring the definitions of public officials into line with the requirements of article 2 of the Convention;
- Adopt measures to implement article 15 of the Convention fully, including establishment of the promise, offering and soliciting of bribes as offences, incorporation of the element of “for the official himself or herself or another person or entity” in the relevant legislative provisions and the inclusion of non-property-related advantages as bribes;
- Establish active bribery of a foreign public official or an official of a public international organization as a criminal offence (art. 16 (1));
- Consider establishing passive bribery of a foreign public official or an official of a public international organization as a criminal offence (art. 16 (2));
- Consider the possibility of establishing trading in influence as an offence (art. 18);
- Consider eliminating the limitation of the range of acts established as criminal offences in articles 205, 206 and 208 of the Criminal Code to in order to implement article 19 of the Convention more fully;
- Continue to consider the possibility of adopting legislative and other measures to establish illicit enrichment as a criminal offence (art. 20);
- Consider the possibility of adopting further measures for the full implementation of article 21 of the Convention;
- Adopt further measures to ensure the full implementation of the provisions of article 25 of the Convention;
- Adopt measures to establish an effective mechanism for prosecuting legal persons for participation in the offences established in accordance with the Convention, without prejudice to the criminal liability of the natural persons who have committed the offences (art. 26);
- Consider adopting additional measures to provide clearer guidance on the procedure for lifting immunity in accordance with paragraph 2 of article 30 of the Convention;
- Adopt further measures to implement more fully article 31, paragraphs 1 (b), 4, 5, 6, 7 and 9, and article 40 of the Convention;
- Consider the possibility of including in the Code of Criminal Procedure clear provisions concerning the powers of law enforcement agencies in relation to the implementation of paragraph 2 of article 31 of the Convention;

- Consider adopting more detailed provisions on the regulation of the administration by the competent authorities of frozen, seized or confiscated property (art. 31 (3));
- Adopt measures aimed at the full implementation of article 32 of the Convention;
- Consider incorporating appropriate measures to provide effective protection of reporting persons in accordance with article 33 of the Convention;
- Adopt further measures to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings to obtain compensation, irrespective of the type of damage suffered (art. 35);
- Adopt measures to further improve the specialization of anti-corruption units and the professional training of their staff, and to ensure their autonomy and independence (art. 36);
- Consider providing for additional circumstances in which the conduct of the accused constitutes a reason for granting immunity under articles 211 and 212 of the Criminal Code (art. 37);
- Adopt measures to implement paragraph 4 of article 37 of the Convention;
- Consider adopting further measures to encourage its nationals and other persons with a habitual residence in its territory to report corruption offences to the national investigating and prosecuting authorities (art. 39 (2));
- Consider establishing its jurisdiction over offences committed against its nationals (art. 42 (2)).

2.4. Technical assistance needs identified to improve implementation of the Convention

- Technical assistance in addressing the challenges in implementation identified during the review and in planning an optimal system for the declaration by civil servants of their income.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

Extradition is governed by the provisions of the Code of Criminal Procedure and by 16 bilateral and multilateral treaties signed by the Republic of Uzbekistan, or, in the absence of any agreement, is based on the principle of reciprocity.

In general, Uzbekistan applies the principle of dual criminality and also requires that the offence concerned be punishable by a custodial sentence of at least one year (arts. 601 and 603 of the Code of Criminal Procedure) in order for extradition to be granted. Extradition is therefore limited in relation to offences in respect of which those requirements are not fulfilled.

A person cannot be extradited if the request for extradition includes several separate offences, including offences that do not satisfy the requirement with respect to the minimum period of imprisonment (one year) (art. 603 of the Code of Criminal Procedure) except where otherwise provided for under an agreement or an international treaty to which Uzbekistan is a party.

Extradition requested for the purpose of prosecuting or punishing a person on discriminatory grounds and extradition in cases involving tax offences are governed by articles 16, 601 and 603 of the Code of Criminal Procedure. Offences established in accordance with the Convention are not considered to be political offences for the purposes of extradition.

A citizen of Uzbekistan may not be extradited unless otherwise provided for by international treaties or agreements (article 12 of the Criminal Code). Currently, only a treaty concluded between Uzbekistan and the Republic of Korea contains such a provision. The *aut dedere aut judicare* principle is applied on the basis on article 598 of the Code of Criminal Procedure. The enforcement of sentences handed down by courts of foreign States is not regulated, but a decision on the conclusion of agreements on recognizing the judgments of foreign courts is being considered and the matter will be addressed through planned changes to the Code of Criminal Procedure.

The Code of Criminal Procedure does not contain any provisions on simplified extradition procedures, but procedures requiring the timely consideration of requests for extradition are established by Order No. 26 of 22 June 2004 of the Prosecutor-General. If the requested person is in custody but the period of detention under the Code of Criminal Procedure (articles 245, 246 and 605) is limited, the extradition request is considered by the Prosecutor-General's Office as soon as possible (typically within three months). Although there are no provisions requiring consultation before extradition is refused, consultations are conducted under international treaties.

The legislation of Uzbekistan does not contain provisions on the transfer of criminal proceedings, but such transfer is possible on the basis of bilateral treaties and the Convention.

Mutual legal assistance (art. 46)

In accordance with international treaties (including 14 bilateral agreements) signed by the Republic of Uzbekistan, and on the basis of the principle of reciprocity, Uzbekistan can provide various forms of legal assistance (article 595 of the Code of Criminal Procedure). Uzbekistan provided information on its experience of using the Convention as a legal basis for requests for legal assistance. Uzbekistan cooperates with other members of the Commonwealth of Independent States (CIS) within the framework of the CIS Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Minsk, 1993).

Dual criminality is required in order for requests for assistance involving coercive action, such as the freezing, seizure and confiscation of assets, to be granted. At the request of a foreign competent authority, the procedural provisions of a foreign State may be applied unless they are contrary to national legislation (art. 3 of the Code of Criminal Procedure).

Information relating to criminal matters may be transmitted without prior request under most of the international treaties to which the Republic of Uzbekistan is party, and on the basis of reciprocity.

Uzbekistan implements the provisions of treaties, including the Convention, and reciprocal arrangements concerning the content and manner of transmission of requests, restrictions on the use of evidence, confidentiality, the obligation to consult with requesting States before refusing assistance and the costs of executing requests.

Time frames for investigations and other procedural actions are established by the Code of Criminal Procedure. According to Order No. 65 of the Prosecutor-General, documents (including international requests) that do not require further consideration or verification must be processed within 15 days, while the processing time for documentation requiring further consideration should be no longer than one month.

Persons outside the territory of Uzbekistan may be summoned to the territory of Uzbekistan for the purposes of the relevant procedural actions (article 596 of the Code of Criminal Procedure).

Provisions on the transfer of prisoners are being prepared and are to be included in a bill.

Where provided for by international treaties signed by the Republic of Uzbekistan, or on the basis of the principle of reciprocity, proceedings in connection with the execution of a request may be attended by representatives of the competent authority of the foreign State concerned (art. 595 of the Code of Criminal Procedure). The relevant amendments to the Code of Criminal Procedure will also provide for the use of videoconferencing.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

At the international level, the law enforcement agencies of Uzbekistan cooperate closely with other States under various bilateral and international mechanisms, such as the Coordination Council of Prosecutors-General of the States Members of the Commonwealth of Independent States and the meetings of Prosecutors-General of member States of the Shanghai Cooperation Organization. Cooperation between law enforcement agencies is carried out on the basis of intergovernmental agreements on cooperation in combating crime, bilateral agreements and inter-agency arrangements, and within the framework of international cooperation through the International Criminal Police Organization (INTERPOL). Uzbekistan provided several examples of the exchange of law enforcement officers and the posting and hosting of liaison officers.

In the absence of a bilateral treaty, joint investigations may be undertaken by agreement on a case-by-case basis, in accordance with the principle of reciprocity as enshrined in the Code of Criminal Procedure. Several agreements on international cooperation between the Republic of Uzbekistan and other countries of the Commonwealth of Independent States provide for the establishment of joint investigative bodies.

The use of special investigative techniques is overseen by the Prosecutor-General's Office (article 27 of the Police Operations Act). The types of special investigative

techniques which may be used are listed in relevant inter-agency instructions and in article 14 of the Police Operations Act. Special investigative techniques may be used at the international level in accordance with bilateral agreements or, in the absence of an agreement, on the basis of the principle of reciprocity.

3.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter IV of the Convention are highlighted:

- Uzbekistan has a flexible approach to mutual legal assistance and recognizes that it has experience in the application of the Convention as a legal basis for mutual legal assistance;
- Uzbekistan is a party to a number of multilateral and bilateral agreements and arrangements to enhance the effectiveness of law enforcement cooperation.

3.3. Challenges in implementation

The following steps could strengthen existing anti-corruption measures:

- Consider adopting additional measures to enable extradition for all offences established in accordance with the Convention;
- Continue to ensure the timely execution of requests for extradition in law and in practice;
- Consider adopting measures for the enforcement of a sentence imposed in another State when refusing extradition;
- Continue to ensure the practical application of guarantees of fair treatment under domestic legislation;
- Continue to ensure that extradition will be refused if a request is made for the purpose of prosecution or punishment on discriminatory grounds;
- Enshrine in law the current practice of holding consultations before refusing extradition;
- Consider adopting additional measures to ensure the removal of obstacles to the provision of assistance on the basis of requests involving coercive action where dual criminality is required;
- Adopt measures to ensure the provision of assistance in relation to offences for which legal persons may be held liable;
- Continue to ensure the timely execution of requests for extradition in law and in practice;
- Continue to strengthen cooperation with the law enforcement authorities of other States parties, especially with States that are not members of the Commonwealth of Independent States.

The experts conducting the review welcome the bill containing amendments aimed at improving the compliance of the legal system of Uzbekistan with the provisions of the Convention, including for the purposes of the procedure for the transfer of

prisoners (art. 46 (10)-(12)) and in relation to the content and manner of transmission of requests (art. 46 (13)).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Technical assistance in overcoming challenges in implementation identified during the review process;
 - Compilation of best practices and lessons learned with respect to legislation on mutual legal assistance (art. 46);
 - Compilation of best practices and lessons learned with respect to the legislation of other States (art. 47).
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