

Acknowledgments

With the aim of contributing to the national UNCAC review in the Republic of Uzbekistan in its second cycle, this parallel report was written by Grigory Mashanov, a senior lawyer at Transparency International Russia in collaboration with Uzbek Forum for Human Rights, using the guidance materials and report template designed by the UNCAC Coalition and Transparency International. The production of this report was supported by the UNCAC Coalition, made possible with funding provided by the Norwegian Agency for Development Cooperation (Norad) and the Ministry of Foreign Affairs of Denmark (Danida).

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The findings in this report are those of the author but do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 01.12.2021.

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Uzbek Forum for Human Rights is a Berlin-based NGO dedicated to protecting and promoting human rights and strengthening civil society in Uzbekistan. Uzbek Forum works with a network of human rights defenders inside Uzbekistan who conduct monitoring of rights violations including forced labor, corruption, and fundamental freedoms.

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Abbreviations

Abbreviation	Russian	English
ACA	Агентство по предотвращению коррупции Республики Узбекистан	The Corruption Prevention Agency of the Republic of Uzbekistan
AML		Anti-money laundering
EAG	Евразийская антикоррупционная группа	Eurasian Anti-Corruption Group
FATF		Financial Action Task Force
FIU	Департамент по борьбе с экономическими преступлениями при Генеральной прокуратуре Республики Узбекистан	Department on Financial Crimes under General Prosecutor's Office (Financial Intelligence Unit)
GPO	Генеральная прокуратура Республики Узбекистан	General Prosecutor's Office
MLA		Mutual legal assistance request
MoF	Министерство финансов Республики Узбекистан	Ministry of Finance of the Republic of Uzbekistan
Moi	Министерство внутренних дел Республики Узбекистан	The Ministry of Interior of the Republic of Uzbekistan
MoJ	Министерство юстиции Республики Узбекистан	The Ministry of Justice of the Republic of Uzbekistan
OECD	Организация экономического сотрудничества и развития	Organization for Economic Development and Cooperation
STR		Suspicious Transaction Reports
The President	Президент Республики Узбекистан	The President of the Republic of Uzbekistan
UNODC	Управление ООН по наркотикам и преступности	United Nations Office on Drugs and Crime

List of Persons Consulted

Name	Position	Date of the Interview
Alisher Ilkhamov	Director of Central Asia Due Diligence, social scientist, has experience since 2014 in anti-corruption advocacy programs and research, originally from Uzbekistan, currently based in London	June 22, 2021
Yuliy Yusupov	Economist, Head of Center for Economic Development (CED) (http://ced.uz) in Tashkent	June 29, 2021
Kristian Lasslett	Professor of Criminology, Ulster University (Northern Ireland) (https://www.ulster.ac.uk/staff/kak-lasslett)	June 30, 2021
G.	Project Coordinator in the national office of an international organization	July 15, 2021
S.	A licensed attorney, practicing in Tashkent	August 13, 2021
N.	Project Coordinator in the national office of an international organization	Consulted throughout the preparation of the report
Umida Niyazova	Executive Director, Uzbek Forum for Human Rights, Berlin	Consulted throughout the preparation of the report

I. Introduction

The Republic of Uzbekistan (Uzbekistan) acceded to the United Nations Convention against Corruption (UNCAC) on 29.07.2008.

This report reviews Uzbekistan's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Uzbekistan was selected by the UNCAC Implementation Review Group by a drawing of lots for review in the fifth year of the second cycle. A draft of this parallel report was provided to the government of Uzbekistan.

Scope. The UNCAC articles and topics under Chapter II that receive particular attention in this report are the following:

- Preventive anti-corruption policies and practices (Article 5)
- Preventive anti-corruption body or bodies (Article 6)
- Public sector employment (Article 7.1)
- Codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12)
- Public procurement (Article 9.1)
- Access to information and the participation of society (Articles 10 and 13.1)
- Judiciary and prosecution services (Article 11)
- Private sector transparency (Article 12)
- Measures to prevent money laundering (Article 14).

Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are:

- Those covering measures for the direct recovery of property (Articles 53 and 56)
- Confiscation tools (Article 54)
- International cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59) and
- The return and disposal of confiscated property (Article 57).

Structure. The report begins with an executive summary, including the condensed findings, conclusions, and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The next part covers the findings of the review process in Uzbekistan as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. In addition, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC in Uzbekistan are given.

Methodology. The report was prepared by the UNCAC Coalition and Uzbek Forum for Human Rights with technical and financial support from the UNCAC Coalition made possible with funding from the Norwegian Agency for Development (Norad) and the Ministry of Foreign Affairs of Denmark (Danida). The author made efforts to obtain information for the report from government offices and to engage in dialogue with government officials. As part of this dialogue, a draft of the report was made available to them.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by CSOs. These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC) checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

In preparing this report, the author considered the recent reviews of Uzbekistan carried out by:

- OECD, 4th round of monitoring of the implementation of the Istanbul anti-corruption Action Plan²
- UzInvestigations, a joint report of the University of Ulster and Uzbek Forum for Human Rights³.

² OECD. (2019). *Антикоррупционные реформы в Узбекистане. 4-й раунд мониторинга в рамках Стамбульского плана действий по борьбе с коррупцией*. https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-RUS.pdf, accessed on 15.11.2021.

³ Uzinvestigation. (September 2021). *Political Exposure and Public Investment in Uzbekistan*. <https://d1fz6q6taiufku.cloudfront.net/uploads/2021/09/PB-issue4-final.pdf>, accessed on 20.11.2021.

II. Executive Summary

This civil society parallel report examines the implementation of Chapter II on preventive measures and Chapter V on asset recovery of the UN Convention against Corruption (UNCAC) in law and in practice in Uzbekistan.

Like many other post-Soviet countries, Uzbekistan has, in general, a satisfactory legal framework on anti-corruption. However, it is lax, falls far short of Financial Action Task Force (FATF) recommendations and is unevenly enforced. In questions of policymaking and general anti-corruption planning, the leading role belongs to the President and his team. The parliament and other agencies are fully under the control of the President, leaving no opportunity for independence of these bodies. The same may be said in relation to the judiciary. Genuine political competition in the country is undermined by the prohibition of private funding for political parties and administrative obstacles to the registration of independent political parties. Moreover, policy documents issued sometimes repeat content of previous ones, meaning that some of their provisions are not enforced properly.

The Corruption Prevention Agency (ACA) seems to be a credible agency, but its competence has no legislative affirmation and weak enforcement powers. Since it was only created in July 2020, it is hard to appraise any significant outcomes of its activities. Certain anti-corruption prevention work has been carried out through Ministry of Justice reforms, including centralized public service centers and online services. It is therefore difficult to judge whether the mandate of the ACA is sufficient to investigate and enforce laws that prevent corruption.

Effective implementation of reforms requires a professional team of staff. Although Uzbekistan's civil service employment has made significant progress with respect to its transparency, accessibility, and funding, nepotism remains widespread. Regulations relating to conflict of interests are rarely enforced. However, efforts have been made to ensure competitive and open procedures in the area of public procurement, and these reforms appear to be among the most effective in the country. Nevertheless, even in this sphere, the authorities could not resist providing exceptions from the general procurement rules, which create corruption risks: the large projects often do not feature on the procurement portal and some state enterprises do not publish anything at all.

There has been an improvement in the publication of information relating to procurement and auctions, however, access to information remains problematic. Information requests are ignored and there is no general oversight of access to information. Political parties do not comply with existing financial disclosure requirements. The judicial challenge to refusals to disclose information tends to be ineffective. Courts, in general, are not considered by citizens as an effective path to remedy. They are perceived as being corrupt and non-transparent, despite the implementation of an electronic justice system that has attempted to improve access to justice. The level of judicial reasoning is also questionable.

Authorities do not engage with independent civil society organizations on anti-corruption activities but only with certain individuals. The government actively uses quasi-NGOs, or Governmental NGOs (GONGOs) to imitate CSO participation, although available open data now allows detection of such practices. Nonetheless, it is not clear who will be able to

make use of the data that authorities promise to disclose as independent CSOs still face serious obstacles in carrying out their activities.

Especially worrying is the disregard for money laundering risks, which have become increasingly obvious until June 2021, when a new comprehensive policy decree was issued⁴. The authorities appear to be oblivious to the risks of accepting money without adequate due diligence as long as they are investments. In order to comply with FATF recommendations not only in theory, but in practice too, authorities must apply stringent procedures to identify suspicious transactions.

Another point of concern is the safe and responsible return of assets gained through corruption. Since Uzbekistan is more a 'source country' rather than a 'recipient country', a lack of transparency in such cases, including the illicitly acquired assets of Gulnara Karimova, is of great concern. The management of stolen funds, once repatriated, must be subject to transparent oversight with the participation of CSOs.

Formal compliance with international standards may improve Uzbekistan's country ranking in international scores, such as the Corruption Perceptions Index⁵ but this in itself will not lead to significant changes. Only a real commitment to the 'practice-what-you-preach' principle will ensure significant improvements and real change for the people of Uzbekistan.

Description of Process

The report was conducted both with primary and secondary analysis, which means that legislative acts, media, international organizations reports and other types of information already online were extensively analyzed to formulate the report basis. However, many of its parts were significantly revised after interviewing experts and communicating with the Anti-Corruption Agency. Therefore, the report covers not only theoretical aspects, but also pays very significant attention to law enforcement.

Availability of Information

Requests were sent to several government departments to establish cooperation and receive information such as crime statistics, Anti-Money Laundering (AML) data, and other information held by public bodies. A list of the sent information requests is provided in the annex to this report. This information is referenced wherever it is used in this report.

However, only two agencies, the Anti-Corruption Agency (ACA) and the Ministry of Justice (MoJ) responded to requests for information. In some cases, the time taken to respond to requests exceeded limits established by law (15 days in general), taking up to one and a half or two months. Moreover, on many occasions, government officials declared that they do not collect statistics, which is highly relevant to money-laundering-related cases (see

⁴ Lex.uz. УП-6252-сон 28.06.2021. Об утверждении Стратегии развития национальной системы Республики Узбекистан по противодействию легализации доходов, полученных от преступной деятельности, финансированию терроризма и финансированию распространения оружия массового уничтожения. <https://lex.uz/ru/docs/5482739>, accessed on 27.12.2021.

⁵ Transparency International. *Corruption Perceptions Index 2020 for Uzbekistan*. <https://www.transparency.org/en/cpi/2020/index/uzb>, accessed on 27.12.2021.

annexes). There is no oversight over the quality and timeliness of responses to information requests. Much information is proactively disclosed online by law, including legislation, public procurement (bidding, lots, etc.), budgets, etc. A vibrant media sphere, albeit subject to arbitrary restrictions by the authorities, also allows for the disclosure of some information via media requests. However, there is no enforced policy on freedom of information in the country.

Implementation in Law and Practice

TABLE 1: Implementation and enforcement summary

UNCAC articles	Status of implementation in law (fully/largely/partially/not implemented)	Status of implementation and enforcement in practice (good/moderate/poor)
Art. 5 – Preventive anti-corruption policies and practices	partially implemented	poor
Art. 6 – Preventive anti-corruption body or bodies	partially implemented	poor
Art. 7.1 – Public sector employment	partially implemented	moderate
Art. 7.3 – Political financing	not implemented	poor
Art. 7, 8 and 12 – Codes of conduct, conflicts of interest and asset declarations	partially implemented	poor
Art. 9.1 – Public procurement	largely implemented	moderate
Art. 10 and 13.1 – Access to information and the participation of society	partially implemented	poor
Art. 11 – Judiciary and prosecution services	partially implemented	poor
Art. 12 – Private sector transparency	partially implemented	poor
Art. 14 – Measures to prevent money-laundering	partially implemented	poor
Art. 53 and 56 – Measures for direct recovery of property	partially implemented	poor

Art. 54 – Confiscation tools	partially implemented	poor
Art. 51, 54, 55, 56 and 59 – International cooperation for the purpose of confiscation	partially implemented	poor
Art. 57 – The return and disposal of confiscated property	partially implemented	poor

TABLE 2: Performance of selected key institutions

Name of institution	Performance in relation to responsibilities covered by the report	Brief comment on performance
Anti-corruption Agency (ACA)	Good	Lack of enforcement measures and independence
Ministry of Justice (MoJ)	Good	Lack of independence
General Prosecutor’s Office (GPO)	Bad	Lack of independence and rule of law
Ministry of Interior (Mol)	Bad	Lack of independence and rule of law
Department of financial crimes under GPO (FIU)	Bad	Lack of investigations regarding money laundering/ low level of anti-money laundering enforcement
The President	Moderate	The President’s office is skilled in promoting policies and initiating significant anti-corruption reforms. They are, however, undermined by the absence of division of powers between the president parliament and judiciary.

Uzbekistan’s governance system is fundamentally presidential. The President initiates all key reforms, which, with or without public support for them, are approved by parliament without dissent. However, the reality of the enforcement of presidential decrees remains questionable in many cases. In some cases, the President issues a decree which reiterates others⁶, which suggests that they have not been duly implemented. The President can dismiss

⁶ See sections regarding public procurement and service, for example.

any public official in the country which therefore removes any real limits on his constitutional powers. This can result in undue influence on judges, anti-corruption bodies, and other public bodies. There is no system of checks and balances in Uzbekistan although the Constitution provides for it, which in itself is an abuse of power.

Among the anti-corruption institutions reviewed in this report, the MoJ and the ACA appear to have the highest compared level of integrity. The MoJ is responsible for reforms in the sphere of public services while the ACA is responsible for the development of a comprehensive anti-corruption policy, but has no criminal investigation powers. In many cases, the ACA lacks coercive powers to enforce actions such as warrants and issuance of orders to stop corrupt activities. Both the MoJ and the ACA lack independence and cannot genuinely intervene when corruption takes place, particularly when it may be related to high-ranking officials.

On 23 May, 2018, a presidential decree⁷ ordered the reorganization of the Department for Combating Tax and Currency Crimes and Money Laundering under the General Prosecutor's Office into the Department for Combating Financial Crimes. The presidential decree cited the need to revise the tasks, functions and powers of the department to address persistent embezzlement and misuse of budget funds. The Department is to pay special attention to the expenditure of funds from the state budget system and state trust funds; foreign grants received under contracts signed by the president and the government of Uzbekistan; and foreign loans guaranteed by the state.

It is especially worth noting the passive status of the Financial Intelligence Unit (FIU), which displays no persistence in combating money laundering: there is a quite low level of cases and requests initiated by it, and money laundering enablers tend to feel quite free in the country.

Recommendations for Priority Actions

The government of Uzbekistan should:

1. Lift all restrictions on foreign funding to registered independent NGOs and actively involve such NGOs in policy-making processes.
2. Enroll and actively engage in international organizations and mechanisms, including the Open Government Partnership, the Extractive Industries Initiative (EITI), the Council of Europe's Group of States against Corruption (GRECO), and the Financial Action Task Force (FATF).
3. Enable the ACA or the MoJ to establish freedom of information policies, monitor freedom of information enforcement, with the power to impose punishments on officials who unlawfully reject information requests.
4. Ensure that every anti-corruption measure is strengthened with sanctions for non-compliance.
5. Allow for private financing of electoral campaigns under strict transparency rules. Ensure that all financial statements of political parties are published and are more detailed.
6. Ensure that an assets declaration system will be made public.

⁷ Lex.uz. Decree of the President of the Republic of Uzbekistan, dated May 23, 2018 No. UP-5446: <https://lex.uz/pdfs/3743203>, accessed on 24.02.2022.

7. Grant the ACA the power to oversee ethics in public life, including conflicts of interest compliance.
8. Abolish direct contracting of all public procurements except small and routine ones (e.g., serving daily public body activities like office stationery).
9. Lift restrictions on all media outlets that are not disseminating extremist or terrorist propaganda.
10. Ensure the judiciary is free from any political interference, including the President's veto and his right to appoint judges and ensure the independence of the prosecution service.
11. Develop a centralized Beneficial Ownership Register with a requirement that adequate and structured data on the ultimate ownership of all legal entities in Uzbekistan be compiled and publicized on a free, searchable open data online database.
12. Ensure that the FIU actively monitors suspicious transactions and imposes meaningful sanctions on banks and non-financial intermediaries for non-reporting on such transactions and for non-compliance with FATF recommendations.
13. Provide for detailed regulation on the recovery of stolen assets, including precise rules on how to proceed with MLA requests, which body is entitled to that, and provide for specific general procedures of the recovery process, including its full transparency.

III. Assessment of Review Process for Uzbekistan

The government has disclosed information about the UNCAC focal point and the review process in general upon the author’s request. All information regarding the review process was obtained only via responses of the ACA to the author of this report⁸. There is no public information available that Uzbekistan is under UNCAC review.

It can be concluded that the review process was conducted in a non-transparent manner. It is clear that CSOs were not allowed to participate, and that an imitation of CSO participation was orchestrated. However, the ACA was cooperative with the author and provided a sufficient amount of data.

TABLE 3: Transparency of the government and CSO participation in the UNCAC review process

Did the government disclose information about the country focal point?	Yes	The Anti-Corruption Agency (ACA) states that it is the country focal point, without specifying a specific person.
Was the review schedule published somewhere/publicly known?	No	The process was not made public.
Was civil society consulted in the preparation of the self-assessment?	No	According to ACA, consultations were held with the organizations Ijtimoiy Fikr, Yuksalish, Centre for Development Strategy, Madad, The Democracy, and Human Rights Institute, and the Chamber of Commerce. All of these organizations are ‘GONGOs’ which are directly or indirectly controlled by the government (see art. 10 and 13.1).
Was the self-assessment checklist published online or provided to civil society?	No	N/A
Did the government agree to a country visit?	N/A	The ACA responded that a country visit would only be permitted if the COVID-19 situation improved, otherwise a virtual visit would take place.
Was a country visit undertaken?	No	Due to Covid-19 restrictions.

⁸ See the list of information requests in the annex.

Was civil society invited to provide input to the official reviewers?	N/A	N/A
Was the private sector invited to provide input to the official reviewers?	N/A	N/A
Has the government committed to publishing the full country report?	N/A	ACA responded that no decision has yet been made on whether to publish the full country report.

Access to Information

Six public bodies were contacted to provide information for this report: ACA, the Ministry of Interior (Mol), the MoJ, the Statistical Agency, the Supreme Court, and the General Prosecutor’s Office (GPO). In addition, the National Ijtimoy Fikr (Public Opinion) Institute was contacted by email. However, only the MoJ gave an official response, providing a contact at the ACA to cooperate with the assessment.

In total, 12 information requests were sent. The author received a constructive response from the ACA which provided detailed answers to the questions submitted. However, information requests sent to other authorities, including the GPO, Mol, the Statistical Agency, and the Supreme Court, were not responded to. Only the MoJ gave a referral to the ACA⁹ (see the table of requests in the annex). In total, only four responses were received which suggests a lack of oversight related to compliance with access to information legislation.

Proactive disclosure of public information remains poor in Uzbekistan although the country has been intensively developing IT systems to strengthen public access to information in the last few years. In 2015, many public authorities did not have a website, whereas every national body now has one. Websites are usually in three languages: Uzbek, Russian and English. While the Uzbek and Russian versions seem to be almost identical, the English versions tend to be outdated. Although the Russian language has no official status, it has retained its standing as the language of the majority of Uzbekistan intellectuals (‘intelligentsia’) and government officials. All national media have Russian versions and legal documents are translated into Russian which are easily accessible. Discussions with experts could also be held in Russian.

All public legal documents at a national level are published on official government websites¹⁰. Other online databases that are in place include the following: an e-procurement (both public

⁹ Please refer to the response of the MoJ in the Annex of this report on page 76.

¹⁰ Lex.uz. Законодательство Узбекистана. <https://www.lex.uz/>, accessed on 27.12.2021.

and state-corporate) database¹¹, an open data portal¹², an open budget¹³, an online forum for public debate on proposed legislation¹⁴, and an online database of court rulings¹⁵. These sources were sufficient to collect relevant information for this report.

All of the experts consulted for this report noted that the main media outlets, such as Gazeta.uz and Kun.uz among others, can access some type of public information via requests and that much of the data was made publicly available as a result of such media requests.

In August 2021, a new law on statistics entered into force¹⁶. The law states that all statistical data must be accessible online by default (Art. 36), although it remains unclear if there is any information that is restricted and cannot be published. A list of state secrets has not yet been published¹⁷ and it is not clear whether all corruption-related data will be published under new regulations. Unfortunately, the new law does not provide for a unified web portal on statistics, obliging governmental bodies to publish statistics only on their websites.

¹¹ Special informational portal of government procurement. <http://xarid.uz/>, accessed on 27.12.2021.

¹² Open data portal of the Republic of Uzbekistan. <https://data.gov.uz/en/>, accessed on 27.12.2021.

¹³ OpenBudget. <https://openbudget.uz/en/>, accessed on 27.12.2021.

¹⁴ Портал обсуждения проектов нормативно-правовых актов. <https://regulation.gov.uz/ru>, accessed on 27.12.2021.

¹⁵ Верховный суд Республики Узбекистан. *E-XSUD*. <https://public.sud.uz/#!/sign/view>, accessed on 27.12.2021.

¹⁶ Lex.uz. ЗРУ-707-сон 11.08.2021. Об официальной статистике. <https://www.lex.uz/ru/docs/5569612>

¹⁷ The June 2021 President's Decree orders to establish such lists publicly.

Lex.uz. УП-6247-сон 16.06.2021. О дополнительных мерах по обеспечению открытости деятельности государственных органов и организаций, а также эффективной реализации общественного контроля. <https://lex.uz/docs/5459053>, accessed on 27.12.2021.

IV. Assessment of Implementation of Chapter II and Chapter V Provisions

This chapter reviews the laws, regulations, and practices of selected articles of Chapter II (Preventive Measures) and Chapter V (Asset Recovery) of the UNCAC.

4.1 Chapter II: Preventive Measures

4.1.1 Article 5 – Preventive anti-corruption Policies and Practices

The Uzbek authorities demonstrate a very high level of corruption-awareness and acknowledgment of the problem. In August 2021, the President claimed that the financial damage from corruption in January-May of 2021 alone was approximately \$42 million¹⁸, while the annual state budget for 2021 is \$17 bn¹⁹.

The anti-corruption legal framework generally consists of the Law on Countering Corruption (anti-corruption Law 2017)²⁰ and numerous Presidential decrees. As a rule, anti-corruption reforms have been developed according to the following procedure: a draft Presidential decree is published on a dedicated website²¹. Following consultations, in which any Uzbek citizen can participate, the decree is promulgated. It may consist of both legislative and policy proposal provisions, meaning that some of its parts are to be enforced directly while others are subject to legislative amendments.

It is worth noting that decrees are promulgated very intensively. What is more, some decrees are literal repetitions of previous decrees which have not been enforced (see analysis of Article 7.1 on public service for example).

While the authorities may be keen to proceed with reforms at speed, it appears that the pace may result in serious legal shortcomings and leave lower enforcement agencies unable to adequately implement new regulations which are subject to change. Uzbekistan's difficulties in enforcing adequate anti-corruption regulations have been noted by the OECD²².

The anti-corruption Law of 2017 consists of the following key points:

- Definition of corruption and conflicts of interest (Article 3)
- Principles of transparency and cooperation with civil society (Article 4)
- List of bodies entitled to counter corruption and their competencies (Article 7)
- List of corruption-prevention measures, such as transparency and accountability of public bodies (Article 19)
- Principles of economic policy, including competition stimulation (Article 20)

¹⁸ Gazeta.uz. (August 2021). *Президент озвучил ущерб от коррупции за пять месяцев*. <https://www.gazeta.uz/ru/2021/08/17/corruption/>, accessed on 27.12.2021.

¹⁹ Gazeta.uz. (December 2020). *Утвержден госбюджет на 2021 год*. <https://www.gazeta.uz/ru/2020/12/27/budget-2021/>, accessed on 27.12.2021.

²⁰ Lex.uz. ЗРУ-419-сон 03.01.2017. *О противодействии коррупции*. <https://lex.uz/ru/docs/3088013>

²¹ Портал обсуждения проектов нормативно-правовых актов. <https://regulation.gov.uz/ru>, accessed on 27.12.2021.

²² OECD. (2019). *Uzbekistan must ensure implementation of ambitious anti-corruption reforms*. <https://www.oecd.org/corruption/acn/uzbekistan-must-ensure-implementation-of-ambitious-anti-corruption-reforms.htm>, accessed on 27.12.2021.

- General conflicts of interest (Col) rules (Article 22)
- Transparency principle in public procurement (Article 23)
- Anti-corruption expertise of legal acts provisions to detect corruption-causing factors in their texts, like unjustified discretion, extensive powers etc. (Article 24)
- Null and void principle of corrupt administrative actions (Article 29)
- General principles on research and international cooperation (Chapter 6).

In general, the law tends to fulfill common international standards for such regulation and provides for a progressive definition of corruption, covering non-tangible bribes, as recommended by Transparency International²³ as well as a comprehensive general good governance principle. However, it is lacking in detail and, more importantly, enforcement. For example, Article 14 states that civil society organizations and citizens may participate in developing anti-corruption policy, although CSOs have not participated in the UNCAC review process. The government prefers to create governmentally-controlled 'NGOs' (see evaluation process table on page 11-12) in order to create the appearance of CSO participation. In many places, the law is very vague and does not provide any reference to how certain provisions should be enforced.

Indeed, many regulations do not appear to be enforced. For example, the law provides general guidelines relating to conflict-of-interest situations (Article 21); however, according to the experts interviewed for this report, rules on Col are not enforced with only a few exceptions²⁴. For example, some public companies like the company Uzbekneftegaz declares active enforcement²⁵. The General Prosecutor's Office (GPO) did not respond to a request for information about Col statistics²⁶. Moreover, it is unusual and disappointing that the ACA, the primary body responsible for overseeing integrity, receives no mention in the law at all.

Regarding strategic documents, three national anti-corruption programs were introduced in 2017-2018²⁷, 2019-2020²⁸, and 2021-2022²⁹. The first program (2017-18) provided, among other things, for:

- Introduction of laws on public service and public procurement
- Improvement of legal culture (respecting the law and raising awareness among citizens)
- Transparency of public monitoring bodies
- Definition of Col rules

²³ Transparency International. *What is corruption?* <https://www.transparency.org/en/what-is-corruption>, accessed on 27.12.2021.

²⁴ In some cases, articles 205-207 of the Criminal Code can be used to prosecute some aspects of Col

²⁵ Gazeta.uz. (June 2021). *В «Узбекнефтегазе» борются с конфликтами интересов родственников связей.* <https://www.gazeta.uz/ru/2021/06/23/neftegaz/>, accessed on 27.12.2021.

²⁶ Request №6, sent on 23.08.2021.

²⁷ Lex.uz. ПП-2752-сон 02.02.2017. *О мерах по реализации положений Закона Республики Узбекистан «О противодействии коррупции».* <https://www.lex.uz/docs/3105127>, accessed on 27.12.2021.

²⁸ Lex.uz. УП-5729-сон 27.05.2019. *О мерах по дальнейшему совершенствованию системы противодействия коррупции в Республике Узбекистан.* <https://lex.uz/docs/4355399#4356313>, accessed on 27.12.2021.

²⁹ Lex.uz. УП-6257-сон 06.07.2021. *О мерах по созданию среды нетерпимого отношения к коррупции, кардинальному сокращению коррупционных факторов в государственном и общественном управлении, а также широкому вовлечению общественности в этот процесс.* <https://lex.uz/docs/5495531>, accessed on 27.12.2021.

The second program (2019-20) was more specific and provided, among other things, for:

- Strengthening of judicial independence
- Introduction of competitive recruitment for public servants
- An assets declaration system for a wide scope of public officials
- Definition of Col rules (again)
- Improvement of legal culture (respecting the law and raising awareness among citizens)
- Stimulation of anti-corruption activities through media reporting
- Risk-assessment of the functions of public bodies regarding corruption

Finally, the current program (2021-22) provides for:

- Introduction of competitive public service selection (again)
- Introduction of a code of conduct for public servants
- E-evaluation of corruption risks in public bodies
- Asset declaration system for a wide scope of public officials
- Improvement of enforcement of Col rules
- Consideration of the creation of a beneficial ownership register
- Introduction of enforcement powers for ACA

While many of the points above were implemented, in many other cases the enforcement of these programs is questionable. Many of their provisions entered into law only years later. For example, the public procurement act, introduced in the first program of reforms of 2017-2018, did not enter into law until April 2021. Some provisions have yet to be enforced. For example, the first program proposed the introduction of public service law. However, by October 2021 such a law still does not exist in the country. Another example is a point from the second program, regarding activities to raise awareness of corruption. Many of the experts surveyed (Yusupov, G., Ilkhamov) stated that there had been no signs of anti-corruption awareness campaigns in Uzbekistan in recent years. One expert, G.³⁰, recalled a number of outreach campaigns but described them as ineffective and risible.

It is worth noting that the authorities continue to promise to develop a more comprehensive anti-corruption strategy by 2025³¹ although it is not clear how it will complement or enhance the current national anti-corruption program and the risk that it may duplicate previous proposals cannot be excluded. By contrast, Russia has consistently adopted anti-corruption national plans for periods of two-three years since 2010 and the author of this report sees no duplication of documents and a relatively high level of enforcement.

There is no public information on how the anti-corruption Act 2017 and the performance of anti-corruption programs was evaluated although such monitoring procedures are explicitly mentioned in the many legal provisions mentioned above. The transparency of these processes is therefore significantly lacking.

None of the experts consulted for this report were aware of any participation of civil society

³⁰ Interviewed July 15, 2021.

³¹ Gazeta.uz. (December 2020). *Стратегию противодействия коррупции помогут разработать международные организации.* <https://www.gazeta.uz/ru/2020/12/27/strategy/>, accessed on 27.12.2021.

in developing anti-corruption policy. Experts Ilkhamov³² and Yusupov³³ noted that a possibility to promote such ideas may be through the inclusion of civil society in public councils³⁴ under ministries and that some prominent journalists and civil society activists are members of councils of the MoJ and the ACA. However, the effectiveness of such participation is considered to be low since there have been no significant initiatives proposed by independent participants which have been put forward for development.

There are no independent public surveys on corruption in the country. Surveys are conducted by a government sociological center, Ijtimoiy Fikr. Accordingly, in 2017 approximately 37% of citizens reported corruption in healthcare; 31% in education; and 25% in law enforcement agencies³⁵. In 2021, only 18% of people thought that there is imminence of punishment principle regarding corruption, meaning that people's belief in the chance of punishment for corrupt officials is quite low³⁶. Approximately 37% of respondents admitted that they were aware that their relatives had given a bribe. Approximately 50% of respondents claimed their relative had had no other choice but to give a bribe. There is no information on the survey's methodology. Expert Ilkhamov questioned the Ijtimoiy Fikr's integrity since it is fully state-controlled³⁷.

In Transparency International's Corruption Perceptions Index (CPI) 2020, Uzbekistan ranks 146 out of 180 positions, where the first position is held by the country with the lowest perceived level of corruption, scoring only 26 points out of 100. In 2016, Uzbekistan scored 21 points out of 100, while in 2012, the last year CPI allows for comparison, it scored only 17 points out of 100, which shows a positive trend.

Uzbekistan is actively participating in OECD³⁸ anti-corruption initiatives and participates in Eurasian Group (EAG) evaluations³⁹, although the EAG's last follow-up report was issued in 2016, while the last full one was issued in 2010. However, there are several international evaluation mechanisms that Uzbekistan could benefit from. For example, Uzbekistan could join GRECO, the second most widely used anti-corruption evaluation system after UNCAC, whose evaluation phases are more frequent than the UNCAC review mechanism. Another option is to join the Open Government Partnership⁴⁰ which would give strong incentives to Uzbekistan to promote access to public information and transparency in all spheres of government, especially in the executive branch. Another possibility is to join FATF⁴¹ directly.

³² Interviewed on June 22, 2021.

³³ Interviewed on June 29, 2021.

³⁴ Consultative bodies under relevant bodies, which aim to represent civil society in advising and overseeing public authorities.

³⁵ Data provided by CPA.

³⁶ ACA (Anti-Corruption Agency). *Коррупция ҳолати ва омиллари тўғрисида жамоатчилик фикри ўрганildi (1-қисм)*. <https://anti-corruption.uz/uzc/item/2021/04/17/korruptsiya-holati-va-omillari-togrisida-zhamoatchilik-fikri-organildi-1-maqola>, accessed on 27.12.2021.

³⁷ Interviewed on June 22, 2021.

³⁸ OECD. *Uzbekistan - Anti-corruption reforms*.

<https://www.oecd.org/corruption/anti-corruption-reforms-in-Uzbekistan.htm>, accessed on 27.12.2021;

OECD. *Uzbekistan Anti-Corruption Project*.

<https://www.oecd.org/corruption/acn/uzbekistan-anti-corruption-project.htm>, accessed on 27.12.2021.

³⁹ EAG. *Mutual evaluation reports*. <https://eurasiangroup.org/en/mutual-evaluation-reports>, accessed on 27.12.2021.

⁴⁰ Open Government Partnership. <https://www.opengovpartnership.org/>, accessed on 27.12.2021.

⁴¹ FATF. <https://www.fatf-gafi.org/>, accessed on 27.12.2021.

Good practices

- The general anti-corruption regulation covers all basic areas: definition of corruption, conflict of interests, ethics rules, and public procurement.
- The government actively introduces planning in the anti-corruption sphere and many of the planned provisions are finally implemented, even if not in a timely manner.

Deficiencies

- Legislation changes very quickly which at times leads to contradictions in the law and practice.
- The anti-corruption Law of 2017 lacks detail and enabling legislation. Many gaps should be filled with enabling legislation.
- Many anti-corruption provisions lack enforcement. Evaluations of the enforcement regime are not transparent.
- Independent civil society organizations are excluded from the anti-corruption policy-making process. Only a few individuals are permitted to participate and the government actively uses government-controlled NGOs to imitate the participation of independent civil society.

4.1.2 Article 6 – Preventive anti-corruption Body or Bodies

Uzbekistan's main anti-corruption body, the Anti-Corruption Agency (ACA), was established in June 2020 by a Presidential Decree⁴². Several details related to its powers are regulated by special government decrees⁴³ but there is still no legislative status for the ACA in the anti-corruption Act of 2017. It is solely the President's prerogative to decide whether the ACA should exist or not, as is the case with any other public authority in the country. However, the agency claims⁴⁴ that the draft law on the ACA provides for a firm establishment of its status in law.

The ACA is directly entitled to enforce anti-corruption policies, including by coordinating all public bodies' efforts in this area. The body's notable powers include:

- Providing anti-corruption expertise on legal acts
- Compliance stimulation
- Implementation of integrity principles on public service
- Development of anti-corruption policies, including analysis of corruption-related statistics
- Organizing an assets declaration system
- International cooperation
- Control over corruption compensation mechanisms
- Overseeing Col situations
- Issuing warrants on preventing corruption activities

⁴² Lex.uz. УП-6013-сон 29.06.2020. О дополнительных мерах по совершенствованию системы противодействия коррупции в Республике Узбекистан. <https://lex.uz/ru/docs/4875786>, accessed on 27.12.2021.

⁴³ Lex.uz. ПП-4761-сон 29.06.2020. Об организации деятельности Агентства по противодействию коррупции Республики Узбекистан. <https://lex.uz/docs/4875795>, accessed on 27.12.2021.

⁴⁴ Response №2, received on 26.08.2021.

All the powers listed appear to comply with the best international anti-corruption standards. Moreover, they are underpinned by certain coercive measures, such as administrative investigations powers and the right to issue warrants to prevent corrupt acts (including draft laws) and warnings on corruption-like activities by any executive power body, such as national ministries, agencies, regional governments, etc. (the President’s administration is not included). However, these warrants can be rejected by the person subject to it, and the ACA has no power to challenge this in any way. In August 2021, the head of the ACA acknowledged a lack of coercive powers⁴⁵. It would be appropriate to establish special administrative liability for public officials on non-compliance with ACA’s warrants.

The ACA is also entitled to process citizens' complaints on corruption and proceed with 'required measures', which are not specified. The complaints may be filed electronically⁴⁶. However, several experts noted that appealing to the President in recent years was a much more effective mechanism - though the Agency exists for just a year. Expert Yusupov⁴⁷ from the Center for Economic Development (CED) noted that the ACA, in his opinion, cannot play a significant role due to its lack of enforcement powers and low level of influence. Expert Lasslett from Ulster University⁴⁸ specifically stressed that in the Coca-Cola state shares case⁴⁹, the ACA on 25 January 2021 called for a suspension of the tender process due to concerns over its integrity⁵⁰. The following day, it reversed that position and stated the tender process was entirely above board⁵¹. It was not possible to identify or access any enforcement statistics on the ACA’s prevention powers.

The ACA is also entitled to conduct awareness-raising activities on the negative impact of corruption. As previously mentioned, almost all the experts interviewed for this report were not aware of such campaigns, while others described the efforts as ineffective. In 2020, the ACA launched an educational project called 'anti-corruption labs', which allows civil society activists to participate in the evaluation of corruption risks in selected areas and to make proposals to mitigate these risks. In addition, around 20,000 public servants attended trainings with the GPO in 2018-2020 on integrity and ethics⁵². Moreover, annual anti-corruption weeks - events to promote anti-corruption – have been organized in which some 20,000 people participated in 2020, according to official reports⁵³, although there is no official data publicly available to confirm who and how many people participated. For this reason, they cannot be considered genuine anti-corruption activities.

⁴⁵ Gazeta.uz. (August 2021). «Некоторые ведомства всё ещё не признают Антикоррупционное агентство» — Акмал Бурханов. <https://www.gazeta.uz/ru/2021/08/12/burhanov/>, accessed on 27.12.2021.

⁴⁶ E-Antikor. <http://eanticor.uz/>, accessed on 27.12.2021.

⁴⁷ Interviewed on June 29, 2021.

⁴⁸ Interviewed on June 30, 2021.

⁴⁹ Радио Азаттык. (June 2021). Как компания Соса-Кола помогла властям Узбекистана в захвате прибыльного бизнеса. <https://rus.azattyq.org/a/how-coca-cola-helped-uzbek-authorities-seize-a-lucrative-business-operation-from-us-citizens/31320530.html>, accessed on 27.12.2021.

⁵⁰ ACA. (January 2021). “Кока-кола ичимлиги” корхонасини хусусийлаштириш жараёнлари юзасидан тақдимнома киритилди. <https://anticorruption.uz/uzc/item/2021/01/25/koka-kola-ichimligi-korkhonasini-khususijlashtirish-zharayonlari-yuzasidan-taqdimnoma-kiritildi>, accessed on 27.12.2021.

⁵¹ ACA. (January 2021). Давактив агентлиги томонидан “Кока-кола ичимлиги” корхонасини хусусийлаштириш жараёнлари юзасидан тушунтириш берилди. <https://anticorruption.uz/uz/item/2021/01/26/davaktiv-agentligi-tomonidan-koka-kola-ichimligi-korkhonasini-khususijlashtirish-zharayonlari-yuzasidan-tushuntirish-berildi>, accessed on 27.12.2021.

⁵² Response №2, received on 26.08.2021

⁵³ Response №2, received on 26.08.2021

Regarding the issue of funding, expert G. noted that the ACA has ‘all that they need’. However, the salaries of public officials were decreased during the period of Covid restrictions which may have negatively influenced the general level of corruption (while not questioning the integrity of the ACA).

None of the experts surveyed questioned the ACA’s integrity. Expert Niyazova, director of Uzbek Forum, described the current head of the ACA, Akhmal Burkhanov, as an open-minded person towards civil society representatives. However, one of the most glaring limitations of the agency is its lack of independence from the office of the President who has sole responsibility for appointing its director⁵⁴. Despite the President’s public commitments to counter corruption, they do not justify the lack of the ACA’s genuine independence from any other influence other than prescribed by law in accordance with the Jakarta Principles of 2012⁵⁵.

It is worth noting once again that there is no mention of the ACA in the Anti-Corruption Act of 2017. Corruption cases may also be reported to the President, the MoI, the GPO, and some other bodies. The competence of the ACA to tackle corrupt cases is not unique. In general, the ACA’s competence may overlap with other public bodies.

To conclude, evidence suggests that the ACA is a duly established, transparent public authority without any signs of inherent corruption. It has certain preventive powers but lacks many urgently needed enforcement mechanisms, as well as genuine independence.

Good practices

- The ACA is generally perceived to be a trustworthy government body.
- The ACA has a variety of effective preventive powers and a certain amount of enforcement mechanisms which in theory should allow it to effectively produce anti-corruption policies and enforce CoI regulations and other preventive measures.
- The ACA appears to have sufficient resources at its disposal to effectively carry out its responsibilities.

Deficiencies

- The ACA does not enjoy sufficient independence from the executive and the President. The status of the ACA is not prescribed in law.
- The level of preventive enforcement mechanisms tends to be relatively low.
- The ACA lacks enforcement measures, including on citizens’ complaints, and does not have the powers to conduct criminal investigations.
- There is a lack of regulation of corruption prevention policies and practices.

⁵⁴ The decree is formally approved by the Senate; however, it consists of a pro-presidential majority and has never refused any presidential decree.

⁵⁵ UNODC. (November 2012). *Jakarta Statement on Principles for Anti-Corruption Agencies*. https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf, accessed on 27.12.2021.

4.1.3 Art. 7.1 – Public Sector⁵⁶ Employment

The Uzbek legal framework for the public service is incoherent and at times contradictory. All of the experts noted that, in general, there are neither open nor closed formal competitive procedures for employment in public office, except for the positions of judges, which was introduced in 2019. There is no law on public service in the country. The national list of official positions is described in a document from 1997⁵⁷. The position of the President is not included on the list.

However, in 2019, by order of the President⁵⁸, it was declared that public servants should be employed according to meritocracy with open competition. A special ‘Public Service Agency’ was established. One of its functions was to create an open website with a list of vacant positions in all the public bodies. The website exists and is available in Uzbek only⁵⁹. The ACA claims that a vast list of bodies publish their vacancies on the website, although this is still not obligatory. The decree also states that public competition for public positions should begin in certain offices from 1st January 2020, and, for other national offices, from 1st January 2021. The Ministry of Justice⁶⁰ and the Ministry of Finance⁶¹ publish vacancies for low-level positions. An example of good practice is the ACA’s publication of the list of persons applying for positions⁶², although it is not clear for which exact positions applications were accepted. The practice of publishing job vacancies was also noted in the Ministry of People’s Education⁶³ and the Ministry of Construction,⁶⁴ among others. However, there are no vacancy sections in the MoI, GPO, the President’s administration, the Ministry of IT, and the Ministry of Culture, among others. Therefore, the practice of publicly announcing employment opportunities within the civil service is not evenly implemented.

Another new Presidential decree relating to public service was issued in July 2021⁶⁵ and is essentially a repetition of the 2019 decree, claiming to establish open online competition for employment positions from September 2021.

The ACA, in its response to the author of this report, stated that a website on the public service had published approximately 9,000 vacancies. Out of 40,000 full applications, only

⁵⁶ Author’s note: This sector has currently been undergoing significant reform since the summer of 2021 and the situation is expected to evolve in the foreseeable future.

⁵⁷ Lex.uz. 339-сон 03.07.1997. *Об установлении двадцатипроцентной надбавки к должностным окладам государственных служащих.* <https://www.lex.uz/ru/docs/1191845>, accessed on 27.12.2021.

⁵⁸ Lex.uz. УП-5843-сон 03.10.2019. *О мерах по кардинальному совершенствованию кадровой политики и системы государственной гражданской службы в Республике Узбекистан.* <https://lex.uz/docs/4549993>, accessed on 27.12.2021.

⁵⁹ Давлат фуқаролик хизматчилари вакант лавозимларининг ягона очик портали. <https://vacancy.argos.uz/>, accessed on 27.12.2021.

⁶⁰ MoJ. https://www.minjust.uz/uz/about/jobs/vac_cent/?ELEMENT_ID=101851, accessed on 17.03.2022.

⁶¹ MoF. *Vo’sh ish o’rinlar.* <https://www.mf.uz/uz/joblist.html>, accessed on 27.12.2021.

⁶² CPA. *Объявлен список кандидатов, допущенных к тестовым испытаниям.* <https://anti-corruption.uz/ru/item/rojkhlat>, accessed on 27.12.2021.

⁶³ Министерство народного просвещения. *Вакансии.* <https://www.uzedu.uz/ru/bosh-ish-orinlari>, accessed on 27.12.2021.

⁶⁴ Министерство строительства. *Вакансии.* <https://mc.uz/rekvizity/?lang=uz-kr>, accessed on 27.12.2021.

⁶⁵ Lex.uz. ПП-5177-сон 06.07.2021. *О дополнительных мерах по эффективной организации деятельности по противодействию коррупции.* <https://www.lex.uz/ru/docs/5495538>, accessed on 27.12.2021.

16,000 had passed online pre-qualification testing. For one vacancy, there are approximately 20-22 applications. Some information from CVs, such as employment experience, education degrees, etc. is verified automatically through requests to governmental databases and registers. By October 2021, there were currently 4,000 open vacancies.

Candidates must pass scrutiny of their CVs, basic knowledge, skills testing, and an interview. The testing is conducted online and video-recorded, according to the ACA. It is planned that testing and interviews will be translated online for public access. An interview is conducted by special commissions which include a representative of the Public Service Agency. However, it is not clear whether corruption-related questions are included during the testing and interview process.

There is no comprehensive public information on the salaries of public servants. A public official receives a salary no less than the minimum monthly wage⁶⁶ which is approximately \$70. However, in response to media enquiries, the basic salaries for top public officials were disclosed in February 2019: a Member of Parliament earns \$140 per month, a head of a region (hokim) earns \$178, and a national minister \$160⁶⁷. The Ministry of Finance (MoF) noted that there are certain boosting coefficients in place which may increase the salary by up to 160%⁶⁸. In this case, a minister's salary would increase to \$400. The average monthly salary in Uzbekistan in 2019 was \$216 and has not increased significantly since then. Fergana News reported that the actual salary of a regional hokhim is approximately \$1,200 per month⁶⁹. It is disputable whether such salaries for top-level officials are adequate to prevent corrupt practices. However, since there are no available figures on median salaries in the country, the real income of \$1,000-\$1,200 may be satisfactory in practice as it is ten times higher than the real average salary. According to the ACA, salaries at the ACA, MoI, and the prosecution service are higher than average. It is known, however, that high salaries alone are not a cure for bribery⁷⁰. It is worth noting that some of the experts interviewed claimed salaries to be quite low, while others noted their significant increase in the last 3 years, which was interrupted by the COVID-19 pandemic. That may mean that the public is not properly aware of public officials' legal income which could be solved by introducing a public assets declaration system.

There is no public information or legislation on regulations for the promotion of public officials and the evaluation of their effectiveness.

Expert Ilkhamov⁷¹ described the public employment system as Soviet 'nomenklatura'⁷², meaning that promotion in the civil service is determined only by the rulings of high-ranking

⁶⁶ Lex.uz. 775-сон 16.09.2019. *О дальнейшем совершенствовании Единой тарифной сетки по оплате труда.* <https://lex.uz/ru/docs/4514784>, accessed on 27.12.2021.

⁶⁷ Gazeta.uz. (February 2019). *Минфин впервые раскрыл должностные оклады госслужащих (дополнено).* <https://www.gazeta.uz/ru/2019/02/27/salaries/>, accessed on 27.12.2021.

⁶⁸ Ibid.

⁶⁹ Fergana.news. (April 2019). *Аппетит приходит и уже не уходит.* <https://fergana.agency/articles/106826/>, accessed on 27.12.2021.

⁷⁰ НИУ ВШЭ. (November 2013). *Low Wages Encourage Corruption.* <https://iq.hse.ru/en/news/177668831.html>, accessed on 27.12.2021.

⁷¹ Interviewed June 22, 2021.

⁷² Michael Voslensky (1984). *Nomenklatura: The Soviet Ruling Class.*

public officials and that no formal rules exist. In the higher positions, he claims, loyalty to the President is obligatory. This is perhaps not entirely surprising, considering the authoritative power of the President including governing the executive. However, with respect to prosecutors and judges, loyalty can actually increase corruption risks without checks and balances. However, in recent years there were also several so-called ‘technocrats’ in the highest positions. Some of the experts⁷³ noted that high-ranking officials at the ACA and the MoJ are known to be open and transparent officials and are considered to be competent. However, they too were not appointed through open competition which can be circumvented by a President’s decision⁷⁴. Expert Yusupov noted that there is no bribery for obtaining the lowest positions, but bribery seems to be widespread in promotions. Several experts noted the significant popularity of the public service among young people⁷⁵. This may both be a sign of relatively high salaries and the opportunity to gain improper rent from the position.

Regarding anti-corruption education, around 10,000 public servants visited anti-corruption and ethics events in 2018-2020, organized by the Academy of the GPO⁷⁶.

In recent years there have been no domestic media investigations regarding bribery or nepotism in the sphere of enrolling to public service.

Based on these findings, recruitment and especially promotion processes in the Uzbek public service are non-transparent and are undermined by the risk of corruption. Promotions within the agency appear not to depend on experience or qualifications which suggests that career development may be dependent on personal favor. However, the authorities have shown their awareness of the problem and intensively promote integrity initiatives which provide for open competitive procedures, promotion rules, and adequate salaries. The main question is if these proposals will be fully implemented.

Good practices

- It seems relatively easy to gain employment at low-level positions in the public sector due to the open online application process.
- The public service is considered prestigious in society which is important for attracting talented candidates.
- Public servants’ salaries are higher than the national average.

Deficiencies

- No law on regulating the public service and consequently no unified rules on employment, ethics, promotion, and day-to-day responsibilities are in place.
- Promotion processes are perceived to be highly corrupt.
- Salaries of public officials decreased during restrictions caused by COVID-19.

⁷³ Alisher Ilkhamov (June 22, 2021), Niyazova.

⁷⁴ Interviewed June 29, 2021.

⁷⁵ Yusupov (June 29, 2021), Alisher Ilkhamov (June 22, 2021).

⁷⁶ Response №2, received on 26.08.2021.

4.1.4 Art. 7.3 – Political Financing

The relevant political financing provisions are established in the Political Financing 2004 Act⁷⁷ and in the Election Code 2019⁷⁸. While the scope of the relevant UNCAC provisions covers only the issue of transparency of candidates' and parties' financing, the fact cannot be ignored that Article 98 of the Election Code 2019 forbids any private funding for campaigning, both for parties and independent candidates (Art. 100). This means that candidates are wholly dependent on government funding which they are entitled to after registration for specific campaigns and cannot rely on their supporters' funding. It is therefore not clear how political parties can support their candidates if private funding for their campaigns is forbidden. Moreover, while the registration process of a political party itself requires funding, it is not clear how a party is permitted to fund these activities.

All five registered parties have representation in Parliament.

Incoming funds can be separated into several different types:

- Corporate donations

There is an explicit ban on foreign donations. One legal entity cannot donate more than \$115,000 a year. However, since no beneficial ownership requirement is in place, this can be easily circumvented.

- Personal donations

There is an explicit ban on foreign donations. One person cannot donate more than \$1,115 a year. This can be circumvented by party member donations. Anonymous donations are forbidden.

- Government funding

This is the only legitimate funding source for electoral campaigns. The party can receive this funding on a regular basis if it passed the entrance barrier to the Parliament. One vote gives a party approximately \$1. In 2020, this funding consisted of around 80% of all parties' budgets⁷⁹. The specific number of votes per party was not published. Regarding financing electoral campaigns, the OSCE noted during the 2019 Parliament elections that the funding provided was enough to cover only basic needs⁸⁰ since the Central Electoral Commission assigned around \$1,000,000 for all of the participating parties which is not sufficient. Every candidate received only \$410 for campaigning.

Parties must submit annual financial reports regarding parties' income and spending while government funding must be declared separately. These reports are subject to audit by the

⁷⁷ Lex.uz. 617-II-сон 30.04.2004. *О финансировании политических партий.*

<https://www.lex.uz/ru/docs/168377>, accessed on 27.12.2021.

⁷⁸ Lex.uz.25.06.2019. *Избирательный кодекс Республики Узбекистан.*

<https://www.lex.uz/ru/docs/4386846>, accessed on 27.12.2021.

⁷⁹ Счетная палата. (April 2021). *Счетной палатой Республики Узбекистан осуществлена проверка поступлений финансовых и иных средств политическим партиям и их целевого использования.*

<http://www.ach.gov.uz/ru/lists/view/164>, accessed on 27.12.2021.

⁸⁰ OSCE. *МЕЖДУНАРОДНАЯ МИССИЯ ПО НАБЛЮДЕНИЮ ЗА ВЫБОРАМИ*

Республика Узбекистан – Парламентские выборы, 22 декабря 2019 г.

<https://www.osce.org/files/f/documents/c/9/442939.pdf>, accessed on 27.12.2021.

Accounting Chamber of Uzbekistan and must be approved by the Central Electoral Commission. In 2020, the Accounting Chamber found violations for a total sum of \$400,000 for all parties because of incorrect paperwork⁸¹. Both bodies are formed with the participation of the Parliament which is under full presidential control.

Reports must be published on the parties' websites on an annual basis. However, only the NDPU party publishes such reports. While its total income for 2020 was \$2,162,000, only \$350 were donations, while \$432,400 were party members' contributions⁸². It is not possible from this report to know exactly who donated money and for which specific purposes the money was spent. Judging by these reports, it appears that parties are not supported financially by their constituents.

As outlined above, Uzbek political parties are significantly dependent on government funding and receive little contribution from their constituents. However, even this public money is spent in a non-transparent manner and almost no financial reporting can be found publicly. The only party which publishes such reports does so omitting details.

Good practices

- The government provides sustainable funding for parliamentary parties.
- Limits on private donations are in place.

Deficiencies

- Private financing of electoral campaigns is forbidden.
- Financial disclosure regulation is not obeyed.
- Disclosure forms are not detailed.
- There is no control over beneficiaries of private donors, meaning that caps on donations can be easily bypassed.
- The monitoring bodies of political financing are not independent.

4.1.5 Art. 7, 8 and 12 – Codes of Conduct, Conflicts of Interest and Asset Declarations⁸³

Codes of conduct

There is no unified code of conduct for civil servants in place, but the July 2021 Presidential Decree provides for the establishment of such a code in the future⁸⁴. However, in 2016, model rules of ethics for public servants were introduced⁸⁵. National and regional bodies were

⁸¹ Ibid, 79.

⁸² Народно-демократическая партия Узбекистана. ФИНАНСОВЫЙ ОТЧЕТ об исполнении бюджета за 2020 год и основные показатели бюджета на 2021 год. <https://xdp.uz/budget/2975>, accessed on 18.02.2022.

⁸³ Author's note: The issues described in this section are undergoing significant reforms at the time of writing.

⁸⁴ Lex.uz. Пункт 2 приложения к УП-6257-сон 06.07.2021. О мерах по созданию среды нетерпимого отношения к коррупции, кардинальному сокращению коррупционных факторов в государственном и общественном управлении, а также широкому вовлечению общественности в этот процесс. <https://lex.uz/docs/5495531>, accessed on 27.12.2021.

⁸⁵ Lex.uz. 62-сон 02.03.2016. Об утверждении Типовых правил этического поведения работников органов государственного управления и органов исполнительной власти на местах. <https://lex.uz/docs/2911871>, accessed on 27.12.2021.

further ordered to enact their own rules since the model rules do not have direct enforcement.

The 2016 rules require officials to conduct their powers in good faith and to resist undue influence; use their powers only for the public benefit; and report to the line manager on any attempt to involve them in corrupt activities. Any activity non-compatible with public service, including doing business, is prohibited.

The rules do not cover elected officials, however, as they are not considered civil servants. Moreover, the parliament dismissed ethics rules in 2020 for reasons unknown⁸⁶ and there do not appear to be any ethics codes for regional and district councils.

The experts interviewed struggled with difficulties when memorizing anything about ethical behavior rules of public servants and its enforcement. For example, expert G. claimed she had ‘never heard about national ethical rules except for judges’⁸⁷. However, expert Niyazova provided a few examples of liability for non-compliance with ethical rules. In November 2019, the General Prosecutor’s office ordered the Prime Minister’s office to punish the mayor of Tashkent for insulting journalists⁸⁸. In December 2019, the same actions were taken in relation to the governor of the Fergana region who threatened a person for spreading online information anonymously on mass protests in the region⁸⁹. In both cases, it is not known whether the officials were ever punished. In the case of low-level officials, the outcomes can be different: in April 2020, a district administration secretary was dismissed for violating ethics rules because of his attempts to confiscate a mobile phone from a journalist while filming prices at the local market⁹⁰. Other similar cases occurred during the course of 2020 (case 1⁹¹, case 2⁹², case 3⁹³). However, there is only one known case of an official actually being punished: in January 2020, a district mayor was fined approx. \$420 for insulting local farmers⁹⁴.

⁸⁶ Lex.uz. 122-III-сон 30.04.2015. Об утверждении Правил депутатской этики депутатов Законодательной палаты Олий Мажлиса Республики Узбекистан. <https://lex.uz/ru/docs/2668480>, accessed on 27.12.2021.

⁸⁷ Interviewed July 15, 2021.

⁸⁸ Gazeta.uz. (November 2019). Генпрокуратура: хоким Ташкента нарушил правила этики госслужащего. <https://www.gazeta.uz/ru/2019/11/27/gp/>, accessed on 27.12.2021.

⁸⁹ Gazeta.uz. (December 2019). Шухрат Ганиев нарушил правила этики госслужащего — Генпрокуратура. <https://www.gazeta.uz/ru/2019/12/30/ganiev-fergana/>, accessed on 27.12.2021.

⁹⁰ Gazeta.uz. (April 2020). Уволен сотрудник хокимията, пытавшийся отобрать телефон у журналистки. <https://www.gazeta.uz/ru/2020/04/24/journalist-case/>, accessed on 27.12.2021.

⁹¹ Озодлик Радиоси. (December 2020). Яна бир ҳоким сўқинди. Бош прокурор ўринбосари Озодликка изоҳ берди. <https://www.ozodlik.org/a/svetlana-ortiqova-so-kong-ich-hokimlar-masalasi-vazirlar-mahkamasida-ko-rilishi-kerak/30988245.html>, accessed on 27.12.2021.

⁹² Озодлик Радиоси. (November 2020). OzodTa’sir: Сўқонғич ҳоким “узр” сўради. <https://www.ozodlik.org/a/so-kong-ich-hokim-uzr-so-radi/30960361.html>, accessed on 27.12.2021.

⁹³ Gazeta.uz. (October 2020). Хоким Бустанского района прокомментировала запись с оскорблением фермеров. <https://www.gazeta.uz/ru/2020/10/26/mamitova/>, accessed on 27.12.2021.

⁹⁴ Озодлик Радиоси. (January 2020). 4 460 000 сўм. Мингбулоқ ҳокими фермерларни ҳақоратлагани учун шунча жаримага тортилди.

There are no published statistics on ethics compliance except in cases regarding judges⁹⁵. However, analysis of known cases shows that it is extremely rare for public officials to be punished for unethical behavior. Ultimately, the decision to punish an official or not is at the full discretion of his or her superior.

Conflicts of interest

In Uzbekistan, there is no unified definition of conflict of interest (CoI). The General Ethics Rules 2016⁹⁶ define CoI as a situation in which personal interest may unduly influence the exercising of public powers and defines personal interest. The definition in the July 2021 Presidential decree⁹⁷ is fundamentally the same but does not define personal interest. Moreover, this decree allows the ACA to issue warrants on suspending any activity on suspicion of CoI, while the General Ethics Rules 2016 require officials only to report to their line manager.

The level of enforcement of the above-mentioned legal instruments is not known. Expert Yusupov noted that it is common for relatives of public officials to do business in the sphere or territory where the public official works. Experts S. and Niyazova noted that many citizens, including high-level officials, do not understand the concept of CoI, since they do not perceive it to be wrong when relatives help each other out. In June 2021, the state-owned energy company Uzbekneftegaz published a statement in which it declared finding 220 instances of CoI in regard to the employment of relatives⁹⁸. In April 2021, journalists discovered that a company owned by a relative of the Minister of Construction earned bids for approximately \$471 million without tender, and, although the head of the ACA admitted the violations, he claimed that it did not constitute a conflict of interest⁹⁹. According to the minister in question, his relatives were just very talented. Similarly, the mayor of Tashkent saw nothing improper in awarding dozens of contracts to companies he beneficially owns¹⁰⁰.

Asset declaration system

There is no asset declaration system in Uzbekistan. Even candidates running in elections are not required to declare their assets and interests.

<https://www.ozodlik.org/a/30370478.html>, accessed on 27.12.2021.

⁹⁵ See art. 11 analysis on page 48 below.

⁹⁶ Lex.uz. 62-сон 02.03.2016. *Об утверждении Типовых правил этического поведения работников органов государственного управления и органов исполнительной власти на местах.*

<https://lex.uz/docs/2911871>, accessed on 27.12.2021.

⁹⁷ Lex.uz. УП-6257-сон 06.07.2021. *О мерах по созданию среды нетерпимого отношения к коррупции, кардинальному сокращению коррупционных факторов в государственном и общественном управлении, а также широкому вовлечению общественности в этот процесс.*

<https://lex.uz/docs/5495531>, accessed on 27.12.2021.

⁹⁸ Gazeta.uz. (June 2021). *В «Узбекнефтегазе» борются с конфликтами интересов родственников связей.* <https://www.gazeta.uz/ru/2021/06/23/neftegaz/>, accessed on 27.12.2021.

⁹⁹ Gazeta.uz. (May 2021). *«Трест-12» реализует проекты на 5 трлн сумов без тендера — Антикоррупционное агентство.* <https://www.gazeta.uz/ru/2021/05/27/burkhanov/>, accessed on 27.12.2021.

¹⁰⁰ Gazeta.uz. (January 2021). *Компания, учреждённая Артыкходжаевым, займется расширением центра логистики в Намангане.* <https://www.gazeta.uz/ru/2021/01/04/i-united-group/>, accessed on 27.12.2021.

In July 2021, the President issued a decree which establishes an asset declaration system for public servants¹⁰¹. The declaration system must begin its operations by January 2022. It is proposed that the submission of false declarations, as well as non-submissions, will trigger dismissal and legal responsibility. The specific list of information to be declared is not mentioned, however. It is also not clear if the assets register will be made public and although the head of the ACA declared commitment for that, there is no legal basis for that¹⁰². Most worryingly, however, the President and Members of Parliament are not subject to the proposed system since they are not considered public servants, in contrast to judges¹⁰³.

There have been no amendments to laws in relation to the assets declaration system.

Good practices

- The ACA was established with coordinating and control powers in the spheres of codes of conduct, conflicts of interest and asset declarations, beginning to exercise its powers in practice.
- Basic ethical rules¹⁰⁴ are in place for public servants.

Deficiencies

- There is no effective assets declaration system in place and the proposed system does not cover the President and MPs.
- Ethical rules tend to be rarely enforced and not duly controlled.
- Conflict of interest situations are common in the public sector and are not perceived as inappropriate by the public.

4.1.6 Art. 9.1 – Public Procurement

The government places an emphasis on public procurement integrity. However, these good intentions are severely undermined in practice. In 2019, the OECD issued a report in which it criticized Uzbekistan's procurement system for a lack of compliance with international procurement standards, a lack of e-systems, a lack of appeal procedures, and ineffective independent oversight¹⁰⁵. In April 2021, the new Public Procurement Act 2021 entered into force¹⁰⁶.

¹⁰¹ Lex.uz. УП-6257-сон 06.07.2021. *О мерах по созданию среды нетерпимого отношения к коррупции, кардинальному сокращению коррупционных факторов в государственном и общественном управлении, а также широкому вовлечению общественности в этот процесс.* <https://lex.uz/docs/5495531>, accessed on 27.12.2021.

¹⁰² Gazeta.uz. (August 2021). «Некоторые ведомства всё ещё не признают Антикоррупционное агентство» — Акмал Бурханов. <https://www.gazeta.uz/ru/2021/08/12/burxanov/>, accessed on 27.12.2021.

¹⁰³ Lex.uz. 339-сон 03.07.1997. *Об установлении двадцатипроцентной надбавки к должностным окладам государственных служащих.* <https://lex.uz/docs/1191845>, accessed on 27.12.2021.

¹⁰⁴ Lex.uz. 62-сон 02.03.2016. *Об утверждении Типовых правил этического поведения работников органов государственного управления и органов исполнительной власти на местах.* <https://lex.uz/docs/2911871>, accessed on 27.12.2021.

¹⁰⁵ OECD. (2019). *Anti-corruption reforms in Uzbekistan. 4th round of monitoring of the Istanbul Anti-Corruption Action Plan.* https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-ENG.pdf, accessed on 27.12.2021.

¹⁰⁶ Lex.uz. ЗРУ-684-сон 22.04.2021. *О государственных закупках.* <https://www.lex.uz/ru/docs/5382983>, accessed on 27.12.2021.

The law explicitly covers all expenditures of the government budget (Art. 2). Moreover, it also covers bidding for the funds of international assistance. All tenders must be published online, although special rules apply for bidding in the area of national security. The percentage of secret bidding in previous years is unknown, according to the ACA. The law explicitly states that transparency and civil society oversight are crucial for countering corruption. Any conflict of interests, either potential or real, is strictly forbidden (Art. 14). The law permits hiring private contracting companies to organize the bidding but imposes certain conditions.

There are four competitive procedures for procurement: marketplace, Dutch auction, best offers selection, and tender. The rules of these procedures do not trigger any corruption-related activities by themselves, meaning they are not constructed in a way that makes corruption easily possible (e.g., through discretion, extensive powers, etc.). However, a non-competitive procedure - direct contracting - triggers much more attention (Chapter 9). It may be arranged solely by the order of the President or the Prime Minister. For example, athletic equipment for Olympic athletes in the Summer Olympics in Tokyo 2020 was purchased through non-competitive procedures solely by the order of the President. No justification was provided. Although under the Public Procurement Act 2021 all such contracts should at least be published, millions of dollars were spent on COVID-19 procurements in 2020 without any publication. A subtype of direct contracting is buying from 'unified suppliers' who must be accredited to a special register of such suppliers beforehand. Such types of procurements may also be ordered by the President or the Prime Minister (Art 71).

Although all bids for public contracts must be published on the Internet, the filing of applications is also possible in paper form. The interface of the relevant online portal¹⁰⁷ is not user-friendly. It is not possible to look through all the bids of a selected contracting authority. Instead, users must select a special form of bidding. Moreover, procurement proposals and resulting contracts are not connected and must be searched for in different registries.

There are at least five bodies that are entitled to oversee all public procurements, such as the Audit Chamber, General Prosecutors Office, MoF, ACA and the Antimonopoly Committee. In July 2021, the President created an additional one, the Republican Commission on Fair and Transparent Public Procurement, whose establishment is not prescribed by the law. The competence of these bodies is not separated in the Public Procurement Act 2021. This could result in internal conflicts in situations where one body finds a violation in a bid, while another authority does not. However, all complaints about public procurements are subject to appeal in the special national commission whose decision may subsequently be appealed in court. No information on enforcement practice was available.

In the vast majority of cases, documentation for procurements must be approved by a special expertise center, which is independent of the contracting officers (Public Procurement Act 2021, art. 56, 58, 66, 67, 71).

As already mentioned, the Public Procurement Act 2021 appears to be specifically written to comply with international standards. For example, it requires bidders to disclose their beneficiaries which is not common in Western European countries. However, some experts questioned its quality. Expert S. noted that in Art. 71 in the list of direct contracting groundings there is the bidding for the appointment of lawyers, although this procedure has

¹⁰⁷ Special Informational Portal of Government Procurement. <http://xarid.uz/>, accessed on 27.12.2021.

never been passed through the procurement system¹⁰⁸.

The level of the Act's enforcement is highly questionable. Random examinations were made of four procurements, all of which were announced and ended in June-July 2021 and were made by the Ministry of Healthcare¹⁰⁹, the local administration of Andijan¹¹⁰, and the Bukhara branch of the Agriculture University¹¹¹. None of these contractors have uploaded protocols and results of the competition. The contracting officer for the Agriculture University failed to publish any bidding documentation. Another website exists on which the winners of bids are published¹¹² but it is not clear why this website is not connected to the main procurement website.

Another important question concerns the level of competitiveness and how many of the total bids are procured via competitive instruments. In 2018, only some 16% of procurements were made through non-competitive procedures¹¹³. However, according to the head of the ACA, in 2020, this number rocketed to 48%¹¹⁴. There also existed a list with a significant number of state companies that were not obliged to publish their procurements. In July 2021, this list was abolished¹¹⁵.

All the experts surveyed noted very high levels of corruption in public procurement. According to expert Yusupov,¹¹⁶ it is very common for public officials' relatives to do business affiliated with the public officials' duty areas. Experts Ilkhamov¹¹⁷, Yusupov, and Lasslett¹¹⁸ all noted that a certain amount of public procurement is conducted fairly, and the best indicator, as Mr. Yusupov said, is that some officials complain that companies win procurement bids on the basis of offering lower prices. However, a more significant number of tenders are not subject to fair and transparent bidding procedures. One example concerns the public procurement of smart gas counters in 2020 in Tashkent in which a tender was won by a

¹⁰⁸ Interviewed on August 13, 2021

¹⁰⁹ UzEx. № лота 7124329 Услуги. <http://dxarid.uzex.uz/ru/competitive/lot/7124329/>, accessed on 27.12.2021.; UzEx. № лота 7126434 Услуги. <http://dxarid.uzex.uz/ru/competitive/lot/7126434/>, accessed on 27.12.2021.

¹¹⁰ UzEx. № лота 7127485 Мебель и офисное оборудование. <http://dxarid.uzex.uz/ru/competitive/lot/7127485/>, accessed on 27.12.2021.

¹¹¹ UzEx. № лота 7129114 Услуги. <http://dxarid.uzex.uz/ru/competitive/lot/7129114/>, accessed on 27.12.2021.

¹¹² Special Informational Portal of Government Procurement. *Budget Procurement*. <http://xarid.uz/dxarid/deals?status=Completed>, accessed on 27.12.2021.

¹¹³ Gazeta.uz. (May 2019). *ОЭСР отметила прогресс Узбекистана в сфере госзакупок, но есть недостатки*. <https://www.gazeta.uz/ru/2019/05/28/state-procurements/>, accessed on 27.12.2021.

¹¹⁴ Gazeta.uz. (May 2021). *«Трест-12» реализует проекты на 5 трлн сумов без тендера — Антикоррупционное агентство*. <https://www.gazeta.uz/ru/2021/05/27/burkhanov/>, accessed on 27.12.2021.

¹¹⁵ Lex.uz. ПП-5171-сон 02.07.2021. *О дополнительных мерах по обеспечению прозрачности и повышению эффективности государственных закупок*. <https://lex.uz/docs/5489511>, accessed on 27.12.2021.

¹¹⁶ Interviewed June 29, 2021.

¹¹⁷ Interviewed June 22, 2021.

¹¹⁸ Interviewed June 30, 2021.

company directly connected to the Tashkent mayor¹¹⁹. Moreover, a recent report¹²⁰ shows that in 2020-2021, a public foundation dedicated to addressing the COVID-19 pandemic spent around \$372 million without bidding. No procurement regulations applied to these expenditures, raising concerns of corruption.

It appears that the oversight bodies lack political support to suspend important suspicious procurements. For example, the ACA recalled its own warrant to stop bidding with regard to public shares in the local Coca-Cola branch, which appeared to be a result of political pressure¹²¹.

It also appears that some government expenditures are not spent through the bidding process. For example, expert Ilkhamov recalled an alleged residence of President Mirziyoyev, which cost approximately one billion dollars, but officially belongs to the state-owned Uzbekistan railways company¹²². No official tender was announced for the construction of this residence. Experts Yusupov and Lasslett gave their assurances that significant amounts of public finance expenditure circumvent public procurement requirements for open and competitive tenders, sometimes even in illegal ways. For example, COVID-19 procurements worth hundreds of millions of dollars were spent in most cases without any bidding under special decrees¹²³. Another significant problem is land allocation which was in full control of local administrations, without due transparency and competition. Even the ACA gave an example of how journalists helped to tackle corruption by exposing unfair land acquisitions in the city of Andijan where public scrutiny forced local authorities to cancel these illicit transactions¹²⁴. However, an August 2021 law on the provision of land plots and their use¹²⁵ has the potential to tackle this issue by making it compulsory to rent and sell public land only through online bidding.

According to expert Lasslett¹²⁶, the current government elites and the networks of family and associates that they support are more commercially literate and ambitious than they were in previous President Karimov's times. These officials, he argues, are more able and willing to

¹¹⁹ Радио Азаттык. (June 2020). *Без опыта, но со связями. Как компания получила госконтракт на 550 миллионов долларов.* <https://rus.azattyq.org/a/dubious-deal-uzbek-firm-with-great-ties-no-experience-wins-550-million-state-contract/30648065.html>, accessed on 27.12.2021.

¹²⁰ Bankwatch Network. *Uzbekistan's Anti-Crisis Fund: Analysis of state procurement in 2020.* https://bankwatch.org/wp-content/uploads/2021/11/2021-11-29_Uzbekistan_Anti-Crisis-Fund_Briefing.pdf, accessed on 27.12.2021.

¹²¹ Repost. (January 2021). *Антикоррупционное агентство передумало приостанавливать приватизацию госдоли компании Coca-Cola.* <https://repost.uz/vzvali-slova-obratno>, accessed on 27.12.2021.

¹²² Радио Озодлик. (February 2021). *Тайная резиденция для президента Узбекистана.* <https://rus.ozodlik.org/a/tainaiia-rezidentsiia-dlia-prezidenta-uzbekistana/31117724.html>, accessed on 27.12.2021.

¹²³ Радио Озодлик. (June 2021). *Искусство разбогатеть в кризис: Кому достались 8 миллиардов долларов, которые Мирзияев не жалея потратил на борьбу с пандемией.* <https://rus.ozodlik.org/a/31330112.html>, accessed on 27.12.2021.

¹²⁴ Gazeta.uz. (June 2021). *Лишённый неприкосновенности депутат из Андижана заключён под стражу.* <https://www.gazeta.uz/ru/2021/06/24/arrest/>, accessed on 27.12.2021.

¹²⁵ Gazeta.uz. (August 2021). *«Земля станет высоколиквидным активом». Президент — о том, как теперь будут выделять земли.* <https://www.gazeta.uz/ru/2021/08/20/land-law/>, accessed on 27.12.2021.

¹²⁶ Interviewed on June 30, 2021.

use their positions to improperly support their businesses, or businesses they are closely associated with, taking advantage of the current economic reform agenda. Yet, this trend is more likely to be found at middle and higher-level positions where officials command significant power and have influence over valuable processes, such as major procurement, issuing licenses, granting land, etc. There is less tolerance now for the pettier types of corruption practiced at the lower levels of government, especially when it interferes with day to day business operations and attracts criticism from foreign investors. At the lower level, bids for procurement are much more likely to be held transparently and in a competitive manner. Meanwhile, Lasslett believes that there are a lot of government decrees which allow high-level public servants to circumvent open tender requirements set out in procurement regulation, using direct purchase - and some of these decrees permitting direct purchase or indeed granting contracts to a specific company without tender are not even published¹²⁷. One example pointed to by Lasslett is the Orient Group, which is partially owned by a member of the extended Presidential family. It has received a significant number of unpublished contracts with the National Railways and has a near-exclusive investment relationship with the state-owned Uzbek Oman Investment Company without any public indication this was secured through fair, transparent and competitive means¹²⁸.

Uzbekistan does not participate in the Open Contracting¹²⁹ and Open Government¹³⁰ Partnerships.

Good practices

- A national e-procurement portal is operational and information on lots is uploaded efficiently.
- At lower levels of government there appears to be more competition between bidders and it is possible to win a contract without undue interference.
- There exists a well-written procurement law, especially with regard to competitive ways of procurement, that supports fair competition in the sphere.

Deficiencies

- Direct contracting is oftentimes misused for corruption purposes.
- The manner of allocating exceptions from procurement rules is not at all transparent.
- Competition of bidders for procurement contracts remains low.

¹²⁷ Озодлик Радиоси. (March 2020). *Суриштирув: Ўзбекистондаги барча кўчмас мулкка янги кадастр паспорти бериш шубҳали ширкатга тендерсиз берилди.* <https://www.ozodlik.org/a/kadastr-pasporti-gid-systems-tashkent-abdulla-aripov/30472469.html>, accessed on 27.12.2021.

¹²⁸ Uzinvestigations. (September 2021). *Government Investment Fund a 'Piggy Bank' for Conglomerate Tied to Uzbekistan's First Family.* <https://uzinvestigations.org/reports/government-investment-fund-a-piggy-bank-for-conglomerate-tied-to-uzbekistans-first-family/>, accessed on 27.12.2021.

¹²⁹ Open Contracting Partnership. *Worldwide.* <https://www.open-contracting.org/worldwide/?lang=es#/>, accessed on 27.12.2021.

¹³⁰ Open Government Partnership. *Members.* <https://www.opengovpartnership.org/our-members/>, accessed on 27.12.2021.

4.1.7 Art. 10 and 13.1 – Access to Information and the Participation of Society

A special decree issued by the President in June 2021 aimed to tackle several deficiencies mentioned in the article. However, since it has not yet been enforced, the evaluation is conducted without taking it into account.

General regulations on access to public information and civil society participation in public governance are in place, covering all branches of government except public enterprises. However, their level of enforcement is unsatisfactory.

In general, the procedure for requesting access to information is regulated by a law “On the openness of the activities of public authorities and administration”¹³¹. The law does not explicitly cover requests related to access to personal data (art. 3), which may negatively affect the provision of information which contains any personal information, such as court rulings, civil contracts, or any orders containing someone’s name, etc. There is also a closed list of what counts as public information which can be expanded only by law. This can prevent a person from obtaining information not mentioned in the list (art. 5). Another limitation is that access to information requests may be refused if issues are considered a state secret, whereby the list of state secrets is itself kept secret (art. 6). Access to information requests can be submitted either electronically or in paper form. In general, it is required to fill in the requester's name, address, and signature. However, it is not clear how electronic requests are signed. In practice, public bodies may even respond to non-signed e-requests, which are submitted either through the e-gov system (only for nationals) or sent to the e-mail address of the respective government body. While the general rules for access to information requests seem to be adequate, there is, unfortunately, no penalty in the Administrative Offence Code 1994 for failing to respond to such requests or for responding inappropriately. The law also does not cover public enterprises.

Proactive disclosure (publication without request) of information is more popular. The June 2021 President’s Decree provides for disclosure of foreign business travel expenditures, direct contracting, annual budgets, etc. However, it is not clear what the sanctions are for non-compliance with public information disclosure lists which are established by each body on their own. The recently established Open Government Agency is entitled to report on such non-compliance but does not have any coercive powers¹³². What is even more puzzling, is that the agency is not entitled to collect any statistics on the matter. Even the recent decree does not suggest introducing any liability for ignoring access to information requests.

In 2019, the OECD reported that Uzbek citizens are not informed about their right to access public information¹³³. Although special officers are appointed and divisions created in public bodies to proceed with information requests, statistics on access to information are not collected. In the course of this research, none of the responses to the author’s requests for information were signed by access to information officers. There is no known case law,

¹³¹ Lex.uz. ЗРУ-369-сон 05.05.2014. Об открытости деятельности органов государственной власти и управления. <https://lex.uz/docs/2381138>, accessed on 27.12.2021.

¹³² Ibid.

¹³³ OECD. (2019). P. 179 in *Anti-corruption reforms in Uzbekistan. 4th round of monitoring of the Istanbul Anti-Corruption Action Plan*. https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-ENG.pdf, accessed on 27.12.2021.

neither in courts nor in administrative bodies such as the prosecutor's office. In its report "Anti-corruption Reforms in Uzbekistan", the OECD stated that it is not possible to draw any conclusion on the effectiveness of conditions for access to information in the country¹³⁴.

In its responses,¹³⁵ the ACA did not answer the question on what it regards to be the most common problems in the area of access to information. The agency also claimed that CSOs actively participate in the activities of public bodies but only mentioned as examples organizations with very strong links to the government, such as Ijtimoiy Fikr, Yuksalish, and the Centre for Development Strategy. Ijtimoiy Fikr's activities are governed by the President's Decree 2019¹³⁶ and funded by the parliament foundation; Yuksalish's status is governed by another President's Decree 2019¹³⁷ and its current head, Bobur Bekmurodov, is an MP from the ruling party UzLiDep; and the Centre for Development Strategy was created after approval of the President's Decree 2017¹³⁸. The ACA claims it is possible to challenge information request denials in the courts but does not provide any enforcement data. Such statistics, it says, are collected by each authority on their own.

All of the experts were very critical about the access to information situation. Expert Ilkhamov¹³⁹ noted that detailed budget information had still not been published. It is very common to receive answers which do not answer the substance of the request, said experts G.¹⁴⁰ and S.¹⁴¹. According to S., a practicing lawyer, requests filed by lawyers can be effective, but if they are addressed to higher authorities, they are highly likely to be responded to in an unsatisfactory manner and that there is almost no sense in challenging the response either in the prosecution service or the courts. Experts G. and Yusupov¹⁴² highlighted that laws on information are very vague and that any sensitive information for the government may be classified and not disclosed. Expert A. noted the case of the Sardoba dam collapse of May 2020¹⁴³ when a recently constructed dam collapsed, causing the deaths of four people and millions of dollars of damage. The GPO declared that the catastrophe happened because of errors in construction documentation. However, none of the construction contracts could be obtained by journalists, and the trial of charged officials was closed to the public. Nevertheless, expert Yusupov noted that under President Mirziyoyev, a significant amount of information is being disclosed proactively, including economic data, which under his predecessor, Karimov, would have been unheard of.

¹³⁴ P. 182.

¹³⁵ Received electronically on 26.08.21.

¹³⁶ Lex.uz. УП-5667-сон 22.02.2019. *О мерах по государственной поддержке проведения социологических исследований*. <https://lex.uz/ru/docs/4211809>, accessed on 27.12.2021.

¹³⁷ Lex.uz. 124-сон 13.02.2019. *О мерах по организации деятельности негосударственной некоммерческой организации-Общенациональное движение «Юксалиш» и его территориальных подразделений*. <https://lex.uz/docs/4200154>, accessed on 27.12.2021.

¹³⁸ Lex.uz. P-4849-сон 14.02.2017. *Об организационных мерах по реализации Стратегии действий по пяти приоритетным направлениям развития Республики Узбекистан в 2017-2021 годах*. <https://www.lex.uz/ru/docs/3114490>, accessed on 27.12.2021.

¹³⁹ Interviewed June 22, 2021.

¹⁴⁰ Interviewed July 15, 2021.

¹⁴¹ Interviewed August 13, 2021.

¹⁴² Interviewed June 29, 2021.

¹⁴³ Gazeta.uz. (May 2020). *В Сырдарьинской области эвакуированы почти 11,6 тысячи человек*. <https://www.gazeta.uz/ru/2020/05/01/sardoba/>, accessed on 27.12.2021.

With regards to civil society participation in combating corruption in general, experts Yusupov and Lasslett noted that there are a lot of informal groups, in which citizens organize themselves to combat illegal construction and land seizure. Many journalists try to conduct anti-corruption investigations, noted experts Ilkhamov and Lasslett, but local nascent independent media outlets and bloggers that have taken advantage of a relative thaw in the media space often lack the resources and professional capacities to conduct in-depth investigations. None of the experts were aware of registered independent NGOs that conduct anti-corruption activities. Expert Yusupov leads an NGO which covers corruption when reporting on economic issues, but the primary target of its activities is the economy in general¹⁴⁴.

A major obstacle to the participation of civil society is the highly bureaucratic and burdensome registration process for NGOs¹⁴⁵. The MoJ has rejected the applications of civil society groups as many as 20 times, mostly on spurious grounds. Moreover, expert G. noted that any foreign grant exceeding \$500 requires approval by the MoJ which presents serious restrictions on the resources of NGOs. Any NGO public event must be approved by the MoJ¹⁴⁶. Foreign travels of NGO employees regarding their activities also should be reported to the MoJ¹⁴⁷. All of the experts noted that while the government may react to corruption cases disclosed by journalists and citizen initiatives, no further cooperation happens. Some independent journalists have been invited to public councils – consultative bodies with no bounding powers - under national ministries, but expert Ilkhamov considers them as ineffective. Another opportunity is to participate in online debates on legal projects and decrees via a special website¹⁴⁸. In some cases, the comments of citizens on this portal are taken into account¹⁴⁹.

The main problem is that Uzbekistan lacks independent NGOs capable of tackling anti-corruption issues. The only registered NGO dealing with issues of corruption is the Centre for Economic Development¹⁵⁰ with only one staff member. On September 17, 2021, Akmal Burhanov, the director of the anti-corruption agency, announced on Twitter¹⁵¹ the establishment of the Analytical Center “Transparency Uzbekistan”, a new anti-corruption NGO. However, it has not been possible to learn any details about this organization. There is no website and the founders and management are not known. Although there are approximately 9,000 registered NGOs in Uzbekistan, they are for the most part GONGOs,

¹⁴⁴ Сайт Центра Экономического Развития. *О центре*. <http://ced.uz/o-tsentre/>, accessed on 19.02.2022

¹⁴⁵ Uzbek Forum. (April 2021). *The time for words has passed. Uzbekistan should simplify the rules for registration of NGOs and legitimize civil society voices*. <https://www.uzbekforum.org/the-time-for-words-has-passed-uzbekistan-should-simplify-the-rules-for-registration-of-ngos-and-legitimize-civil-society-voices/>, accessed on 27.12.2021.

¹⁴⁶ Art. 8 of NGO law. <https://www.lex.uz/acts/10863>, accessed 19.02.2022.

¹⁴⁷ Ibid.

¹⁴⁸ Портал обсуждения проектов нормативно-правовых актов. <https://regulation.gov.uz/ru>, accessed on 27.12.2021.

¹⁴⁹ Gazeta.uz. (April 2020). *Проект об обороте по картам снят с обсуждения*. <https://www.gazeta.uz/ru/2020/04/16/cards/>, accessed on 27.12.2021.

¹⁵⁰ Centre for economic development. <http://ced.uz>, accessed on 27.12.2021.

¹⁵¹ Twitter. @akmalburhanov. <https://twitter.com/akmalburhanov/status/1438871348151996420>, accessed on 27.12.2021.

controlled by the government and imitate civil society participation¹⁵². These organizations rarely criticize the President or government policies. Independent civil society groups can express themselves only through unofficial initiatives and via social media channels such as Facebook and Telegram. The process for civil society to register officially as NGOs is considered by experts¹⁵³ to be highly obstructive and applications are often repeatedly rejected on spurious grounds¹⁵⁴. Foreign funding of NGOs is subject to approval by the MoJ¹⁵⁵. These restrictions on independent NGOs pose a significant obstacle to the participation of civil society in anti-corruption activities. Agzam Turgunov, a former political prisoner, has had his application to register his NGO rejected eight times¹⁵⁶.

There have been some positive developments in recent years regarding freedom of speech which have strong relevance for access to information. Many independent online media platforms carry out investigations and report on issues of corruption. However, this liberalization of the media space is subject to arbitrary limitations in practice¹⁵⁷ and can have serious consequences. In May 2021, blogger Otabek Sattoriy was sentenced¹⁵⁸ to six and a half years in prison on fabricated charges after reporting on the involvement of officials in forced evictions. In October 2021, following an investigation into a secret luxury palace¹⁵⁹, allegedly owned by President Mirziyoyev and paid for with public funds, journalists at Ozodlik, the Uzbek language outlet of Radio Free Europe/Radio Liberty (RFE/RL) received death threats¹⁶⁰.

¹⁵² Dilmurad.me. *Are we moving forward? How to evaluate the development of civil society in Uzbekistan?* <https://dilmurad.me/are-we-moving-forward-how-to-evaluate-the-development-of-civil-society-in-uzbekistan/>, accessed on 27.12.2021.

¹⁵³ Gazeta.uz. (January 2020). *Регистрировать нельзя отказать.* <https://www.gazeta.uz/ru/2020/01/27/ngo/>, accessed on 27.12.2021.

¹⁵⁴ Dilmurad.me. *Regulation of NGOs in Uzbekistan: Control or Partnership?* <https://dilmurad.me/regulation-of-ngos-in-uzbekistan-control-or-partnership/>, accessed on 27.12.2021.

¹⁵⁵ Gazeta.uz. (January 2020). *Отказ в регистрации ННО: причины и следствия.* <https://www.gazeta.uz/ru/2020/01/28/mj/>, accessed on 27.12.2021.

¹⁵⁶ The Diplomat. (November 2021). *Where Are 'New' Uzbekistan's Promised Reforms?* <https://thediplomat.com/2021/11/where-are-new-uzbekistans-promised-reforms/>, accessed on 19.02.2022.

¹⁵⁷ Uzbek Forum. (May 2021). *THE SHRINKING SPACE FOR FREEDOM OF SPEECH IN UZBEKISTAN PUTS JOURNALISTS AND ACTIVISTS AT RISK.* <https://www.uzbekforum.org/the-shrinking-space-for-freedom-of-speech-in-uzbekistan-puts-journalists-and-activists-at-risk/>, accessed on 27.12.2021.

¹⁵⁸ Eurasianet. (May 2021). *Uzbekistan: Citizen journalist's prison sentence horrifies reform advocates.* <https://eurasianet.org/uzbekistan-citizen-journalists-prison-sentence-horrifies-reform-advocates>, accessed on 27.12.2021.

¹⁵⁹ Radio Free Europe. (February 2021). *'Father's' Secret Dacha: The Uzbek President's Mountain Hideaway* <https://www.rferl.org/a/uzbek-mirziyoev-president-palace-dacha/31117044.html>, accessed on 27.12.2021.

¹⁶⁰ Radio Free Europe. (October 2021). *Online Death Threats Against RFE/RL's Uzbek Service Staff On Rise Ahead Of Presidential Poll.* <https://www.rferl.org/a/uzbekistan-rferl-threats-journalists-election-31519668.html>, accessed on 27.12.2021.

An amendment to the criminal code¹⁶¹ introduced in March 2021 criminalizes insulting the president online and is punishable by up to five years in prison¹⁶². The first application of this new law resulted in the arrest and detention of Valijon Kalonov, a YouTube blogger¹⁶³.

While some Internet media outlets have been unblocked by the authorities in recent years, including BBC, Deutsche Welle, and Voice of America, others, including RFE/RL, which issues corruption investigations accusing the President of corruption personally, remain blocked. According to expert Lasslett¹⁶⁴, the general attitude of the authorities towards anti-corruption activists has become worse in the last two years. Experts Ilkhamov and Lasslett also noted that independent journalists and bloggers lack access to the training and resources, tools and emerging data-driven techniques needed to conduct comprehensive investigations using open data and other sources. Experts G. and Yusupov noted that although the number of investigations has increased significantly, there is often no adequate reaction from the authorities, except for ‘apologies’ and promises to investigate the matter further. All the experts noted the Internet as the most important space for public discussion, while TV, radio, and print media were not mentioned as significant sources of public discussion. According to Freedom House, in 2021, Uzbekistan scored 28 out of 100 points on the index of Internet freedom, in which scores are based on a scale of 0 (least free) to 100 (most free)¹⁶⁵.

Uzbek media content is controlled and assessed by the Uzbek Agency for Information and Mass Communications (AIMC). Their assessments, submissions, warnings, and conclusions on media content are grounds for punishment and closure of media outlets through the Uzbek courts. In the first nine months of 2020, a total of 90 submissions and warnings were issued, including 39 to television and radio. In November 2020, the director of AIMC issued a warning to the editorial board of the media outlet Kun.uz. for alleged impartiality in an article on Uzbekistan’s chronic energy shortages and threatened “serious legal consequences”¹⁶⁶. Such interventions are likely to have a chilling effect on journalists and result in self-censorship to avoid reprisals.

In September 2021, the MoJ publicly announced the registration of an ‘NGO’ called ‘Transparency Uzbekistan’ (Узбекистонда очиклик ва шаффофлик)¹⁶⁷. This organization has

¹⁶¹ Eurasianet. (May 2021). *Uzbekistan tightens rules for media as president braces for re-election*. <https://eurasianet.org/uzbekistan-tightens-rules-for-media-as-president-braces-for-re-election>, accessed on 27.12.2021.

¹⁶² In October 2021, a blogger was arrested on accuse of extortion, which his colleagues believe is related to his activism related to unlawful development. See Настоящее время. *Президент сказал: “Выявляйте недостатки”. Отец осужденного в Узбекистане блогера Саттори – о том, почему Мирзиеёв не защитил своего критика*. <https://www.currenttime.tv/a/uzbekistan-asia-sattory-mirziyoev-media/31528560.html>, accessed on 27.12.2021.

¹⁶³ Gazeta.uz. (April 2021). *На оскорбившего президента в интернете заведено дело — прокуратура*. <https://www.gazeta.uz/ru/2021/04/19/bakhmal-insult/>, accessed on 27.12.2021.

¹⁶⁴ Interviewed on June 30, 2021

¹⁶⁵ Freedom House. *Uzbekistan: Freedom on the Net 2021 Country Report*. <https://freedomhouse.org/country/uzbekistan/freedom-net/2021>, accessed on 27.12.2021.

¹⁶⁶ Kun.uz. (November 2020). *AIMC head warns Kun.uz of “serious legal consequences” for writing about gas problems of the population. Editorial office sees this as exerting pressure*. <https://kun.uz/en/news/2020/11/26/aimc-head-warns-kunuz-of-serious-legal-consequences-for-writing-about-gas-problems-of-the-population-editorial-office-sees-this-as-exerting-pressure>, accessed on 27.12.2021.

¹⁶⁷ Gazeta.uz. (September 2021). *Создан аналитический центр Transparency Uzbekistan*. <https://www.gazeta.uz/ru/2021/09/18/transparency-uzbekistan/>, accessed on 27.12.2021.

no relation to the Transparency International movement. Given the similarity of the name and lack of information relating to its initiators, it appears that this organization is likely to be under the control of the government. The announcement of its registration by the MoJ suggests that the Uzbek authorities are keen to create the impression that independent, international anti-corruption NGOs are registered and operating in the country. However, genuine civil society participation cannot be created through orders from high-level officials.

Good practices

- A significant amount of open data is proactively published, allowing independent, public investigations into corruption.
- The blocking of some media outlets has been lifted, allowing for a more vibrant media sphere.

Deficiencies

- The level of FOI response is relatively low, no official FOI statistics are collected, and no dedicated body exists to enforce FOI regulations.
- The general level of skills of journalists and other citizens to use the published data is considered to be low.
- Self-censorship by journalists and bloggers persists due to a real and perceived level of threat of reprisals for critical reporting, particularly on issues of corruption.
- A lack of independent NGOs limits the ability of civil society to participate in anti-corruption activities.
- Registration of NGOs is burdensome and overly bureaucratic, stifling the legitimacy of civil society voices, while foreign funding is subject to approval by the MoJ, which constrains the resources and capacity of NGOs to conduct effective monitoring and oversight of anti-corruption activities.

4.1.8 Art. 11 – Judiciary and Prosecution Services

The Judiciary and prosecution in Uzbekistan are separated. According to the Constitution of Uzbekistan, the judicial system is independent of other branches of power (art. 106)¹⁶⁸. However, there is no explicit independence from the President, although art. 112 forbids any unlawful interference in the justice process. All judges are recommended by the Higher Judicial Council, while the appointment of members of the Council must be approved by the President¹⁶⁹. This means that the process of judicial appointment is ultimately under the full control of the President. Moreover, in the semi-autonomous Republic of Karakalpakstan, the parliament can veto judges proposed for an appointment, which makes the appointment process highly political. While the current system can have certain positive effects on the judges' expertise, since they are overseen by their colleagues, in general, they are likely to be appointed depending on their political loyalty, rather than expertise.

All of the experts consulted for this report considered the judicial system to be highly corrupt,

¹⁶⁸ Lex.uz. 08.12.1992. Конституция Республики Узбекистан. <https://lex.uz/docs/35869>, accessed on 27.12.2021.

¹⁶⁹ Lex.uz. Art. 5 of ЗРУ-427-сон 06.04.2017. О Высшем судебном совете Республики Узбекистан. <https://lex.uz/docs/3153671>, accessed on 27.12.2021.

unprofessional, and lacking in independence. Expert Yusupov¹⁷⁰ noted that it is almost impossible to win a case against the state, with rare exceptions. However, expert Ilkhamov¹⁷¹ gave an example of a case regarding the unlawful demolition of some commercial facilities in Tashkent, in which a district court refused the order of local authorities to authorize the demolition, probably due to the public attention that case attracted, although such cases are rare and more likely to apply to less significant cases, in which due process is generally obeyed. However, expert S.¹⁷², a practicing lawyer, noted that even in regular civil cases, bribery of judges is not uncommon to secure a beneficial ruling, since laws are often vague and are open to interpretation. There are many cases in which the sentences of the convicted have fallen far short of what the law would normally prescribe, or top officials were not prosecuted. Specifically, after the Sardoba dam catastrophe in 2020, none of the public officials responsible for the execution of the project faced charges or were held accountable¹⁷³.

The issue of corruption in property development and the transfer of farmland to private companies has been widely reported on in the media¹⁷⁴. Government officials have been accused of seizing land for supposed public needs but instead have sold it to private companies. Lawyer S. gave the example of a case in which, although there was a lack of the required documents for seizure, all the courts upheld the seizure decision of the local administration. Expert Lasslett claimed that one of the main reasons for judges not to be independent is due to the lack of tenure of appointment. As the ACA stated in its response, judges are appointed for an initial five years, followed by a period of ten years and after that are appointed for life. Expert S. further noted a significant increase in judges' salaries in the last two to three years, which led to an average income of \$500-\$600 (the official average salary in the country in 2020 was approximately \$244) for a district judge. However, he pointed out that this salary increase has led to a higher number of young people recruited to the judicial and prosecutorial service, who often lack proper training, professionalism, and basic legal knowledge¹⁷⁵.

One positive development is the online publication of most court rulings in Uzbekistan. According to expert S.,¹⁷⁶ the introduction of the system resulted in improved rulings by judges who are now more conscious of public scrutiny. Nonetheless, publication of rulings requires the explicit consent of the parties involved and, although consent is usually given, some rulings may be excluded from publication. Expert S. also gives credits to the e-justice system (E-XSUD), which allows for the filing of judicial documents online, online tracking of court cases, and online hearings. The ACA claims this system allows for the collection of corruption-related statistics of criminal, civil, and administrative cases in real-time. However, when asked to provide these statistics, ACA referred only to the open data portal which lacks

¹⁷⁰ Interviewed on June 29, 2021.

¹⁷¹ Interviewed on June 22, 2021.

¹⁷² Interviewed on August 13, 2021.

¹⁷³ Радио Азаттык. (May 2021). *Дело о прорыве плотины в Узбекистане: суд вынес приговор в отношении 17 человек*. <https://rus.azattyq.org/a/31248815.html>, accessed on 27.12.2021.

¹⁷⁴ Kun.kz. (August 2020). *Какие меры следует принимать при незаконном изъятии земли фермеров?* <https://kun.uz/ru/news/2020/08/15/kakiye-mery-sleduyet-prinimat-pri-nezakonnom-izyatii-zemli-fermerov>, accessed on 27.12.2021.

¹⁷⁵ Interviewed on August 13, 2021

¹⁷⁶ Interviewed August 13, 2021.

any statistics other than general criminal records¹⁷⁷.

Despite this progress, it is fair to say that the integrity of the judicial system is still in serious doubt. Although significant improvements have been made, including improving the competence of judges by creating the Higher Judicial Council and allowing citizens the right to file complaints, a genuinely independent judiciary requires actual independence from all other branches of power, including the President. This should be balanced with strong controls on judicial integrity, which may be conducted, inter alia, by foreign non-partisan experts. Internal ethics controls are not efficient. Although there is an Ethics Code in place¹⁷⁸, and members of the judiciary are formally bound by it, the level of its enforcement is not known. Meanwhile, the basis for suspending a judge is extremely vague: a judge may be dismissed for violating his/her oath, which reads as follows: *"I solemnly swear to honestly and conscientiously fulfill my duties, to administer justice, obeying only the law, to be impartial, objective and fair, as the duty of a judge and my conscience tell me"*¹⁷⁹.

There seems to be no published text of case law in this sphere which creates a high level of legal uncertainty. Expert S. provided copies of two recent complaints on judges he filed to the Higher Judicial Council to which he has not received any response, although months have passed. The Law "About Courts",¹⁸⁰ adopted in June 2021, defines the procedure and grounds for initiating disciplinary responsibility against judges. A judge may be held liable by a decision of the relevant qualification collegium of judges for violations of the rule of law in the administration of justice; for omissions in the organization of judicial work due to negligence or indiscipline; for committing a misdemeanor that discredits the honor and dignity of a judge and infringes the authority of the court; and for violation of the Code of Judges.

Disciplinary proceedings against a judge may be initiated by the qualification collegium of judges based on the results of an inspection carried out upon an application or a report on a judge committing the above mentioned actions. Any citizen can complain to the panel.

The Higher Judicial Council published certain statistics on the disciplinary liability of judges for 2019 and 2020¹⁸¹:

	Cases initiated against judges	Judges pledged pardon for their behavior	Judges acquitted	Judges held disciplinary liable	Judges dismissed for violating their oath
2019	179	57	43	53	N/A

¹⁷⁷ Портал открытых данных. *Информация о состоянии преступности за 12 месяцев 2020 года*. <https://data.gov.uz/uz/datasets/14350>, accessed on 27.12.2021.

¹⁷⁸ Верховный суд Республики Узбекистан. *Кодекс этического поведения судей*. <https://sud.uz/ru/%D0%BA%D0%BE%D0%B4%D0%B5%D0%BA%D1%81-%D1%8D%D1%82%D0%B8%D1%87%D0%B5%D1%81%D0%BA%D0%BE%D0%B3%D0%BE-%D0%BF%D0%BE%D0%B2%D0%B5%D0%B4%D0%B5%D0%BD%D0%B8%D1%8F-%D1%81%D1%83%D0%B4%D0%B5%D0%B9/>, accessed on 27.12.2021.

¹⁷⁹ Lex.uz. Art. 60 of *ЗРУ-703-сон 28.07.2021. О судах*. <https://lex.uz/docs/5534928>, accessed on 27.12.2021.

¹⁸⁰ Народное слово. О судах. <https://xs.uz/ru/post/o-sudakh>, accessed on 25.02.2022.

¹⁸¹ Высший судейский совет Республики Узбекистан. https://www.sudyalariyengashi.uz/uploads/pages/%D0%90%D1%85%D0%B1%D0%BE%D1%80%D0%BE%D1%82%D0%BD%D0%BE%D0%BC%D0%B0%202020_compressed.pdf, accessed on 27.12.2021.

2020	81	32	20	23	12
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The total number of judges in Uzbekistan in 2020 was 1,250¹⁸². Based on these figures, the total number of judges investigated (including those acquitted) is around 6,5% in 2020 and 14,5% in 2019. According to the ACA, in 2016-2020, a total of 17 judges were held criminally liable. These numbers show that a disciplinary mechanism is operating; however, it is not clear how many complaints the Council received in total, and what is more important, who was the subject of the complaints which were upheld: public or private subjects. More transparency in this field is needed. It is worth noting that while in 2016, seven judges were convicted, only one judge was convicted in 2020. Meanwhile, none of the experts have noted a significant decrease in judicial corruption. The same conclusion can be drawn from the fragments of the surveys mentioned before. 83% of judges convicted were serving at the district level which suggests that the decrease in the number of judges convicted is not an accurate reflection of the decrease in levels of judicial corruption.

Regarding the prosecution system, the General Prosecutor (GPO) is appointed by the Senate, the upper chamber of the Parliament, upon the President's proposal. All other prosecutors are appointed directly by the GPO, excluding the GPO of Karakalpakstan, which is approved by the Republican Council, the parliament of Karakalpakstan. As the Senate is fully controlled by the President, the entire prosecutorial system is under full presidential control.

It is directly stated in the constitution that prosecution is a unified and centralized system and that all the prosecutors are subordinate to the GPO (art. 118, 119). Though this system itself is formally independent of anyone except the President, any higher (e.g., regional) prosecutor can overrule any decision of a prosecutor at the district level. The question of disciplinary liability or even dismissal is at the full discretion of the higher prosecutor: district - regional - national (general). That means, there is no inner independence in the prosecution, which allows for a great amount of abuse of power. Such a situation barely complies with UN standards on prosecution services¹⁸³.

Some experts¹⁸⁴ noted a very high level of salaries of prosecutors and a good level of funding of the prosecution services. Expert S. considers prosecution to be independent of the local administration. However, all the experts surveyed claimed that prosecutors are generally politicized and can prosecute for bribes. Expert Lasslett said that the prosecution office has been a fundamental part of kleptocracy in Uzbekistan and power plays between rival ruling factions. Expert S. specifically noted that prosecutors have too many powers which are easily used for corrupt purposes. Such assessments seriously contrast those provided, for example, by the ACA. It can be concluded that none of the experts considers the GPO and its local offices as bodies with sufficient levels of integrity.

Good practices

- E-justice system have been introduced, allowing for greater transparency in the

¹⁸² Высший судейский совет Республики Узбекистан. <https://www.sudyalariyengashi.uz/uz/menu/21>, accessed on 27.12.2021.

¹⁸³ OHCHR (1990). *Guidelines on the Role of Prosecutors*. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx>, accessed on 27.12.2021.

¹⁸⁴ Yusupov (June 29, 2021), G. (July 15, 2021) and S. (August 13, 2021).

judiciary.

- The Higher Judicial Council was established with the opportunity for anyone to file complaints on judges.

Deficiencies

- The judiciary is perceived to be highly corrupt. The President fully controls the judiciary and prosecution services, undermining their independence. In the Republic of Karakalpakstan, judiciary appointments are directly politicized.
- No rules on prosecutors' disciplinary liability and dismissal are in place, leaving prosecutors vulnerable to arbitrary dismissal.

4.1.9 Art. 12 – Private Sector Transparency

Uzbekistan provides for basic conditions of corporate transparency and corporate governance. However, there is far more work to be done to comply with international standards; ways of accessing the information on the companies register are not always convenient, and the level of enforcement is very questionable.

There is no unified law on the registration of legal entities in the country. Commercial entities' (companies) registration is governed by the Registration Decree 2017. However, banks and NGOs are registered according to special regulations, although the reasoning for this is not clear. All registrations, including NGOs, can be found in the companies register.

The Registration Decree 2017 contains rules on the companies register¹⁸⁵, which is publicly available in an open-access format. The register includes basic information, such as the name of a legal entity, its date of establishment, and contact details, as well as information on its directors and legal (nominal) owners.

One serious deficiency of the companies register¹⁸⁶ is that it is not searchable by name, requiring users to know the tax ID of the company they are looking for. Moreover, regarding NGOs, the MoJ register does not provide any information on the organizations' directors and founders. Banks' tax IDs can be found on the National Bank website and the companies register allows for searching for them. However, there is no information on the beneficiaries of banks, only on their nominal owners. The founders' names of NGOs are not listed in the online register although the non-public version requires that they should be filled in¹⁸⁷. It is possible to obtain the tax ID of a legal entity through searching the VAT register¹⁸⁸, but not all entities pay VAT. There is, however, a convenient duplicate of the register made by the

¹⁸⁵ Lex.uz. 66-сон 09.02.2017. О мерах по реализации постановления Президента Республики Узбекистан от 28 октября 2016 года № ПП-2646 «О совершенствовании системы государственной регистрации и постановки на учет субъектов предпринимательства». <https://www.lex.uz/ru/docs/3111342#3111768>, accessed on 27.12.2021.

¹⁸⁶ There are two versions: <https://my.gov.uz/ru/info-by-tin> and http://registr.stat.uz/enter_form/ru/index.php. The second one is more comprehensive.

¹⁸⁷ Lex.uz.57-сон 10.03.2014. О мерах по реализации постановления Президента Республики Узбекистан от 12 декабря 2013 года № ПП-2085 «О дополнительных мерах по оказанию содействия развитию институтов гражданского общества». <https://www.lex.uz/ru/docs/2356874#2358201>, accessed on 27.12.2021.

¹⁸⁸ Электронные налоговые услуги. <https://my.soliq.uz/nds/home?lang=ru>, accessed on 27.12.2021

NGO UzInvestigations¹⁸⁹, which allows users to search data by company title only.

According to the Accounting Act 1996,¹⁹⁰ all companies are obliged to conduct accounting. The law provides that accounting should be trustworthy (art. 6) and that accounting documents should be carefully stored (art. 7). Annual financial statements of any legal entities should be available to anyone (art. 20), but only public companies are obliged to publish them. Such companies, as well as foundations, state-owned companies, and companies with more than 100 employees (art. 35 of Auditing Act 2021¹⁹¹) are obliged to conduct annual audits.

It seems that, for public companies, disclosure of annual statements is respected in general¹⁹². But in the case of non-public companies, including NGOs, no financial information is disclosed. Violation of accounting standards and rules may result in a penalty for company officials ranging from \$125 to \$500 (while the average monthly salary is approximately \$250). Similarly, violations of auditing standards may result in a fine ranging from \$250 to \$375 and can lead to the auditor's status being revoked.

In September 2021, a joint report by the Uzbek Forum for Human Rights and UzInvestigations, a project of the University of Ulster,¹⁹³ examined the powerful 'Orient Group', a holding of approximately 58 Uzbekistan incorporated legal entities, which were established after the incumbent president took power. The report reveals that members of Orient Group's management and shareholders are tightly connected with the president's family and friends, and have shares in several foreign entities, which do not disclose their beneficiaries. Moreover, Orient Group has benefited substantially from the state capital. On the one hand, this investigation demonstrates that a certain level of transparency has been achieved in Uzbekistan since the research would not have been possible without an open companies register. However, there is not enough information on companies' beneficiaries, and given the significant level of government investments, the public has a legitimate interest to know who spends public money and how. Expert Niyazova specifically noted that the lack of transparency in beneficial company ownership creates a fruitful basis for public officials corruptly using shell companies to extract money from the public budget. Therefore, more publicity for private companies with state investments should be introduced.

Tax deductibility of bribes is neither explicitly forbidden nor allowed by Chapter 44 of the Tax Code 2019. Though it seems unlikely that a company would explicitly declare bribes as a basis for a tax deduction in its declaration, it may be hidden under the formula 'hospitality expenses'. Foreign bribery is explicitly forbidden by the Criminal Code of 1994.

Deficiencies

¹⁸⁹ CORPORATE SPOTLIGHT — UZBEKDB. <https://staging.uzbek.out.re/>, accessed on 27.12.2021

¹⁹⁰ Lex.uz. 279-I-сон 30.08.1996. О бухгалтерском учете. <https://www.lex.uz/ru/docs/90764>, accessed on 27.12.2021.

¹⁹¹ Lex.uz. ЗРУ-677-сон 25.02.2021. Об аудиторской деятельности. <https://www.lex.uz/ru/docs/5307899>, accessed on 27.12.2021.

¹⁹² For example, <https://www.utg.uz/ru/invest/otchety/>, <http://www.xb.uz/ru/about>

¹⁹³ Uzinvestiagtions. (September 2021). *Government Investment Fund a 'Piggy Bank' for Conglomerate Tied to Uzbekistan's First Family*. <https://uzinvestigations.org/reports/government-investment-fund-a-piggy-bank-for-conglomerate-tied-to-uzbekistans-first-family/>, accessed on 27.12.2021.

- There is no possibility to search the companies register by company's title only.
- No public beneficial ownership register is in place.
- There are no explicit rules to prevent corrupt tax deductibility.

4.1.10 Art. 14 – Measures to Prevent Money-Laundering

The June 2021 Presidential Decree aimed to provide certain reforms in this sphere. However, since it has not been implemented at the time of writing this report, the evaluation has been done without its consideration.

The general legal framework on anti-money laundering (AML) in Uzbekistan is established by a special law¹⁹⁴. The special Financial Intelligence Unit (FIU) was established in 2006 and consists of a department on countering economic crimes under the GPO. Extensive rules on international cooperation in AML were further enacted in June 2021¹⁹⁵. The law covers money acquired from crimes, although in many civil law countries like Uzbekistan, there is no criminal liability for legal entities, only administrative ones. Thus, in theory, it is possible that some income may be received as a fruit of administrative 'misdemeanor' and would not be covered by the law.

Internal control and know-your-customer (KYC) principles are extended to banks, brokers, notaries, lawyers, and some other designated non-financial intermediaries. The use of cash in commercial trade is limited to \$25,300 per contract¹⁹⁶. However, this can be easily circumvented by dividing business deals into several contracts. Real estate agents are not covered by the law.

In general, the law seems to formally comply with FATF regulations. However, the general problem is that the law only covers limited types of operations which should be obligatorily controlled by intermediaries who proceed with them, and all of them are related to terrorist financing (FT). It is highly likely that intermediaries will not see risks in operations without strict oversight from the FIU. In general, the law does not define any risk criteria for suspicious transactions, meaning that general standards of control are hard to establish. Another great obstacle is a lack of definition of public officials in the law, meaning that their transactions are not under strict review which is recommended by FATF.

Intermediaries are obliged to conduct procedures to ascertain the actual sources of money for all public officials using their services. However, since there is no register of public officials

¹⁹⁴ Lex.uz. 660-II-сон 26.08.2004. *О противодействии легализации доходов, полученных от преступной деятельности, финансированию терроризма и финансированию распространения оружия массового уничтожения.* <https://www.lex.uz/ru/docs/284542>, accessed on 27.12.2021.

¹⁹⁵ Lex.uz. 402-сон 29.06.2021. *"Jinoiy faoliyatdan olingan daromadlarni legallashtirishga, terrorizmni moliyalashtirishga va ommaviy qirg'in qurolini tarqatishni moliyalashtirishga qarshi kurashish to'g'risida"gi O'zbekiston Respublikasi Qonunini amalga oshirishga doir qo'shimcha chora-tadbirlar haqida.* <https://lex.uz/ru/docs/-5482456>, accessed on 27.12.2021.

¹⁹⁶ Lex.uz. 407-сон 26.11.2002. *О мерах по упорядочению регистрации и осуществления торговой деятельности юридическими и физическими лицами.* <https://lex.uz/docs/341455>, accessed on 27.12.2021.

or politically exposed persons in the country, it is not always possible to comply with this requirement. The June 2021 Presidential Decree is intended to address these issues¹⁹⁷.

Uzbekistan is a member of an organization called Eurasian Anti-Corruption Group (EAG), consisting of 9 members, which is similar to the FATF, but there are no recent FATF-like evaluations in place. The last evaluation was conducted by the EAG in 2010, and follow-up reports were published in 2015 and 2016¹⁹⁸. The relevant laws were significantly amended in 2019, therefore these reports are not relevant now. In 2021, the EAG is conducting a new evaluation and according to the ACA, the timetable¹⁹⁹ foresees that the report will be published in May 2022. Uzbekistan is also a member of the Egmont Group, which allows it to exchange information with other members on ML/FT issues²⁰⁰. Moreover, a national evaluation of ML/FT risks was conducted in 2019 and a short extract from it is published on FIU's website²⁰¹. Unfortunately, this evaluation does not contain any numbers or cases.

It is not an easy task to evaluate the AML regime in Uzbekistan because although the legal framework is the basis for such a system, the primary focus should be on enforcement. In its written response²⁰², the ACA claimed that on 01/06/2021, the total amount of cash in the country was 21% of the total money supply. In May 2019, this number was approximately 26%, while in 'previous' years it was up to 40%²⁰³. Meanwhile, around 50% of Uzbekistan's GDP comes from the shadow economy²⁰⁴. According to a national evaluation conducted in 2019, there is a huge problem of illegal cashing money in the economy ('obnal')²⁰⁵. There are no evaluations on the amount of illegal encashment in Uzbekistan²⁰⁶.

¹⁹⁷ Lex.uz. УП-6252-сон 28.06.2021. Об утверждении Стратегии развития национальной системы Республики Узбекистан по противодействию легализации доходов, полученных от преступной деятельности, финансированию терроризма и финансированию распространения оружия массового уничтожения. <https://lex.uz/ru/docs/5482739>, accessed on 27.12.2021.

¹⁹⁸ EAG. Mutual evaluation reports. <https://eurasiangroup.org/en/mutual-evaluation-reports>, accessed on 27.12.2021.

¹⁹⁹ EAG. General information. <https://eurasiangroup.org/en/general-information>, accessed on 27.12.2021.

²⁰⁰ Egmont Group. UZBEKISTAN - Department on struggle against tax currency crimes and legalization of criminal incomes at the GPO (FIU-Uzbekistan). <https://egmontgroup.org/en/content/uzbekistan-department-struggle-against-tax-currency-crimes-and-legalization-criminal-incomes>, accessed on 27.12.2021.

²⁰¹ Департамент по борьбе с экономическими преступлениями при Генеральной прокуратуре. Национальная оценка рисков легализации доходов, полученных от преступной деятельности, и финансирования терроризма в Республике Узбекистан. <http://new-department.uz/ru/press/news/439/>, accessed on 27.12.2021.

²⁰² Response №2, received on 26.08.2021.

²⁰³ Gazeta.uz. (May 2019). Глава ЦБ объяснил высокую долю наличности в экономике. <https://www.gazeta.uz/ru/2019/05/06/central-bank/>, accessed on 27.12.2021.

²⁰⁴ Радио Азаттык. (July 2021). Узбекистан занимает первое место по теневой экономике в Центральной Азии. <https://rus.azattyk.org/a/uzbekistan-zanimaet-pervoe-mesto-po-tenevoy-ekonomike-v-tsentralnoy-azii/31335408.html>, accessed on 27.12.2021.

²⁰⁵ Департамент по борьбе с экономическими преступлениями при Генеральной прокуратуре. Национальная оценка рисков легализации доходов, полученных от преступной деятельности, и финансирования терроризма в Республике Узбекистан. <http://new-department.uz/ru/press/news/439/>, accessed on 27.12.2021.

²⁰⁶ Response №7, 07.09.2021.

The issue of money laundering was met with different views among the experts that were interviewed for this report. According to expert Yusupov,²⁰⁷ banks are strictly overseen by the Central Bank, and any operation via the banking system requires justifying documents. Expert G.²⁰⁸ noted that AML is conducted manually, without extensive use of computer analysis or risk scoring. Meanwhile, expert Al.²⁰⁹ described ML as a very common issue, citing the example of Tashkent city construction, which is carried out by unknown companies without real public beneficiaries, some of which seem to be controlled by the Tashkent mayor²¹⁰. Expert Lasslett²¹¹ gave an example of one minister's words in respect of the Tashkent City project, who said that they "do not care where the money comes from, as long as it is for investment"²¹². The expert also noted that numerous private banks in Uzbekistan are owned and operated by individuals who have been credibly tied to corruption, organized crime, and money laundering by authorities in Uzbekistan, Russia, and the United States along with international financial institutions, specifically the World Bank. Yet, they appear to have no problem retaining their banking license.

This report's authors' research suggests that intermediaries as well as the FIU are not persistent in implementing AML regulations. A media analysis of national media outlets shows no reporting on the freezing of bank accounts or the refusal of other intermediaries to provide services because of AML suspicion and there appear to be few or no obstacles to money laundering. In February 2021, the State Tax Authority made a list of 10,000 companies that used illegal cashing to avoid paying taxes. However, following public outrage, many of these claims were withdrawn²¹³.

It is permitted to make cash transfer of up to \$6,700 per person across borders without declaration and approximately \$7,700 with a declaration²¹⁴. There are regular news reports of smugglers of cash at the border of Uzbekistan²¹⁵ although there is no information about how much money is estimated to be smuggled in and out of the country in cash.

In conclusion, although the regulatory framework appears in many cases adequate on paper, there is a strong lack of enforcement. The AML system can be considered rudimentary because it does not work in practice even at the most basic level. One of the reasons for this is loopholes in basic regulation since there is no definition of a public official and risk criteria for suspicious transactions in the law.

²⁰⁷ Interviewed June 29, 2021.

²⁰⁸ Interviewed July 15, 2021.

²⁰⁹ Interviewed June 22, 2021.

²¹⁰ Fergana.news. (January 2019). *Мэра Ташкента заподозрили в конфликте интересов*. <https://fergana.agency/news/104740/>, accessed on 27.12.2021.

²¹¹ Interviewed June 30, 2021.

²¹² Gazeta.uz. (January 2019). *«Неважно, когда создана компания» — хоким об инвесторах Tashkent City*. <https://www.gazeta.uz/ru/2019/01/31/investors/>, accessed on 27.12.2021.

²¹³ Gazeta.uz. (February 2021). *Что происходит вокруг «фирм-обналичек» и почему протестуют предприниматели*.

<https://www.gazeta.uz/ru/2021/02/17/shell-companies/>, accessed on 27.12.2021.

²¹⁴ Gazeta.uz. (August 2020). *Ввоз и вывоз валюты упрощается с сентября*. <https://www.gazeta.uz/ru/2020/08/11/currency/>, accessed on 27.12.2021.

²¹⁵ Gazeta.uz. (May 2021). *Пресечён незаконный вывоз в Казахстан более \$1 млн*. <https://www.gazeta.uz/ru/2021/05/04/currency/>, accessed on 27.12.2021.

Good practices

- Uzbekistan’s legislation complies with FATF recommendations in many aspects, for instance in establishing a general framework for AML.

Deficiencies

- No criteria for suspicious operations in money laundering are in place.
- There is no definition of public officials in the law.
- Some important vulnerabilities are not covered, including beneficial ownership information, which is not collected.
- Illegal cashing is widespread.
- In general, AML rules tend not to be enforced, with high amounts of cash in the economy as a result.

4.2 Chapter V – Asset Recovery

The only known case of international asset recovery involving Uzbekistan is related to the ill-gotten assets of Gulnara Karimova, the daughter of the ex-president of the country. The amount of stolen assets is estimated to be \$1,3 billion²¹⁶. This case concerns the return of stolen assets to Uzbekistan. Meanwhile, almost all of the provisions in UNCAC Chapter V lay out the procedures which Uzbekistan could use to return stolen assets that were transferred to its territory. Research for this report did not find any evidence that such situations, where money stemming from corruption came into the country have taken place in recent years, except of one example of Gupta Family mentioned below. In the area of asset recovery, Uzbekistan can be considered a ‘source’ country of stolen assets rather than a ‘recipient’ country.

4.2.1 Art. 53 – Measures for Direct Recovery of Property and Art 56 - Special Cooperation

Recovery of property may be done either via a civil procedure alone or via a civil procedure within a criminal proceeding. There is no special legislation on asset recovery in Uzbekistan, including no obligation to inform foreign governments of their right to claim compensation and assets.

The Civil Procedure Code of 2018²¹⁷ does not contain any special provisions regarding foreigners, including foreign governments. Legal capacity is acknowledged for all organizations (art. 42), and that definition may cover any foreign government agency. Also, foreign court rulings may be executed by the national courts if an international treaty provides for it. This could mean that UNCAC provisions may satisfy the threshold, as international treaty provisions may apply directly (art. 1). Only licensed attorneys are entitled to represent foreign governments in the courts since they are not mentioned in the exceptions in art. 67. Under general provisions, every party to the case must provide evidence which it cites as grounds for its claim (art. 72).

²¹⁶ Gazeta.uz. (May 2020). *Активы Гульнaры Каримовой возвращаются в Узбекистан — Минюст.* <https://www.gazeta.uz/ru/2020/05/14/gulnara-karimova/>, accessed on 27.12.2021.

²¹⁷ Lex.uz. 22.01.2018. *Гражданский процессуальный кодекс Республики Узбекистан.* <https://lex.uz/docs/3517334>, accessed on 27.12.2021.

The Criminal Procedure Code of 1994²¹⁸ allows filing civil lawsuits within criminal proceedings. In this case, the court rules on the return of property simultaneously with the verdict.

Under both procedures, any person whose right is violated can claim compensation consisting of real damages and loss of profits (art. 14 of Civil Code 1995)²¹⁹. Governments are equally participating in civil relations, i.e., they can file lawsuits as regular persons and entities (art. 79). However, in art. 985 the list of persons who have the right to seek compensation is restricted: only natural persons and legal entities are included. This may cast doubt on whether governments can also seek compensation, as, in some other countries, the government is not considered a legal entity.

A potential claimant must prove how the defendant's actions have caused damages to them (art. 985). In general, the claimant does not have to prove the guilt of the defendant, but if the latter proves their innocence, then the claim must be rejected. However, if damages are made by a decision of public authorities, then the question of guilt is not relevant to the court, and compensation should be awarded.

There are no known cases of foreign governments attempting to return stolen property from Uzbekistan, either through civil or criminal procedures.

Good practices

- General rules apply to potential claims of foreign governments.

Deficiencies

- Uzbekistan's legislation is questionable regarding the possibility of damage recovery for governments.
- There is little or no enforcement of the existing legislation in this area.

4.2.2 Art. 54 – Confiscation Tools

The grounds for confiscation can be found in the criminal procedure regulations (chapter 33 of the Criminal Procedure Code 1994)²²⁰. Confiscation is not considered a punishment in itself and can be proceeded with only in relation to a specific criminal case. That said, a foreign government can request confiscation in a criminal procedure only if there is a criminal case on Uzbek territory, meaning that any crime has to have been committed under the Uzbekistan Criminal code. Non-conviction-based (NCB) confiscation is not allowed in that case.

However, civil law in Uzbekistan acknowledges claims for 'unjust enrichment' as a tort (Chapter 58 of Civil Code 1996)²²¹. In theory, these provisions can be used without any criminal proceeding: if a defendant has unlawfully gained property, it can be returned to the

²¹⁸ Lex.uz. 22.09.1994. *Уголовно-процессуальный кодекс Республики Узбекистан*. <https://lex.uz/docs/111463>, accessed on 27.12.2021.

²¹⁹ Lex.uz. 21.12.1995. *Гражданский кодекс Республики Узбекистан (часть первая)*. <https://lex.uz/docs/111181#156330>, accessed on 27.12.2021.

²²⁰ Lex.uz. 22.09.1994. *Уголовно-процессуальный кодекс Республики Узбекистан*. <https://lex.uz/docs/111463#247891>, accessed on 27.12.2021.

²²¹ Lex.uz. 29.08.1996. *Гражданский кодекс Республики Узбекистан (часть вторая)*. <https://lex.uz/docs/180550#193716>, accessed on 27.12.2021.

claimant. In this case, NCB may be possible.

It is not known whether such confiscation tools have ever been used in practice regarding foreign incoming Mutual Legal Assistance (MLA) requests. That said, it is highly unlikely that a foreign government could really use a legal basis in civil or criminal procedure law in order to confiscate stolen assets in Uzbekistan.

Good practices

- General confiscation rules in criminal proceedings and theoretical construction in civil law allow for the confiscation of ill-gotten assets.

Deficiencies

- There is little or no enforcement of confiscation tools to combat the proceeds of corruption.

4.2.3 Art. 51, 54, 55, 56 and 59 – International Cooperation for the Purpose of Confiscation

There is no special regulation on the confiscation of stolen assets in Uzbekistan. Regarding enforcement of foreign court rulings, this may be done either via a civil or criminal procedure. For a more detailed description, see the analysis of Art. 53 and 56 and Art. 54 above.

The GPO, MoI, Security Service, and the MoJ are authorized to conduct international anti-corruption cooperation, according to Art. 9 of the Anti-Corruption Act 2017. It is not clear how their competence is separated since the Act does not provide for that. This distinction could be made through the material law which established their own competence. However, none of the acts analyzed (regulation of the MoI²²², the Security Service²²³, and the MoJ²²⁴) refers to corruption, except the regulation on the ACA, which receives no mention in the Anti-Corruption Act 2017. Its competence as the primary anti-corruption body was established in the Presidential Decree of June 2020²²⁵. However, in response to the author's question, the ACA claimed²²⁶ that the GPO is entitled to conduct mutual legal assistance (MLA) requests in the criminal sphere, including in relation to the return of stolen assets. The ACA claimed that "other statistics" are collected by the MoJ and other bodies. Therefore, it appears that there is no single body entitled to cooperate with international actors on the return of stolen assets both to or from Uzbekistan, and in fact that depends on the type of judicial proceeding (civil, criminal, or non-judicial). International cooperation instructions, which specify how such

²²² Lex.uz. ПП-2883-сон 12.04.2017. Об организационных мерах по дальнейшему совершенствованию деятельности органов внутренних дел. <https://www.lex.uz/docs/3165011#3165053>, accessed on 27.12.2021.

²²³ Lex.uz. 278-сон 02.11.1991. О службе национальной безопасности Республики Узбекистан. <https://lex.uz/docs/1028203>, accessed on 27.12.2021.

²²⁴ Lex.uz. ПП-3666-сон 13.04.2018. Об организационных мерах по дальнейшему совершенствованию деятельности Министерства юстиции Республики Узбекистан. <https://lex.uz/docs/3681788>, accessed on 27.12.2021.

²²⁵ Lex.uz. УП-6013-сон 29.06.2020. О дополнительных мерах по совершенствованию системы противодействия коррупции в Республике Узбекистан. <https://lex.uz/docs/4875786>, accessed on 27.12.2021.

²²⁶ Response №2, received on 26.08.2021.

cooperation should proceed, are not published, according to the response from the ACA. The GPO has not responded to an information request regarding asset recovery²²⁷.

With regard to stolen assets, there is evidence emerging that Uzbekistan can be a good place to launder money. One example concerns the Gupta family from South Africa, some members of which have invested millions of dollars into Uzbekistan real estate projects²²⁸, while in their home country, they are being suspected to have had corrupt relations to ex-president Zuma and to be involved in state capture. It seems that in another case concerning the bankrupt Russian Starbank, some of the money stolen from the bank's capital could have also found its way to Uzbekistan²²⁹.

However, excluding the above-mentioned case, Uzbekistan can be considered as a 'source' country, meaning that stolen assets have left the country. The main case concerns the ill-gotten assets of Gulnara Karimova. According to the ACA, in May 2020 approximately \$10 million of these stolen assets were returned from France to Uzbekistan by the joint efforts of the GPO and the MoJ, but without conditions for their safe and responsible return²³⁰. The estimated total value of the assets to be returned is \$1.3 billion.

In September 2020, the governments of Switzerland and Uzbekistan signed a Memorandum of Understanding (MOU) which established a framework for the return of \$131 million of Karimova's stolen assets frozen in Swiss bank accounts. The MOU includes paragraphs confirming the return process will be transparent, accountable, inclusive of civil society, and contribute to the establishment of the rule of law in Uzbekistan²³¹.

In November 2020, Switzerland and Uzbekistan signed a sharing agreement as part of the framework which, at the time of writing, has not been made public by either the Swiss or the Uzbek governments, prompting criticism from Uzbek civil society²³² that the process lacks transparency and accountability, the very cornerstones upon which the MOU was based.

At present, it is not possible to find any public statistics on MLA requests regarding stolen assets or any other statistics related to MLA and corruption. As the stolen assets were directly related to Uzbek public property, the public has a legitimate interest to know what amount of the stolen assets are to be returned and how they will be spent.

²²⁷ Request №8, sent on 08.09.2021

²²⁸ amaBhungane. (October 2020). *After state capture, Guptas and friends are flying high*. <https://amabhungane.org/stories/201022-after-state-capture-guptas-and-friends-are-flying-high/>, accessed on 27.12.2021.

²²⁹ UzInvestigations. (2020). *Risk and the Privatisation of Uzbekistan's Cotton Sector*. <https://d1fz6q6taiufku.cloudfront.net/uploads/2020/06/PB-issue2-v4.2.pdf>, accessed on 27.12.2021.

²³⁰ Sherpa. (May 2020). *A missed opportunity: France's return of Gulnara Karimova's illegally acquired assets*. <https://www.asso-sherpa.org/a-missed-opportunity-frances-return-of-gulnara-karimovas-illegally-acquired-assets>, accessed on 27.12.2021.

²³¹ UNCAC Coalition. (September 2020). *Asset Recovery: Switzerland and Uzbekistan sign agreement on return of USD 131 million – Statement by Uzbek Civil Society Activists*. <https://uncaccoalition.org/asset-recovery-switzerland-and-uzbekistan-sign-agreement-on-return-of-usd-131-million-statement-by-uzbek-civil-society-activists/>, accessed on 19.02.2022.

²³² Uzbek Forum. (July 2021). *Call for Transparency and Inclusion in the Return of Gulnara Karimova's Ill-Gotten Assets to Uzbekistan by the Swiss Government*. <https://www.uzbekforum.org/call-for-transparency-and-inclusion-in-the-return-of-gulnara-karimovas-ill-gotten-assets-to-uzbekistan-by-the-swiss-government/>, accessed on 27.12.2021.

Good practices

- The MOU signed between the governments of Uzbekistan and Switzerland establishing a framework for transparency and accountability in the return process of Karimova's stolen assets to Uzbekistan can be seen as a good practice.

Deficiencies

- There are legal irregularities in respect to determining responsible bodies for international cooperation on corruption and stolen assets.
- There is a lack of transparency and accountability in the return process of stolen assets.

4.2.4 Art. 57 – The Return and Disposal of Confiscated Property

In June 2020, the MoJ publicly promised to report on the process of returning Gulnara Karimova's stolen assets²³³ and how exactly the money would be spent.

In September 2020, the Swiss and Uzbek authorities signed an MOU that the returning process should be transparent and that assets recovered ought to be used for the good of the Uzbek people²³⁴. However, this is merely a declaration of intent rather than a legally binding instrument.

It is not clear from the legislation which body is directly responsible for returning confiscated property. The Criminal Procedure Code 1994 only contains rules on sending requests for conducting procedural actions abroad. The Civil Procedure Code 2018 provides only general rules for judicial requests in civil cases.

There are no specific rules on the confiscation and return of assets in place and there is no data relating to Uzbekistan returning any assets to other countries. Considering the abovementioned Gupta case (see p. 55), it is not clear how Uzbekistan authorities would proceed with MLA requests from Southern Africa if one would come. Uzbekistan needs to formalize in policy its commitment to international benchmarks for international asset return, set out in the Convention, the Global Forum on Asset Recovery (GFAR) Principles²³⁵, StAR Initiative, etc. Specifically, much more openness and transparency on domestic asset forfeiture should be secured.

There are no statistics on Uzbekistan returning any assets to other countries.

Deficiencies

- There is no special regulation in place for the return and disposal of confiscated property, which undermines the integrity of the process.

²³³ Gazeta.uz. (June 2020). *О расходе возвращенных средств Гульнары Каримовой обещают отчитываться.*

<https://www.gazeta.uz/ru/2020/06/15/karimova/>, accessed on 27.12.2021.

²³⁴ Gazeta.uz. (September 2020). *Узбекистан и Швейцария согласовали условия возврата средств Гульнары Каримовой.*

<https://www.gazeta.uz/ru/2020/09/14/funds/>, accessed on 27.12.2021.

²³⁵ StAR. GFAR Principles. <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>, accessed on 08.03.2022.

- There is no published enforcement data and a lack of transparency in the process of the return of Karimova’s stolen assets.

Statistics²³⁶

Money Laundering²³⁷

Reporting/Intelligence Phase	Year: 2018	Year: 2019	Year: 2020
Number of Suspicious Transaction Reports (STRs) filed by each category of obliged entities: - Banks and financial institutions - Non-financial businesses and professions (NFBPs)	245	382	698
Number of postponement orders adopted on reported transactions ²³⁸	12	14	22
Number of money laundering investigations carried out independently by law enforcement agencies (without a prior STR)	<i>No data</i>	<i>No data</i>	<i>No data</i>
Number of suspicious cash activities at the border reported to the FIU (including those based on declarations and smuggling)	<i>No data</i>	<i>No data</i>	<i>No data</i>
Number of STRs sent to law enforcement and on which further analysis was made ²³⁹	867	1212	1856
Number of staff dedicated full-time (or full-time equivalent) to money laundering in the FIU	<i>No data</i>	<i>No data</i>	<i>No data</i>

The numbers provided show that although there was an increase in AML activities, in general, the FIU is not persistent in overseeing suspicious transactions. The total number of reported transactions is very low, compared to the size of the economy. A considerable amount of data is not collected or was not provided upon request. Therefore, the current AML policy and enforcement cannot be considered satisfactory.

²³⁶ The tables below follow the format in this Eurostat report: <http://ec.europa.eu/eurostat/documents/3888793/5856465/KS-TC-13-007-EN.PDF/69cde077-3bd9-4d0d-8c19-a6fe3608c2cd>.

²³⁷ Response №7, received on 07.09.2021.

²³⁸ The total number of orders, which may include those discovered by FIU cases.

²³⁹ This is the total number of reports, which may come from public bodies too, not only private entities.

The requests for information sent to the Corruption Prevention Agency (ACA)²⁴⁰, which aimed at obtaining statistics on the investigation phase were not responded to. Therefore, no information was obtainable on the following aspects for the past three years (2018-2020):

- Number of cases initiated by law enforcement agencies on the basis of STRs sent by the FIU;
- Number of staff dedicated full-time (or full-time equivalent) to money laundering in law enforcement agencies;
- Number of cases brought to prosecution: originating from STRs, CTRs, and independent law enforcement investigations.

Since the Supreme Court did not respond to the request on Karimova’s assets, the request on judicial statistics on money laundering cases was not sent.

The author’s request for information to the Supreme Court²⁴¹ on the judicial phase of asset recovery was also not answered. Consequently, no information was obtained on the following aspects for the last three years (2018-2020):

- Number of freezing procedures (based on a court order);
- Number of confiscation procedures;
- Number of requests received for freezing orders from another country;
- Value of frozen assets;
- Number of requests received for confiscation orders from another country;
- Value of confiscated assets;
- Amounts recovered from assets;
- Amounts returned.

Information on asset recovery cases²⁴²

StAR ID	Who	What	Details
ARW-232, ARW-235, ARW-237, ARW-238, ARW- 239	Gulnara Karimova, daughter of the first President of Uzbekistan	Cash assets, land, property, cars, works of art, jewelry	Detailed description of recovery process regarding Karimova’s case is given in relevant articles of Chapter V. Currently, there is no openly available information on when her ill-gotten assets will be returned to Uzbekistan and how.

²⁴⁰ Request №7, sent on 07.09.2021.

²⁴¹ Request №4, sent on 17.08.2021.

²⁴² STaR Initiative. *Asset Recovery Watch Database*.

<https://star.worldbank.org/asset-recovery-watch-database>, accessed on 27.12.2021.

V. Recent Developments

The Uzbek government under President Mirziyoyev has embarked on a rapid and extensive reform program since coming to power in 2017, including measures to address corruption. In all the articles assessed, significant changes have taken place in the last 5 years. This report has evaluated implementation of Chapters II and V of the UNCAC, taking recent developments into account. Reforms are typically enacted by presidential decree, some of which are publicly debated online. However, parliament rarely intervenes resulting in a lack of genuine scrutiny. The level of law enforcement also raises serious questions as to whether new legislation and proposed measures will actually be implemented.

It is therefore worth looking at several UNCAC articles in more detail and provide a short review of proposed developments.

One act worth noting is the July 2021 Decree which provides for adequate reforms to be implemented²⁴³. It orders the hiring of positions in all public enterprises only through an online competition, which should be advertised online. Starting in 2022, an online system for declaring assets is to be established. Another swathe of reforms is related to transparency in the construction sector, including roads construction. Conflict of interest regulation is actively being developed, too. The reforms foresee that all contracts that have been found to be concluded through corrupt practices will be considered null and void²⁴⁴. The ACA has proposed prohibiting the direct supervision of relatives in public enterprises²⁴⁵.

There are also proposals to improve the transparency of information. The June 2021 Decree²⁴⁶ provides for a list of additional information to be published by public bodies, including the expenditure of officials on business trips, tax, and other preferences provided for certain legal entities, etc. For the first time, it was proposed to punish officials with fines for non-compliance with legislation on access to information, specifically for not reacting to requests. Finally, the decree provides for the creation of an index of information transparency for national ministries and agencies.

Some reforms are also expected in relation to AML. The June 2021 Decree²⁴⁷ provides for the establishment of compliance requirements for financial intermediaries; a formal definition of 'public official'; permission for banks to freeze suspicious transactions; participation in the OECD banking information exchange; and the collection of beneficial ownership information from legal entities.

²⁴³ Lex.uz. ПП-5177-сон 06.07.2021. О дополнительных мерах по эффективной организации деятельности по противодействию коррупции. <https://www.lex.uz/ru/docs/5495538>, accessed on 27.12.2021.

²⁴⁴ Ibid.

²⁴⁵ Сатира. <https://satira.media/society/4329-blizkie-rodstvenniki>, accessed on 27.12.2021.

²⁴⁶ Lex.uz. УП-6247-сон 16.06.2021. О дополнительных мерах по обеспечению открытости деятельности государственных органов и организаций, а также эффективной реализации общественного контроля. <https://lex.uz/docs/5459053>, accessed on 27.12.2021.

²⁴⁷ Lex.uz. УП-6252-сон 28.06.2021. Об утверждении Стратегии развития национальной системы Республики Узбекистан по противодействию легализации доходов, полученных от преступной деятельности, финансированию терроризма и финансированию распространения оружия массового уничтожения. <https://lex.uz/ru/docs/5482739>, accessed on 27.12.2021.

During the October presidential election, the OSCE reported²⁴⁸ that none of the parties published financial reports during the elections, despite being obliged to do so by law. Each party proposed a candidate and received only €250,740 for the entire campaign, which is clearly insufficient to conduct a meaningful political campaign. Other sources of funding remain forbidden.

The Uzbek authorities, in general, have adopted some good anti-corruption practices but they are implemented with varying degrees of speed and effectiveness. Fundamentally, without the genuine participation of citizens, reforms will not take full effect and are likely to be unsustainable.

²⁴⁸ OSCE. *International Election Observation Mission. Republic of Uzbekistan – Presidential Election, 24 October 2021*. <https://www.osce.org/files/f/documents/4/9/502203.pdf>, accessed on 27.12.2021.

VI. Recommendations

The government of Uzbekistan should:

1. Establish contacts between independent civil society representatives and the peer-reviewing countries during the UNCAC review country visit.
2. Publish the full UNCAC review country report and self-assessment checklist once the review process in Uzbekistan has been completed and make it publicly accessible online.
3. Encourage Uzbek citizens to establish CSOs independent of the government to work on anti-corruption and open government initiatives and remove all administrative or other barriers to the registration of NGOs. Actively involve such CSOs in the policy-making process and remove restrictions on funding from international donors.
4. Cease the persecution of citizens reporting on and exposing corruption in Uzbekistan.
5. Slow the pace of reforms to ensure new legislation is enacted and enforced.
6. Enroll in the Open Government Partnership, EITI, GRECO, and FATF.
7. Entitle the ACA or the MoJ to establish policy and monitor freedom of information enforcement, with the right to punish officials who unlawfully reject information requests.
8. Establish the ACA's status and competence in law and safeguard its independence.
9. Ensure that every anti-corruption measure is underpinned with sanctions imposed in practice.
10. Ensure that all public service vacancies are published online in a timely manner.
11. Ensure that public servants' salaries will not be decreased.
12. Allow for private financing of electoral campaigns under strict transparency rules.
13. Ensure that all financial statements of political parties are published in detail and in accordance with international standards.
14. Ensure that the assets declaration system is made public.
15. Entitle the ACA with the right to scrutinize the adherence of public officials to ethical standards, including Col compliance.
16. Abolish direct contracting for all procurement procedures other than small and routine ones (serving daily public body activities like office stationery).
17. Lift the blocking of all online news outlets which do not disseminate extremist or terrorist propaganda.
18. Assist journalists in their professional development by allowing foreign NGOs to freely conduct professional training events in the country.
19. Ensure the judiciary is not subject to political influence, and remove the President's right to veto the appointment of judges. Guarantee the independence of the prosecution service.
20. Publish all information on companies and NGOs available to public authorities. Modernize the unified register of legal entities so that it contains current and historical data, with additional requirements for public filings relating to annual accounts, changes in shareholders, directors, and secretaries, the registration of charges, and other financial documents.
21. Develop a centralized Beneficial Ownership Register with a requirement that adequate and structured data on the ultimate owners of all legal entities in Uzbekistan be compiled and publicized on a free, searchable open data online database.

22. Ensure that the FIU actively monitors suspicious transactions and imposes sanctions on banks and non-financial intermediaries for non-reporting on such transactions and non-compliance with FATF recommendations. Introduce a 'public official' definition and risk criteria for AML control.
23. Provide for detailed regulation on the recovery of stolen assets, including precise rules on how to process MLA requests and which body should be responsible. Further provide for specific general procedures for the recovery process, which ensure the full transparency of the process.
24. Uphold commitments to transparency, accountability and the inclusion of civil society as laid out in the MOU signed between the governments of Uzbekistan and Switzerland in relation to the return of Gulnara Karimova' illicitly acquired assets.

VII. Annexes

Data and Case Information

<http://Lex.uz> - legal acts official database, available both in Uzbek and Russian

<http://xarid.uz/> - e-procurement (both public and corporate) database

<https://data.gov.uz/ru/> - open data portal

<https://openbudget.uz/ru/> - open budget

<https://regulation.gov.uz/uz> - public discussion of legal acts projects portal

<https://public.sud.uz/#!/sign/view> - court rulings online database

<https://staging.uzbek.out.re/> - UzInvestigations extract of companies register

Table on information requests and responses (filed electronically)

No	Institution	Date	Subject	Reply
1	GPO, MoI, Statistical Agency, ACA, MoJ	08.06.21	Letter of invitation to cooperate	No responses were received - MoJ suggested appealing to the ACA on the issue
2	ACA	22.06.21	List of questions	Responses provided
3	Ijtimoiy Fikr (Public opinion) sociological centre	25.06.21	Social surveys information	None
4	The Supreme Court	17.08.21	Confiscation of Gulnara Karimova assets	None
5	MoJ	17.08.21	Request for a copy of the letter regarding Karimova's assets	According to the MOJ, the letter was destroyed due to archive regulations
6	GPO	23.08.21	Enforcement of Col and other ethics rules	None
7	ACA	07.09.21	Additional questions list	Responses provided
8	GPO	08.09.21	Assets recovery statistics	None

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