

Report on the implementation by the Russian Federation of articles 5, 7, 8, 10, 12 and 13 of the United Nations Convention against Corruption

The Russian Federation signed the United Nations Convention against Corruption on 9 December 2003 and ratified it, with declarations, through Federal Act No. 40 of 8 March 2006. The Convention entered into force in the Russian Federation on 8 June 2006.

The Russian Federation was actively involved in the drafting of the Convention. Consequently, particular attention is accorded to the implementation of the Convention's provisions in the Russian Federation.

A package of federal and other legislative acts aimed at the application of the provisions of the Convention in national legislation has been adopted and is being actively implemented. The package includes the Federal Anti-corruption Act (Act. No. 273) of 25 December 2012, Federal Act No. 274 amending certain legislative acts of the Russian Federation in connection with the adoption of the Federal Anti-corruption Act; and Federal Act No. 280 amending certain legislative acts of the Russian Federation in connection with the ratification of the United Nations Convention against Corruption of 31 October 2003 and of the Council of Europe Criminal Law Convention on Corruption of 27 January 1999 and the adoption of the Federal Anti-corruption Act.

Article 5 of the Convention establishes the obligation of the States Parties to maintain effective and coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

In the Russian Federation, the basis for State policy in that area is established in the Federal Anti-corruption Act, which, in keeping with the spirit of the Convention, sets out provisions aimed at the application, as a matter of priority, of measures to prevent corruption.

The Act, which reflects the provisions of the Convention, sets out the legislative basis for and main principles to be applied in combating corruption, including:

- (1) The recognition, safeguarding and protection of fundamental human and civil rights and freedoms;
- (2) The rule of law;
- (3) Public availability of information regarding, and openness in, the activities of State agencies and local government bodies;
- (4) Automatic liability for corruption offences;
- (5) The comprehensive application of political, organizational, public awareness, socio-economic, legal, special and other measures;
- (6) The priority application of measures to combat corruption;
- (7) Cooperation between the State and civil society institutions, international organizations and individuals.

The Act also establishes the organizational basis for the anti-corruption activities of State agencies and the main areas addressed through those activities.

In order to consolidate the efforts of the Federal State agencies, the State agencies of the constituent entities of the Russian Federation, local government bodies, civil society institutions, organizations and

individuals to combat corruption, on 13 April 2010, the President of the Russian Federation approved a national anti-corruption strategy and a national anti-corruption plan for the period 2010-2011.

The timely assessment and adjustment of measures adopted to combat corruption and the monitoring of their implementation are conducted by the Council of the President of the Russian Federation for Countering Corruption and its working body, the Presidium.

Practices aimed at combating corruption are based chiefly on the application of preventive measures (article 5, paragraph 2, of the Convention), which notably include the following:

- The establishment of the requirement for officials of State and municipal agencies (a list of civil service posts is established under the relevant legislation of the Russian Federation) to declare their income and property;
- Application to candidates for posts in the State and municipal agencies — a list of those posts having been established under the legislation of the Russian Federation — of special requirements to ensure, inter alia, monitoring of income, property and compliance with obligations relating to property;
- Introduction of a mechanism for the regulation of conflicts of interest in State and municipal agencies;
- Establishment of the requirement for officials of State and municipal agencies to report any approach made to them by any person in order to incite him or her to commit a corruption offence;
- The development of institutions for civil society and parliamentary control of compliance with the anti-corruption legislation of the Russian Federation;
- Promotion among the general public of a culture of non-tolerance of corrupt conduct.

In line with the recommendation set out in article 5, paragraph 3, of the Convention, both legislation in force and draft legislation are being evaluated increasingly extensively and effectively in the Russian Federation for the purpose of determining their adequacy to prevent and fight corruption.

Legal relations in that area are regulated by Federal Act No. 172 of 17 July 2009 on the evaluation of legislation in force and draft legislation for the purpose of determining the adequacy of such legislation to prevent and fight corruption. The Act provides for the conduct of such evaluation by the agencies of the prosecution service, the Ministry of Justice, other bodies, organizations (including voluntary associations) and the officials of those entities.

The regulations and methodology for the evaluation of legislation in force and draft legislation for the purpose of determining the adequacy of such legislation to prevent and fight corruption were approved by Decision No. 96 of 26 February 2010 of the Government of the Russian Federation.

In 2010, the prosecution service agencies alone studied more than 560,000 items of legislation and some 360,000 draft legislative instruments (one of the functions of those agencies being to participate in lawmaking activities) as part of the review process. More than 37,000 legislative acts and draft legislative acts containing provisions that might facilitate or fail to prevent corruption were identified, the majority of those provisions (more than 80 per cent) subsequently being removed at the request of the prosecution service. A considerable proportion (more than 70 per cent) of the provisions were inconsistent with the requirements of legislation in force.

In implementing State policy with regard to the prevention and combating of corruption, the Russian Federation is cooperating with other States Parties to the United Nations Convention against Corruption and with international organizations through participation in the mechanism for the review of the implementation of the Convention, membership of the Council of Europe Group of States against

Corruption (GRECO), the International Association of Anti-Corruption Authorities (IAACA), the International Anti-Corruption Academy (IACA), the Group of 20 anti-corruption working group, the OECD Working Group on Bribery in International Business Transactions and bilateral legal assistance mechanisms.

Articles 7 and 8 of the Convention provide for the adoption, in each State Party, of systems for the organization of and employment within the civil service that are based on the principles of transparency and efficiency and relevant ethical standards.

In the Russian Federation, the same principles as those set out in the Convention are enshrined in Federal Civil Service Act (Act. No. 79) of 27 July 2004.

Specifically, article 22 of that Act establishes that citizens are recruited to the civil service (the State civil service or the civil service institutions of the constituent entities of the Russian Federation) and civil servants appointed to other posts within the civil service on the basis of the results of a competition, unless stipulated otherwise by the same article. The competition consists of an assessment of the candidate's professional competence and whether he or she meets the established qualification requirements for the post concerned.

The relevant restrictions and prohibitions relating to the status of public officials are also set out in a number of legislative acts, including the Police Act, the Act on the Prosecutor-General's Office of the Russian Federation, the Federal Security Service Act, the Act on Service in the Customs Agencies of the Russian Federation and the Act on Conscription and Military Service in the Russian Federation.

The principle of transparency in the financing of election campaigns of candidates for the post of deputy to the State Duma and candidates for the office of President of the Russian Federation is enshrined in chapter 9 of Federal Act No. 51 of 18 May 2005 on the election of deputies to the State Duma of the Federal Assembly of the Russian Federation and in chapter 8 of Federal Act No. 19 of 10 January 2003 on the election of the President of the Russian Federation.

Provisions regulating the overall procedure for financing elections (both of candidates and of electoral associations) are set out in chapter 8 of Federal Act No. 67 of 12 June 2002 on basic guarantees of electoral rights and the right of citizens of the Russian Federation to participate in referendums.

Matters relating to the financial resources and financing of political parties are regulated by articles 29-35 of Federal Political Parties Act (Act No. 95) of 11 July 2001 on political parties.

On 23 December 2010, the Presidium of the Council of the President of the Russian Federation for Countering Corruption adopted a Model Code of Ethics and Official Conduct for Officials of State and Municipal Agencies of the Russian Federation, in accordance with the provisions of the Constitution, the International Code of Conduct for Public Officials (General Assembly resolution 51/59 of 12 December 1996), the Model Code of Conduct for Public Officials (annex to Recommendation No. R (2000) 10 of the Committee of Ministers of the Council of Europe of 11 May 2000), the Model Law on the Principles of Municipal Service (adopted at the nineteenth plenary session of the Interparliamentary Assembly of the Commonwealth of Independent States (CIS) (Decision No. 19-10 of 26 March 2002)), the Federal Anti-corruption Act, the Federal Civil Service System of the Russian Federation Act, the Federal Municipal Service of the Russian Federation Act, other federal laws providing for restrictions, prohibitions and obligations applying to officials of the State and municipal agencies of the Russian Federation, Presidential Decree No. 885 of 12 August 2002 on the adoption of the general principles of the official conduct of public officials, and other laws and regulations of the Russian Federation.

Most of the federal State agencies of the Russian Federation have followed the example of the Model Code and adopted professional codes of ethics for the conduct of officials. For example, Order No. 114 of

the Prosecutor-General's Office of the Russian Federation, of 17 March 2010, approved a code of ethics and a training programme for employees of the public prosecution service of the Russian Federation.

Under article 9 of the Federal Anti-corruption Act, a public or municipal official is required to inform a representative of the hirer or employer, the public prosecution service or other State agencies of any approach made to him or her by any person in order to incite him or her to commit a corruption offence.

It is the official duty of a public or municipal official to notify the authorities of any approach made to incite him or her to commit a corruption offence, except in such cases where checks have been or are being carried out on a specific incident.

Failure by a public or municipal official to comply with this official requirement is an offence that will result in his or her dismissal from the civil or municipal service or in other sanctions under the law of the Russian Federation.

In accordance with article 9, paragraph 5, of the Federal Anti-corruption Act, the Ministry of Health and Social Development has drawn up methodological recommendations on the procedure for notifying the representative of a hirer or an employer of an approach made to incite a public or municipal official to commit a corruption offence, including a list of the information contained in the notification, the process for verifying such information and the procedure for registering the notification.

These methodological recommendations have been agreed and disseminated at all levels.

Under article 9, paragraph 4, of the Federal Anti-corruption Act, a public or municipal official who informs the representative of a hirer or employer, the prosecution service or other State agencies of an approach made to incite him or her to commit a corruption offence, the commission by another public or municipal official of a corruption offence, the failure by such official to provide information or the deliberate submission by such official of inaccurate or incomplete information concerning his or her income, property or obligations relating to property shall receive State protection, in accordance with the law of the Russian Federation.

The requirement for officials of State and municipal agencies to provide information on their income, property or property-related commitments is laid down in article 8 of the Federal Anti-corruption Act.

Essential legal principles are also contained in Presidential Decree No. 1065 of 21 September 2009 on the verification of the accuracy and completeness of information provided by persons seeking a post in the federal civil service and by federal public officials and on compliance by federal public officials with the requirements for official conduct; Presidential Decree No. 821 of 1 July 2010 on the establishment of commissions for the maintenance by federal public officials of requirements for official conduct and the regulation of conflicts of interests; and other legislative acts.

Presidential Decree No. 557 of 18 May 2009 approves the list of posts in the federal civil service upon appointment or promotion to which federal civil servants are required to provide information on their income, property or property-related commitments and information on the income, property or property-related commitments of their spouse or minor children.

The procedure for verifying the accuracy and completeness of information thus provided is governed by Presidential Decree No. 1066 of 21 September 2009, amended 14 January 2011, on the verification of the accuracy and completeness of information provided by persons seeking a post in the civil service of the Russian Federation and persons occupying civil service posts, and the maintenance of restrictions on persons occupying posts in the civil service of the Russian Federation.

The principles of public reporting and transparency of the executive set out in article 10 of the Convention (Public reporting) are reflected in the Federal Act on access to information on the activities of State and local authority bodies, which entered into force on 1 January 2010.

The Act establishes a single procedure for access by individuals and organizations to information on the activities of State and local authority bodies. It defines the principles and methods of obtaining access to information, the forms in which it appears and the rights and obligations of the users of the information, of the executive authorities and of their officials. It also establishes liability for breaching the procedure on access to information on the activities of State and municipal agencies.

Special rules on transparency in the activities of the judicial community are set out in Federal Act No. 262 of 22 December 2008, amended 28 June 2010, on access to information on the activities of the courts in the Russian Federation.

The basic principles relating to the provision of access to information on the activities of State agencies, local government bodies and the judiciary are:

Openness and accessibility of information, except in cases provided for under federal law;

Accuracy of information and promptness in supplying it;

Freedom to seek, receive, transfer or disseminate information in any lawful manner;

Respect for the right of the individual to the inviolability of private life, to personal or family secrets and to the protection of their honour and professional reputation and the right of organizations to the protection of their professional reputation when information is provided on the activities of State agencies, local government bodies or the courts;

Respect for the rights and lawful interests of persons involved in judicial proceedings when information is provided on the activities of the courts;

Non-interference in the administration of justice when information is provided on the activities of the courts.

Access to information on the activities of State agencies, local authority bodies or the courts is restricted in cases where such information constitutes, in the federal legislative system, a State secret or other secret protected by law.

Under the law, State agencies and local government bodies are required to ensure access to information concerning their activities through various outlets. This may include publication of information in the media, the placing of information on the Internet or the direct placing of information with libraries or archives.

For example, information on the activities of the Prosecutor-General's Office and subsidiary offices is posted daily on the site www.genproc.gov.ru and on the sites of prosecutor's offices throughout the Russian Federation.

Information on the activities of the Office of the President of the Russian Federation in dealing with applications by individuals and organizations is regularly posted on the site www.kremlin.ru, in the "Letters" portal under the heading "Overview of applications" and is accessible for general use.

Article 12 of the Convention relates to the maintenance of cooperation between the State and the private sector in preventing corruption, disallowing the tax deductibility of expenses that constitute bribes and prohibiting the abuse of financial and tax accountability. In addition, States Parties to the Convention are invited to regulate conflicts of interest that may arise in connection with the work of former public officials in offices or enterprises formerly under their charge.

The public prosecution service maintains close cooperation on combating corruption with private organizations and community associations through a constant exchange of information and participation in joint projects. It also engages in constructive cooperation with the Civic Chamber of the Russian Federation.

In addition, in order to provide protection for the rights and lawful interests of persons engaged in business, the public prosecution service has, on the instructions of the Prosecutor-General's Office, established standing councils, which are already operational, for the protection of small and medium-sized enterprises.

The councils are composed of representatives of Russian regional prosecutor's offices, law enforcement and oversight agencies, social organizations, business associations and representatives of regional branches of political parties.

The councils' purpose is to establish the opinions of business people, combat corruption, actively and speedily identify and suppress breaches of the law and enhance the openness and transparency of the work of the public prosecution service.

The provisions of article 12, paragraph 2 (e), of the Convention are enshrined in article 12 of the Federal Anti-corruption Act.

A citizen who has previously held a post within a State or municipal agency — a list of public service positions being established under Russian legislation — may, within two years of separation from that post, take up a post in a private or non-profit organization provided that his or her former duties as a public official included the State administration of such organizations and that his or her appointment has been approved by the relevant commission responsible for monitoring compliance with the rules of conduct of public officials of the Russian Federation and regulating conflicts of interest.

In order to implement the other provisions of article 12 of the Convention, a number of legislative acts, including Federal Act No. 129 of 21 November 1996 on accountancy (amended on 28 September 2010), Federal Act No. 307 of 30 December 2008 on auditing (amended on 28 December 2010) and Government Decision No. 696 of 23 September 2002 on the approval of federal auditing standards (amended on 27 January 2011), have been adopted and are in force in the Russian Federation.

Article 18 of the Federal Accountancy Act provides that “the heads of organizations and other persons responsible for the organization and keeping of accounts shall, in accordance with the legislation of the Russian Federation, be liable under administrative or criminal law for any failure to keep accounts in accordance with the procedure established by the legislation of the Russian Federation and by the regulations of bodies responsible for the regulation of accounting, and for any falsification of accounts or non-compliance with deadlines for the submission and publication of accounts.”

The falsification of financial and tax accounts, depending on the gravity of the consequences and the intended purposes of such falsification, may be categorized as an administrative offence under the Code of Administrative Offences (chapter 15) or the Tax Code of the Russian Federation or as a criminal offence under articles 174 to 199.2 of the Criminal Code of the Russian Federation.

On 30 November 2005, the Government of the Russian Federation issued Decision No. 706 on measures to ensure the conduct of mandatory audits. Liability for the failure of an organization to carry out a mandatory audit is regulated partly by the provisions of article 5 of the Federal Auditing Act, article 126 of the Tax Code and article 15.6 of the Code of Administrative Offences.

Provisions relating to the internal oversight of businesses are set out in Federal Act No.115 of 7 August 2001 on the laundering of proceeds of crime and the financing of terrorism.

Article 7 of the Act establishes that, in order to prevent the laundering of proceeds of crime and the financing of terrorism, organizations that perform operations involving monetary or other assets are required to establish internal control regulations and mechanisms for their enforcement, appoint special officers responsible for monitoring compliance with those regulations and implementing the corresponding mechanisms and adopt other internal organizational measures as necessary.

The internal control regulations for organizations performing operations involving monetary or other assets must include a procedure for recording the required information in documentary form; a procedure for ensuring the confidentiality of information; staff training requirements; and the criteria for identifying unusual transactions and the elements constituting such transactions, taking into account the particular nature of the activities of the organization concerned.

Internal control regulations are drawn up in accordance with the recommendations established by the Government of the Russian Federation (through Government Order No. 983 of 17 July 2002) or, in the case of credit institutions, the recommendations established by the Central Bank of the Russian Federation (in accordance with Official Communication No. 99 of 12 July 2005 of the Bank of Russia).

The qualification requirements for special officers responsible for monitoring compliance with internal control regulations and corresponding enforcement mechanisms, staff training requirements and the identification of clients and beneficiaries are determined in accordance with the procedure established by the Government of the Russian Federation (in Government Decision No. 715 of 5 December 2005 on the qualification requirements for special officers responsible for monitoring compliance with internal control regulations and corresponding enforcement mechanisms, staff training requirements and the identification of clients and beneficiaries in order to prevent the laundering of proceeds of crime and the financing of terrorism) or, in the case of credit institutions, the procedure established by the Central Bank (through Bank of Russia Directive No. 1485 on staff training requirements in credit institutions).

In full conformity with the principles of the Convention, (article 12, paragraph 4), Russian legislation does not provide for the tax deductibility of expenses that constitute bribes.

In accordance with article 13 of the Convention and the provisions of article 3, paragraph 7, of the Federal Anti-corruption Act, the cooperation of the State with civil society institutions, international organizations and individuals is one of the main principles of the fight against corruption.

Federal Act No. 32 of 4 April 2005 on the Civic Chamber of the Russian Federation (amended on 3 May 2011) was adopted in order to ensure that citizens of the Russian Federation and voluntary associations cooperate with the federal State agencies, the State agencies of the constituent entities of the Russian Federation and local government bodies to ensure that the preparation and implementation of State policy takes into account the needs and interests of the citizens of the Russian Federation, the protection of the rights and freedoms of those citizens and the rights of voluntary associations.

Building a zero-tolerance attitude among the general public towards corruption is one of the areas in which the federal State agencies are working to increase the legal literacy of the general public. In order to strengthen those activities, systematic efforts have been organized to improve general understanding of legislation in force, instil a sense of civic responsibility among the general public, and strengthen confidence in the State authorities.

Consequently, broad use is being made of the opportunities offered by print media, television, radio, news agencies and Internet resources.

The public is regularly informed of the measures undertaken to combat corruption, including audits carried out, violations detected and measures taken to eliminate such violations.

In 2010, for example, 75,767 statements by prosecutors relating to anti-corruption issues were published (compared to 57,095 in 2009); in the first quarter of 2011, a total of 15,182 such statements were published.

Press conferences, round tables, briefings, interviews and other events dedicated to anti-corruption issues are organized and held regularly (with the participation of representatives of the media and voluntary associations).

Communication has been established with legal publishers on the subject of publishing legal literature covering anti-corruption issues.

The teaching plans and programmes of the Academy of the Prosecutor-General's Office aim to strengthen the anti-corruption aspect of students' training and improve staff competence.

The federal State agencies are all engaged in efforts to improve legal literacy among the general public by giving law-related lectures in educational institutions and workplaces in order to promote an attitude of non-tolerance towards corruption. Particular attention is accorded to working with young people.

Use is made of very clear information materials (awareness-raising booklets) which are distributed among the general public in face-to-face meetings with citizens, during presentations in workplaces and in educational institutions. The booklets are published in the media and on official websites.

In the area of anti-corruption outreach activities, the federal State agencies work in close cooperation with private organizations and voluntary associations through ongoing information exchange and participation in joint events. Constructive cooperation is also afforded by the Civic Chamber of the Russian Federation.

Since March 2008, the official website of the Prosecutor-General's Office has featured a section entitled "The fight against corruption", which offers citizens an online incident report facility as a means of reporting any incident of corruption that has come to their attention. Some 8,448 reports were submitted through the facility in 2010 (5,104 were submitted in 2009) and 2,827 reports were submitted during the first quarter of 2011.

A similar section of the website is dedicated to the problems of protecting enterprises ("Prosecutorial monitoring of respect for the rights of enterprises"). In this section, visitors can report the creation of administrative barriers, unjustified interference in their economic activities and administrative pressure placed on their businesses.

In addition, websites of prosecutors' offices nationwide have been created, a number of those sites featuring special sections intended to facilitate the timely reporting of information on incidents of corruption.

All reports are examined in accordance with the procedure established by law.