

On National Initiatives and “Best Practices” in the Area of Prevention of Corruption in the Republic of Belarus

Article 5, UN Convention Against Corruption

One of the crucial aspects of legislative regulations on the question of the fight against corruption in the Republic of Belarus turns on the development and successive realization/implementation of specific national programs in areas of the fight against corruption. In particular, currently, specialized agencies of the state administration of the Republic of Belarus as part of their competences implement guidelines/provisions of national programs on the fight against crime and corruption in 2010-2012, confirming the decree of the president of the Republic of Belarus of September 23 2010, No. 485.

For the purpose of improvement of political effectiveness countering corruption, on 22 December 2011 changes and additions to the law of the Republic of Belarus “On the Fights Against Corruption” were introduced, which are, in particular:

- Including the concept “conflict of interest” and assessments on the prevention and settlement of conflicts of interest connected to the fulfilment of the charges of government officials (“conflict of interest” – situation in which the private interests of a government official, his spouse, close relatives, or relatives by marriage influence or can affect the proper execution of his official government service when making his decisions or his participation in making decisions or committing other actions during his service (at work);
- Adducing new versions of the terms “public official” and “persons the equivalent of government officials” (putting into concrete terms a current list of additional persons occupying positions connected to the implementation of organizational-administrative or administrative-economic charges in non-governmental organizations, with government funding, for which state ownership makes up not less than 50%)
- Revising and expanding the list of restrictions established for public officials and their equivalents who take part in transactions on behalf of government organizations or non-governmental organizations in authorized funds for which government funding makes up no less than 50%, with legal entities, the owners of which are the spouse, close relatives or relations by marriage, and also individual entrepreneurs who are their spouse, close relative or relative by marriage

In addition, in 2011 the Model Regulations for Commissions on Corruption Prevention were confirmed (enacted by the Council of Ministers of the Republic of Belarus on 26 December 2011, No. 1732.).

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The basis is the regulations already taken and proven successful in the application of the provisions of existing regulatory laws, regulating the activities of similarly previously established commissions. The regulations regulate the competences of the commission

regarding prevention of corruption, the procedure for its creation and activities, and the powers of the chairman, secretary, and members of the commission.

In order to eliminate the causes and conditions contributing to corruption in the most corrupt spheres of activity, in 2011 substantial adjustments were made to the legislative acts on government purchases, licensing, land allotments, the implementation of administrative procedures, declaration of revenue and property, etc.

In compliance with the decree of the President of the Republic of Belarus of 6 June 2011, No. 230 “On the measures to improve the criminological assessment,” a criminological assessment should be conducted according to the legislative acts.

Organs of the government, responsible for the formulation of effective policies against corruption, implement the necessary coordination with the competent government organs of other States, and also with international and regional organizations through mutual exchange of information, and participation in various international conferences, seminars, and other international events. According to their outcomes, proposals are brought forth to improve national anticorruption legislation and practices in the fight against corruption.

On 13 January 2011 the Republic of Belarus completed the ratification process of the Agreement between the Republic of Belarus and the Council of Europe in respect of the Rights and Immunities of Members of the Group of States against Corruption and Members of the Valuation Committee. Currently, the Republic of Belarus is a member of the Group of States Against Corruption (GRECO).

In the course of the 51st plenary session of GRECO (23 May – 27 May 2011) questions were considered on the implementation of the first and second rounds of assessments of the Republic of Belarus with a view to monitoring compliance with the guiding principles of the fight against corruption, adopted by the Committee of the Ministers of the Council of Europe on 6 November 1997, and the implementation of international legal instruments on opposition to corruption (the Convention on Criminal Liability for Corruption, the Convention on Civil Liability for Corruption, etc.).

On 13-18 November 2011, a visit by a group of GRECO appraisers took place in the Republic of Belarus. Meetings with the officials were organized at 19 Belorussian state bodies and organizations. The members of the group familiarized themselves with the basic approaches of the organizations’ work in the fight against corruption in the Republic of Belarus.

The results of the monitoring and corresponding recommendations will be discussed at the next plenary session of GRECO, which is planned to be conducted in June 2012.

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In 2011, representatives of state bodies of the Republic of Belarus participated in the international measures on the prevention, exposure, and suppression of corruption,

organized within the framework of the Eastern partnership, and also the U.N. organizations on economic cooperation and development, etc.

On 28-30 September 2011, a representative of the General Prosecutor's office of the Republic of Belarus took part in the 10th monitoring meeting of the Istanbul action plan on the fight against corruption and the 12th meeting of the steering group of the Network of the fight against corruption for Eastern Europe and Central Asia, which took place at the headquarters of the OECD in Paris.

Representatives of the General Prosecutor's office took part in the 50th, 51st, 52nd, and 53rd plenary sessions of GRECO.

In November and December 2011, heads of the divisions dealing with the fight against corruption in the General Prosecutor's office of the Republic of Belarus took part in the meetings of the 1st and 2nd regional conferences on the draft instrument of the EU/COE "Good governance and the fight against corruption" platform initiative of the EU "Eastern Partnership."

The Republic of Belarus actively collaborates on questions on the fight against corruption with member states of the Commonwealth of Independent States and other post-Soviet states. With the participation of representatives of law enforcement and other state bodies, in 2011 these states held relevant seminars and conferences.

For the purpose of the creation in the Republic of Belarus of effective state systems counteracting corruption that take into account international practices, legal and organizational mechanisms for the prevention of corruption offenses, the Ministry of Internal Affairs of the Republic of Belarus was prepared a project proposal on international technical assistance by the U.N. Development Programme (UNDP) for the Republic of Belarus entitled "Counteracting Corruption in the Republic of Belarus," which is included in the National program of international technical cooperation for 2012-2016.

In June 2011, in Minsk, a working meeting for the Republic of Belarus was held with experts from the U.N. Development Programme (UNDP), which is the donor of international technical assistance, for discussion of the project proposal.

In 2012, officials of the Ministry of Internal Affairs of the Republic of Belarus are planning to take part in seminars to study the experience of member states of the European Union in the prevention of corruption and the fight against it, organized by the European Commission (June 2012, Minsk).

In June 2012, under the Ministry of Internal Affairs of the Republic of Belarus, it is planned to conduct an international seminar on (???) conducted with the use of the international instrument on technical assistance TAIEX.

Under Article 7 of the U.N. Convention Against Corruption

In order to implement points 4 and 11 of the International Code of Conduct for Public Officials, the welcomed U.N. resolution of 12 December 1996, determining that public officials do not take part in any transactions or occupy any positions or perform any functions or have any financial, commercial or other analogous interests that are incompatible with their positions, functions, charges, or their performance; take part in political or other activities outside the framework of their official charges in compliance with the laws and administrative provisions thereby so as to not undermine the confidence of the public in the impartiality of their functions and charges, are implementing the Law of the Republic of Belarus of 30 December 2011 No. 333-3 “On the introduction of amendments and additions to the Law of the Republic of Belarus ‘On Civil Service in the Republic of Belarus.’”

Particularly, the law provides for the transmission of public officials’ documents, granting rights to privileges and advantages in connection with political, religious views or national identity, received from foreign states, at the time of their public service, to the personnel service of the relevant state body.

To increase the effectiveness of personnel development, to improve the system of accountability, selection, preparation, and placement of personnel, the President of the Republic of Belarus signed relevant legislative acts.

The decree of the President of the Republic of Belarus of 22 March 2011 No. 119 “On introducing amendments and additions to the decrees of the President of the Republic of Belarus of 14 March 2005 No. 122 and of 15 October 2007 No. 498” stipulates that the certificate of service which is produced by the certifying Commission on each Executive and is signed by the supervisor or official authorized to make a proposal for the appointment of the employee to the position (releasing him from his office), except objective assessment of the socio-political activity evaluated, his practical activity, professional business, and personal qualities, the level of professional training, management culture, and ability to work with people must be contained in an assessment of the quality of their work, with the appeals of citizens and legal entities.

In order to improve the legal regulation of issues of government service and improvement of citizens’ material welfare/security, for first-time entrants to public service, by decree of the President of the Republic of Belarus of 22 February 2012 No. 94 “On the assignment of classes of civil servants,” according to which the class of a state employee for the first time entering the civil service is assigned, not later than one month from the day of appointment to public office or from the last day of the probationary period.

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For improvement on the order of financing of candidates for the post of President of the Republic of Belarus, and also for the post of Deputy of the Chamber of representatives of

the National Assembly of the Republic of Belarus, in the electoral code of the Republic of Belarus a rule is introduced on the prohibition of making donations to the election funds of the candidates' organizations, received during the year, prior to the day of making donations, by foreign citizens and persons without citizenship, and also by anonymous donors; if these organizations are in receipt of foreign aid, it should be returned to the foreign States, foreign organizations, international organizations, foreign citizens and persons without citizenship or, in the case that return is impossible, the money should be transferred to the state until the last day of election fund donations.

There is a similar procedure for the financing of political parties established in the Law of the Republic Belarus of 5 October 1994 "On political parties."

On Article 8 of the U.N. Convention Against Corruption

The above mentioned norms in the legislation on public service and the election of public officials pursued along with other objectives the prevention of the occurrence of conflicts of interest, the procedure of prevention and resolution for which is settled in detail in the Law of the Republic of Belarus "On the introduction of amendments and additions to the Law of the Republic of Belarus 'On the fight against corruption.'"

A public official is obliged to notify in writing to the official to which he is immediately subordinate at the beginning of a conflict of interest or the possibility of its occurrence, as soon as he becomes aware of it, and has the right to declare in writing a recusal from decision-making, participation in decision-making, or performance of other actions in his service (work) causing or likely to cause a conflict of interest. The official may choose to not accept the recusal and oblige the public official in writing to perform certain actions in his public service (work). On the occurrence or possibility of occurrence of a conflict of interest and the results of the consideration on the recusal of his position, his supervisor shall inform the head of the state agency, or other organization.

The head of a state agency, or other organization, to which the occurrence or the possibility of the occurrence of a conflict of interest has become apparent, must promptly take measure for its prevention or settlement.

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In order to prevent or settle conflicts of interest, the head of a state agency or other organization has the right to:

- give a public official written recommendations on the adoption of measures for the prevention or settlement of conflicts of interest
- suspend a public official from conducting state business that will cause or is likely to cause conflicts of interest
- transfer the public official, according to the legislation of the Republic of Belarus, from the office, the execution of duties of which has caused or may cause a conflict of interest, to another equivalent position

- entrust the execution of the official's former duties to a new workplace or temporarily change the duties of the public official in the order established by the legislation of the Republic of Belarus in order to prevent a conflict of interest or the possibility of its occurrence
- take other measures envisaged by the legislation of the Republic of Belarus

At the present time, in the Provision on the procedure for verification and filing of declarations of income and property, approved by the resolution of the Council of Ministers of the Republic of Belarus on 29 June 2006 No. 952, appropriate changes were made, aimed at the determination of specific grounds for the verification of declarations on income and property.

The head (deputy head) of a state body (organization) makes decisions on whose declarations on income and property made in the current year and submitted to the state agency (organization) must be verified for completeness and credibility:

- individuals appointed as heads of state organizations, and also to positions of leadership in non-governmental agricultural organizations, with whom, in accordance with the legislation of the local executive and administrative bodies, it is required to conclude contracts
- obligated persons, the declarations of income and property of which have been submitted to the appropriate state body (organization) but not verified for more than 5 years preceding the current calendar year.

On Article 10 of the U.N. Convention Against Corruption

In 2011, the Republic of Belarus passed a new law "On appeals by citizens" which contains a number of important innovations.

Thus, the procedure for personal reception: the heads of organizations and their authorized officials are obliged to carry out personal reception not less than once per month on an established day and time. Information on the time and place of the carrying out of personal reception and if there is a pre-recording of the personal reception is

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provided for the organizations in a public space (at information stands, boards, and in other modes).

The schedule of personal reception and the procedure for preliminary registration for personal reception is set up by the head of the organization.

In the temporary absence on the day of personal reception of the head of the organization, the person performing his duties will conduct the personal reception. In the temporary absence on the day of personal reception of another public officer conducting the personal reception, the head of the organization shall be obliged to ensure the timely and

proper performance of the functions of the temporarily absent official by any other official of the organization.

If on the day of personal reception it is a public holiday or a non-working holiday declared by the President of the Republic of Belarus, the day of personal reception is postponed to the following working day.

By decision of the head of the organization, there may be organized a field public reception and also a preliminary recording of such reception.

The law provides for the right of the head of the organization during the personal reception to make a decision on the application for technical assistance (audio and video recording, filming and photography). In the case of making such decision, the applicant, at the beginning of a personal meeting, shall be notified of it.

In accordance with the changes made to the Order of the President of the Republic of Belarus of 15 October 2007, No. 498 “On additional measures regarding the work with appeals by citizens and legal persons,” organizations examining the treatment of citizens are required to post on their official websites on the Internet answers to the most frequently asked questions in the appeals.

In addition, the organizations conduct on a regular basis press conferences, hot lines, and direct communication by phone on issues of relevance to citizens and legal entities with heads and other officials meeting in the workplace, including with the participation of deputies, representatives of mass media, and public associations. The control over execution of decisions, adopted on the appeals received in the course of these activities, is vested in the heads of the organizations.

On Article 12 of the U.N. Convention Against Corruption

In the chamber of representatives of the National Assembly of the Republic of Belarus on 21 December 2011 in its first reading was adopted the bill of the Republic of Belarus “On accounting and reporting” (henceforth “the bill”) which takes into account the provisions of the Directive of the President of Belarus of 31 December 2010 No. 4 “On the development of entrepreneurship and stimulating business activity” in part,

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applying the accounting principles of international financial reporting standards.

In the bill, it sets out the rules for the accounting of assets and liabilities, the main aspect of the accounting from which the greatest extent depends on the accuracy of statements.

It introduces a new type of evaluation – capitalized value. This is the current value of the future earnings and cash outflows from the use of the asset or the present value of the

future use of cash for the repayment of liabilities. This type of assessment is needed mainly for the real evaluation of the reporting of long-term assets and liabilities.

The draft law was changed to reflect exchange rate differences for the issued and advanced payments. At the transfer of advance payment in foreign currency to purchase goods, it will not be necessary to reappraise the amount of the advance. It will be necessary to take account of incoming goods according to the official exchange rate at the date of transfer of advance payment (and when you receive an advance payment from the buyer). The earnings will be determined at the official exchange rate at the date of receipt of advance payment.

The bill complied with the provisions of the Order of the President of the Republic of Belarus of 15 March 2011 No. 114 “On some issues of application of the primary accounting documents:”

- on the significant mandatory reduction in the use of forms of primary accounting documents (at the present time 9)
- on the reduction to the minimum mandatory information which should be contained in any primary accounting document.

The organization has the right to develop and approve its own forms of primary accounting documents with the exception of those for obligatory use.

There is also the possibility of a primary reference document in the form of an electronic document.

Application of standards of international accounting undoubtedly will require an increase in the number of highly qualified accountants, and for that reason the bill proposes to improve their requirements.