Analytical note

Prospects for the Development of Anti-corruption Expertise of Normative Legal Acts and Their Projects in Uzbekistan

United Nations
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Prospects for the Development of Anti-corruption Expertise of Normative Legal Acts and Their Projects in Uzbekistan

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ACA	The Anti-Corruption Agency of the Republic of Uzbekistan
ACE	Anti-Corruption Expertise of legal acts and their projects.
Law on ACE	Law of the Republic of Uzbekistan “On Anti-Corruption Expertise of Normative Legal Acts and Their Projects” of 08.08.2023. № LRU-860
Law on NLA	Law of the Republic of Uzbekistan “On Normative Legal Acts” of 20.04.2021. LRU-682.
CF	A Corruption Factor, in the definition provided for by the Law on ACE and the ACE Methodology.
MJ	Ministry of Justice of the Republic of Uzbekistan.
ACE Methodology	Methodology for determining the factors causing corruption in normative legal acts and their projects, approved by the order of the Minister of Justice of the Republic of Uzbekistan dated 30.10.2023, № 17, registered by the Ministry of Justice of the Republic of Uzbekistan on 31.10.2023, № 3470.
CR	Corruption Risks, in the definition provided for by the Law on ACE and the ACE Methodology.
NLA	Normative Legal Acts.
ARI	Assessment of the Regulatory Impact of the NPA or its project.
UNODC	United Nations Office on Drugs and Crime.

Introduction

The United Nations Office on Drugs and Crime (UNODC) provides technical assistance to the State Parties to the UN Convention against Corruption in their efforts to implement it. One of the most important areas of assistance is to support efforts to analyze the phenomenon of corruption, various forms of its manifestation in certain sectors and spheres of social and economic activity.

In the period 2021–2024, the UNODC implemented the "Global Action for Business Integrity Project in the Republic of Uzbekistan". Its purpose was to assist Uzbekistan in reducing corruption risks associated with shortcomings of legislative acts, establishing a dialogue between the business sector and anti-corruption bodies to take joint actions to improve the regulatory environment, promote business integrity and fight corruption. The development of the ACE Institute of the NLA was considered as a key tool for achieving the goal of the Project.

In this regard, a series of trainings on anti-corruption expertise was held for civil servants of the Republic of Uzbekistan. In addition, trainers were trained in this area, which allowed to strengthen the republic's ability to train specialists in anti-corruption expertise in the regions.

Within the framework of the Project, surveys and group discussions were held with representatives of business entities, state regulators, as well as civil society organizations. The results of these studies are reflected in the Discussion Note "Promoting Dialogue between Business and State Regulators on Corruption Problems" prepared in November 2022, as well as in the Analytical Report on the Assessment of the Level of Corruption in Various Sectors of the Economy of Uzbekistan and Regions of the Republic, prepared by the Center for Economic Research and Reforms Commissioned by the Russian Orthodox Institute of Russia in August 2023.

The project also assisted in the establishment of the Republican Entrepreneurship Integrity Forum, which was held in 2021 and 2022. In addition, the Project contributed to the organization of meetings of representatives of business circles with the leadership of the Anti-Corruption Agency, the Commissioner for Protection of Rights and Legitimate Interests of Entrepreneurs under the President of the Republic of Uzbekistan (the Office of the Business Ombudsman), as well as the Chamber of Commerce and Industry of the Republic of Uzbekistan on November 10, 2023.

Disclaimer

The views, conclusions and proposals expressed in this note cannot be considered as an official statement, are not the official position of UNODC. Their task is to contribute to the scientific and practical discussion on the prospects for the development of the rulemaking system in the Republic of Uzbekistan, improving the corruption prevention system and the overall improvement of the regulatory environment.

This analytical note summarizes the results of the analysis and conclusions regarding the state of the institute of anti-corruption expertise of normative legal acts and mechanisms of rule-making of the

Republic of Uzbekistan. It also offers recommendations for the further development of ACE NLA. For the convenience of building programs of further technical assistance and development of this institute in Uzbekistan, this notes groups the proposed directions for the development of anti-corruption expertise in a logically interconnected matrix of goals and actions.

We hope that the work done, and the proposed recommendations will contribute to accelerating socio-economic development and strengthening the democratic institutions of the Republic of Uzbekistan.

I. Review of normative legal acts on anti-corruption expertise in Uzbekistan

The introduction of the institute of anti-corruption expertise in Uzbekistan has been carried out since 2006. Its development can be divided into four stages.

In 2006–2009, the Center for Economic Research studied legislation in such areas as privatization, public procurement, tax administration, banking, wholesale and retail trade, and foreign trade for the presence of corruption factors.

In 2011, the Ministry of Justice for the first time developed a methodology for conducting anti-corruption expertise of draft normative legal acts, and in 2015 its improved version was approved as a normative legal act (reg. № 2745 of 25.12.2015). During this period, ACE was not considered as an independent type of examination, but only as an element of legal expertise.

The third stage of development of the institute of anti-corruption expertise of normative legal acts and their projects falls on 2020–2021. During this period, systemic reforms were carried out in this direction with the introduction of a new procedure for anti-corruption expertise.

In particular, the Regulation on the procedure for conducting anti-corruption examination of normative legal acts and their drafts (reg. № 3287 of 24.02.2021) was adopted. This provision contains a methodology and a checklist — a questionnaire of the standard form for the identification of corruption factors, consisting of 23 corruption factors in 4 main areas. The specific examples given in it of identifying corruption norms simplify the procedure of anti-corruption expertise and make it accessible not only to lawyers.

The mandatory anti-corruption examination of all draft normative legal acts was legislatively enshrined in Article 29 of the Law of the Republic of Uzbekistan "On Normative Legal Acts" in the new edition.

In 2021, a special unit was established in the structure of the Ministry of Justice responsible for coordinating and providing methodological assistance to the activities of state bodies and organizations in the field of anti-corruption examination of normative legal acts and their projects.

In order to eliminate systemic problems in law enforcement practice and organize the adoption of normative legal acts on the principle of "corruption-free legislation", the resolution of the President of the Republic of Uzbekistan of October 22, 2021 № PP-5263 "On measures to further improve the anti-corruption examination of normative legal acts and their projects" was adopted, which provided for: phased full anti-corruption examination of existing normative legal acts.

Among other measures, resolution PP-5263 approved the schedule for the anti-corruption examination of existing legislative acts (more than 21 thousand) until 2026, and provided for wide involvement of the public, scientific organizations and independent experts in the anti-corruption examination of normative legal acts and their projects. For this purpose, PP-5263 established the procedure according to which representatives of scientific organizations and higher educational institutions, as well as individuals-independent experts were granted the right to conduct scientific and independent anti-corruption expertise of normative legal acts and their projects. The practical imple-

mentation of this right has not yet revealed its potential.[1] Among the possible reasons, from a regulatory point of view, the following could be considered:

- According to PP-5263, such a right can be exercised only by experts entered in the Register of Experts on Anti-Corruption Expertise of Legislative Acts and Their Projects (the name of the Register is given in the wording of PP-5263), which already narrows the number of persons who could contribute to the implementation of the ambitious task of ACE. Accordingly, to enter an expert in the register, he must undergo the certification procedure established by the Ministry of Justice.[2]
- The Regulation on the procedure for the formation and maintenance of the register of experts on anti-corruption expertise of legislative acts and their drafts, approved by the Ministry of Justice, limits the focus of the activities of certified experts only to legislative acts and their drafts. According to Article 6 of the Law of the Republic of Uzbekistan "On Normative Legal Acts", legislative acts are the Constitution and laws of the Republic of Uzbekistan, resolutions of the Chambers of the Oliy Majlis of the Republic of Uzbekistan.

Decrees and resolutions of the President of the Republic of Uzbekistan, resolutions of the Cabinet of Ministers of the Republic of Uzbekistan, orders and resolutions of ministries, state committees and departments, decisions of local state authorities are by-laws.

In terms of the totality of impact, these provisions lead to the fact that independent experts included in the Register are authorized to conduct ACE only in relation to acts adopted by the Parliament of the Republic.

The beginning of the fourth stage can be associated with the adoption of the ACE Law in August 2023. The law included the key provisions of the previous methodology, establishing the powers of each party involved in the ACE process, a list of corruption factors, as well as the form of the Checklist. At the same time, in terms of the methodology of ACE, there are no fundamental changes with the adoption of this Law.

[1] Every year, about 2,000 different normative legal acts are adopted in the Republic of Uzbekistan, of which the share of legislative acts is about 10-15%. As of May 1, 2024, only 1 (one) expert is registered in the Register.

[2] Regulation on the procedure for the formation and maintenance of the register of experts on anti-corruption expertise of legislative acts and their drafts. Reg. MJ. No. 3347 dated 02.10.2022

II. Persistent efficiency limitations

In the practice of applying anti-corruption expertise of normative legal acts and their projects in Uzbekistan, as well as the organization of its processes, several factors limiting the effectiveness of its implementation can be observed. Based on the results of expert discussions, these factors can be divided into methodological, procedural and expert.[3]

Let's consider these factors in more detail.

1.1. Methodological limitations

Key ideas of the section:

- ACE is limited only to the initial analysis of the text of the NLA.
- The form of documenting the results of the initial analysis is not explained in enough detail. In practice, this can create a misconception about the obligation only to fill out the Checklist.
- There are no mandatory requirements for expert discussions and consultations.
- There is no relationship between ACE and ARI.
- Guidance on options for eliminating corruption is not detailed enough and does not consider the practical difficulties faced by experts.

According to the Law on ACE, the examination focuses on the primary identification of corruption factors in the provisions of the NLA or its draft — that is, on the consideration of the text of the NLA, the identification of individual norms containing the corruption factor and the adoption of one of two options for decisions:

1. Taking measures to eliminate the identified CF.

At the same time, (a) there are no procedural mechanisms to ensure that the measures taken were sufficient. And b) there is no indication of the obligation to document the process of such verification by an authorized specialist of the Ministry of Law.

2. In case of impossibility to eliminate the CF–1) entry of a mark in the Checklist, 2) "justification of the lack of opportunity to present this norm in a different way", 3) "to state the measures taken to contain corruption risks that may arise due to this CF".

In practice, developers avoid recognizing that the draft NPA they submitted does contain CF, as in this case they will need to perform actions 2) and 3). Neither the ACE Law nor the ACE Methodology indicate which arguments or **type of arguments can be considered convincing to agree with the developer's position**, nor do they indicate **acceptable options for "containment measures"** of the CR. In this situation, when trying to take measures to "eliminate" the CF or "contain" the CR, the developers will incur higher working hours **even before the draft NLA is submitted to the MJ**, even though **this will not accelerate the ACE by the MJ**. Given that the developers in most cases are "squeezed" in the deadline for the development and submission of draft NLAs, they make a predictable rational decision — to simulate

[3] *Based on the results of group discussions with representatives of entrepreneurs, as well as civil servants involved in the process of drafting legislative acts. See Discussion paper "Promoting dialogue between business and government regulators on corruption issues". UNODC Tashkent. 2022.*

the absence of CF in the draft NLAs they submit.

Recommendation 1. *If possible, it is recommended to build the logic of the ACE in such a way that the developer is interested in reflecting all the CF contained in the draft NLA, which he contributed to the MJ, since only in this case the load on the MJ can be reduced, and the quality of the submitted drafts of the NLA — increased. Such a condition can be achieved, for example, by:*

1.1. Amendments to Part 6 of Article 16 of the ACE Law, according to which the ACE of projects is carried out by analyzing the text of the draft NLA and comparing the results with the checklist filled in by the developer.

1.2. The introduction of a condition according to which the draft NLA is returned for revision if the number of CF identified in the draft NLA during the examination by MJ or ACA exceeds the number of CF reflected by the developer in the checklist by 1 factor.

Even if the ACE is implemented in accordance with the current Methodology, its results will not demonstrate how the identified corruption norms can provoke corruption. The conclusion requirements established by Article 18 of the ACE Law do not indicate the need for a holistic description of corruption scenarios that may arise because of the combined impact of CFs remaining in the NPA or its draft. That is, there is no need for a logical and structural analysis of the CF within one NLA. And, moreover, there is no such requirement for consideration of the NLA in conjunction with other regulations governing the same relations.

The Law and the ACE Methodology describe groups and types of corruption factors. However, the list of types of corruption factors presented is not sufficient and needs further explanation and justification. This is since in some cases, norms and formulations that formally do not have signs of corruption specified in the Law and Methodology on ACE can provoke corruption in practice. First, it concerns economic regulation. For example, detailing the criteria for a person's compliance with certain economic, technical and other standards, or providing supporting documents. Such criteria and requirements, despite their limitations in number and types, and apparent logic and validity, can create insurmountable barriers in practice or economically unfavorable conditions for most participants in economic activity in a certain area.

A formal example of such norms is the high rates of import of certain goods, the exemption from payment of which (or preferential rates) is received by legal entities specified by special decisions of the executive authorities. Another hypothetical example is certain criteria of licensing requirements that do not affect the quality of goods, works and services produced by the licensee.

Recommendation 2. *For the expert to get a better understanding of the situation, it is advisable to use the results of the assessment of the regulatory impact of the proposed draft NLA, as well as to analyze the project in the context of existing norms and regulations of legislation. That is, the relationship of the action of the norm in question with the effect of other norms and with the general context of the relations regulated by the act should be considered.*

Recommendation 3. *It is necessary to establish a requirement for the procedure for conducting ACE, the observance of which considers industry specifics and law enforcement practice from different positions — the regulator and regulated entities. In other words, after the initial analysis, it is advisable for an expert carrying out anti-corruption expertise to discuss the project in*

question with industry experts: a) developers, b) opponents of developers.

The ACE methodology points to corruption factors, requiring measures to eliminate them. The methodology offers the following solutions:

- Exclusion of a corrupt norm;
- Modification and editing, specification of the conditions for decision-making or provision of public services, benefits and preferences;
- Expanding or specifying the powers of government agencies and officials in accordance with the responsibilities assigned to them;
- Establishment of realistic deadlines for the preparation by regulated entities of documents required for obtaining public services, establishment of specific measurable and at the same time realistic for compliance with regulatory standards;
- Limitation the discretionary powers of officials;
- Specification of the date of entry into force / loss of force of the normative legal ac;
- Adoption of a normative legal act that eliminates the gap in legal regulation;

In practice, MJ experts may face the refusal of the developer to implement all or some measures to eliminate corruption norms. The reasons may include the complexity of the revision change, or the likelihood of unforeseen circumstances in which compliance with the exact wording becomes impossible. Often developers prefer to use more general and vague language, arguing that "it is impossible to settle and foresee all the circumstances."[4]

The law and methodology do not offer experts options that would explain acceptable actions to meet the goals and objectives of the examination.

Recommendation 4. *It is recommended to develop methodological approaches that allow to introduce norms that balance unremovable corruption factors from the text of the NLA. Annex 1 proposes additional options for measures to manage corruption risks of legal regulation.*

1.2. Procedural limitations

Key ideas of the section:

- The checklist, de facto, is equated to documentary evidence that the anti-corruption examination has been performed. This can provoke formalism on the part of developers and experts, thereby reducing the quality and result of expert work;
- There are no mechanisms for public accountability of the ACE process and results;
- There are no mechanisms to ensure the quality of expert work, as well as to prevent and resolve conflicts of interest during ACE;
- There are no mechanisms to overcome differences between experts and the leadership of the developer organization;

The Law on ACE arranges the procedure for examination in such a way that filling out the Checklist takes the form of an administrative procedure necessary only for submitting a draft NLA to the Ministry of Justice (Article 16 of the Law on ACE). As a result, the checklist from the analysis tool turns into a kind of certificate, the presence of which allows you to promote the NLA project further through the stages of interdepartmental coordination.

Article 16 of the Law on ACE attempts to establish a unified procedure for conducting ACE for all subjects of this examination. It is

[4] *Established based on the results of group discussions with civil servants developing draft regulatory legal acts*

expected that considering the different goals and roles of subjects — developers, MJ, ACA and other agencies, as well as civil society institutions — it is impossible to solve this problem within the framework of one article.

***For example**, Part 6 of Article 16 establishes that ACA and MJ conduct ACE NPA projects "by studying the checklist submitted by the developer". First, such a statement requires key agencies (ACA and MJ) to limit the focus of their attention only to what the developers have filled. The role of these agencies does not require them to analyze the text of the draft NLA, either in form or in substance, for the presence of corruption factors. Secondly, in conjunction with the above, the checklist, which reports that the draft NLA does not contain CF, gives the MOJ the right to accept this document as reliable and to skip the draft NLA for further interdepartmental grounds.*

Recommendation 5. *Consider the feasibility of approving the form:*

5.1. A register of corrupt factors, the elimination of which is impossible from the developer's point of view, supported by protocols of expert discussions, or conclusions of independent experts, based on which the developer really made an attempt to eliminate the CF, but did not find a way to eliminate it. Table 1.

5.2. An initial analysis of the text of the NLA or its draft conducted by the DoJ or ACA, which will clearly show the phrases and formulations that contain the corruption factor. Accordingly, recommendations for the elimination of the CF will be formulated in relation to the specific norm. Table 2.

Recommendation 6. *Consider the possibility of adjusting the minimum requirements for the content and structure of the Conclusion*

Table 1. Proposed Form of the Register of Corruption Factors, the elimination of which is impossible from the developer's point of view.

№	Text of provisions containing corruption factors	Explanation of the reasons why corruption factors cannot be eliminated

Table 2. Proposed Form of primary anti-corruption analysis of the text of a normative legal act or its draft carried out by the Ministry of Law and ACA.

№	Text of the provisions containing corruption norms	Description of the nature / scenario of the possible use of the norm for corruption purposes	Recommended actions

based on the results of the ACE NLA. There is a need to establish a requirement to analyze the identified CFs in the context of their interaction with other related NLAs. Compliance with such a model structure should give an idea of the nature of corruption factors in the analyzed document, whether these factors can be eliminated, or whether it is advisable to refuse to accept / retain the document under consideration.

The conclusion on the results of the anti-corruption examination should be based on the results of the initial analysis, systematize and group the identified corruption norms according to the nature of their impact, and formulate, in general, the most likely impact of the document considered in terms of provoking corruption behavior.

The form of initial analysis should become an integral annex to the Conclusion.

Recommendation 7. *It is preferable to establish a procedure in which the results of ACE become* ***transparent and accountable*** *to the general public.* ***It is advisable*** *to establish not only the requirements, but also the procedures for organizing a public discussion of the results of the examination, the observance of which will ensure the quality of the examination. Requirements may include such as an invitation to discuss experts from the relevant industry, as well as persons who will have to comply with the proposed legal act. The results of the discussions should also be fully documented and publicly available. As one of the possible options for ensuring publicity, it is recommended to draw up a report on the anti-corruption examination of the normative legal act and attach the results of the discussions to the report.*

Recommendation 7.1. *The Legislative Chamber of the Oliy Majlis and its committees can have a positive impact on the quality and results of anti-corruption expertise, establishing the procedure for regularly hearing reports on the practice of anti-corruption expertise and regulatory impact assessment by the Cabinet of Ministers, as well as each executive body involved in rule-making activities.*

Recommendation 7.2. *The establishment of continuous monitoring of publications of the media and civil society activists by the Parliament will reveal signs of corruption offenses provoked by ineffective regulation and shortcomings of the NLA.*

The depth of anti-corruption analysis is largely determined by how the examination process is organized. Article 5 is responsible for the quality of the organization in the Law "On ACE", which defines the basic principles of anti-corruption expertise. However, ***the Law does not specify the mechanisms for how these principles should be enforced****.*

For example, how non-compliance with the principles of "constitutionality" and "legality" should affect the actions of experts, heads of experts, management of ministries and departments during the examination.

How to interpret the principle of "protection and priority of the rights and legitimate interests of individuals and legal entities, the interests of society and the State"? In the process of relationships, these groups will usually have conflicting interests.

Another example: Legal entities are not interested in going through control procedures for their activities, while the state and society are interested in this control Was carried out. The interests and priorities of which of these entities should be guided by experts, individuals over the interests of legal entities, or legal entities over the interests of society or the state?

NLAs can create preferences for some entities by infringing on the interests of others.

***For example**, the provision of benefits and preferences for a certain type of economic entities. Another example, the establishment of a moratorium on inspections of the activities of business entities increases the risks of unfair business activities, production of low-quality products, deterioration of security control on the territory of economic entities. This, in turn, increases the risks to the life and health of citizens.*

Measures of this type are often applied in economic policy. In this regard, experts should have a sufficient set of criteria and rules that allow them to understand how the principle of protection of interests should be implemented when considering a particular type of NLA.

Similar issues should be classified as the "independence" principle. The law and methodological guidelines for anti-corruption expertise should specify the subject of the principle of "independence", as well as the objects and factors from which the subject should maintain independence, as well as acceptable procedural steps to ensure this independence.

***For example**, can the conclusion of a specialist be considered independent if he was forced to agree with the opinion of his head, supervising the deputy head and the head of the department? How should a situation be resolved when the opinions of the expert and his leaders do not coincide?*

The regulatory framework for anti-corruption expertise does not answer these questions. Part 3 of Article 19 of the Law on ACE establishes that "The responsible employee of a state body or organization conducting an anti-corruption examination of normative legal acts and their projects is obliged: if there are grounds for self-withdrawal during the anti-corruption examination of normative legal acts and their projects, immediately declare it to his head".

However, it's not clear from here:

- what specific circumstances are a mandatory ground for self-recusal. What are the consequences if the expert ignores the circumstances that require self-recusal. What mechanisms exist to allow independent verification of the existence of such circumstances.
- the ensuing actions on the part of the manager, in what circumstances he/she is obliged to decide on self-withdrawal. Whether the manager has the right to refuse self-recusal and in what circumstances.
- the procedure for monitoring compliance by the expert and his/her head with the established procedures.

Since the Law and the ACE Methodology did not regulate the circumstances necessary to ensure the impartiality of the expert, a situation has arisen where the opinion of the implementing expert does not matter, and all his actions and conclusions are formalized in accordance with the vision of the management.

The procedural part of ACE in Uzbekistan **does not consider the conflict of interest**. Types of conflicts of interest during ACE. Based on the analysis of ACE practice, such conflicts of interest may take the following forms:

- **Departmental forms**, when departmental tasks can affect the results of the examination.

***For example**, if one of the functions of the department is to prioritize the interests of a certain group of legal entities united on an industry-specific basis. One of the signs of such a conflict may be the wording "in order to protect the interests of domestic producers."*

- **Organizational forms**, when the expert is in a situation of choice, between compliance with the methodology and the expert opinion of the management or sectoral divisions of the same department.
- **Professional and ethical**, when an expert can conspire with the beneficiaries of the NLA being developed.

From a practical point of view, there are several options for overcoming conflicts of interest:

- Organization of an expert discussion involving specialists representing each of the interested groups.
- Targeted collection of feedback and views of representatives of interested groups in writing form.
- Hiring a consultant/s whose candidacy does not provoke a conflict of interest. Moreover, consultants can be hired both to develop the text of the NLA and to conduct a regulatory impact assessment and anti-corruption expertise.

It is important to emphasize that the ACE expert should not be involved in the direct development of the draft NLA and should remain outside the process. Otherwise, his position will coincide with that of the developers, while the expert should consider the situation detachedly and objectively.

Recommendation 8. *It is necessary to consider the possibility of introducing ACE procedures with the construction of business processes, the priority of which reduces the likelihood of conflicts of interest and provides the expert with a comprehensive set of actions when such occurs.*

In particular, **requirements should be established** for the organization and documentation of discussions, the composition of their participants and their belonging to a specific group of stakeholders. In addition, the ARI of the developed NPA project should be carried out in advance, and its results should be presented to the ACE expert.

Accordingly, **Articles 16 and 17** of the ACE Law **should be developed to chapters** establishing a detailed regulation of the examination procedure, which ensures the implementation of the principles of examination established by Article 5 of the same Law.

Recommendation 8.1. *It is advisable that the chapters developed based on articles 16 and 17 of the ACE Act establish various ACE algorithms, taking into account the stages of NLA development provided for by the Law on NLA, for:*

- *NPA Projects*
- *Existing acts*
- *A developer or an expert hired by him*
- *ACA, MU.*
- *Independent expert.*

It should be noted that an insurmountable departmental conflict of interest may indicate that the object or sphere of relations that the agency is trying to regulate is beyond the normative powers of this department, or the executive branch of power, as it requires a balanced consideration of the interests of various social and business groups. The settlement of this type of relationship can be objectively ensured only by the legislative branch of government.

Recommendation 8.2. *The mechanism for preventing and resolving* ***conflicts of interest in the lawmaking process*** *can become an important part of the Law "On Normative Legal Acts", allowing Parliament to play an even more significant role through the implementation of Parliamentary control over the rule-making activities of executive bodies.*

Recommendation 9. *Addressing regulatory gaps in the context of all the circumstances discussed above is possible through the* ***devel-***

***opment and adoption** of a **system of National Standards for Anti-Corruption Expertise**, like auditing standards, or accounting, which should provide a comprehensive set of instructions, norms of conduct and methods to ensure the objectivity of the results of anti-corruption expertise, both for experts and officials.*

1.3. Limitations of expert capacity

Key ideas of the section:

- The number of experts on anti-corruption expertise of NLAs in Uzbekistan, as well as their number are insufficient.
- Adequate funding of expert work is necessary for the qualitative organization of the ACE process and obtain objective results.

Despite the efforts of the Ministry of Justice and the Anti-Corruption Agency of Uzbekistan to train civil servants and experts in the field of anti-corruption expertise, including with the assistance of international organizations, the level of training of civil servants, as well as the total number of experts on anti-corruption expertise, are still insufficient.

Recommendation 10. *It is recommended to consider the feasibility of taking measures that will create a holistic system of training experts, the development and implementation of such educational disciplines as Anti-Corruption Expertise of Normative Legal Acts and Regulatory Impact Assessment:*

- *As mandatory courses for undergraduate and master's students of economic and legal specialties.*
- *As advanced training courses for current civil servants.*
- *Online training that provides automatic online certification opportunities for everyone who wants to gain professional skills in the field of anti-corruption expertise of the NLA.*

To date, government agencies involved in the rulemaking process do not have funds that would be allocated purposefully to finance expert and analytical work. At the same time, in cases of expertise in respect of complex regulations, the involvement of a group of independent experts will be required in its process, which will require additional costs.

Recommendation 11. *The normative activities of ministries and departments need sufficient funding, in particular, the analytical work and ARI stage. It is recommended to link the process of allocating the relevant budget funds with the planning of standard-setting activities, as well as to develop standards for the cost of standard-setting activities.*

III. Promising directions for further development of the Institute of Anti-Corruption Expertise of Normative Legal Acts

Within the framework of the discussion on the purposes of further development and strengthening of the institute of anti-corruption expertise of normative legal acts in the Republic of Uzbekistan, it is proposed to consider the following:

1. To achieve a significant improvement in the quality of regulatory regulation, which should be expressed in:

a. More specific formulation of the goals and objectives of regulation pursued by the adoption of each new normative legal act.

b. Relevance of the goals and objectives of regulating those problems for which a specific normative legal act is adopted.

c. Use in these acts of such regulatory decisions, procedures and mechanisms that are adequate to the stated purposes. That is, the measures taken can ensure the achievement of regulatory goals, rather than the creation of additional opportunities for the extraction of corruption rent by persons responsible for the implementation of decisions.

2. Improve regulatory efficiency, which should be measured by the ratio of the benefits of decision-making to the costs of the public and private sectors to implement these decisions.

In other words, more effective regulation involves less losses and costs associated with corruption nationwide.

***For example**, indicators of improving the effectiveness of anti-corruption expertise can be:*

a. to decrease quantity and share of entities from the non-state sector that initiated corruption cooperation due to unreasonably high costs, time, excessive complexity of procedures.

b. to reduce the share of entities involved in corruption in the total quantity entities that received public services.

c. to reduce the frequency of participation in corruption interaction of business entities.

Collecting information and assessing progress in relation to these goals will require the use of sociological research methods using a methodology that has been evaluated and verified.

The relationship between the goals, directions and actions for the further development of the institute of anti-corruption expertise of normative legal acts in Uzbekistan is set out in Table №3.

Table 3. Logical matrix: Goals, directions and actions for the further development of the institute of anti-corruption expertise of normative legal acts in Uzbekistan.

№	Goals / Directions	Goals / Directions
1	**Significantly improve the quality of legal and regulatory framework**	
1.1	Shift of focus from formalistic (surface) analysis to substantive analysis of regulation.	Ensure that the Regulatory Impact Assessment is carried out before the Anti-Corruption Expertise. Consider interaction with other NLAs (Rec. 1.)
		Recommendation to forego the checklist in favor of a reasonable and verifiable conclusion, supported by the results of the initial text analysis. (Rec. 4, 5)
		Systematic training in the practice of anti-corruption expertise and regulatory impact assessment (Rec.9.).
1.2	Documented expert and open discussions on the results of ACE for testing conclusions	Establish a requirement for open access to documents confirming an open discussion of the results of the ACE. (Rec.6.)
		Adequate financial support for rulemaking activities (Rec.10.)
1.3	Transformation of the best examples of national practices in anti-corruption expertise into a mandatory standard for all bodies involved in rulemaking activities.	Analysis of ACE practice in Uzbekistan, generalization of success. Development, adoption and maintenance of the relevance of the system of National Standards for Anti-Corruption Expertise of Uzbekistan. (Rec.8.)
2	**Increase the effectiveness of legal and regulatory framework**	
2.1	Eliminate the negative impact of conflicts of interest in the process of anti-corruption expertise of the NLA	Ensure that industry specifics are considered when conducting ACE (Rec.2.)
		Introduce norms balancing unremovable corruption factors from the text of the NLA. (Rec.3.)
		Detailing of ACE procedures and the development of an NLA, which reduces the likelihood of a conflict of interest (Rec. 7.).
2.2	Strengthen parliamentary control over the results of the anti-corruption expertise of the NLA	Periodic hearing by the Legislative Chamber and Parliamentary Committees of reports on the practice of anti-corruption expertise and assessment of regulatory impact in the areas of activity supervised by them. (Rek. 6.1.)
		Parliamentary monitoring of the information space to identify signs of corruption provoked by ineffective regulation and shortcomings of the NLA. (Rec.6.2.)

Conclusion

The Institute of Anti-Corruption Expertise of Normative Legal Acts has significant potential for improving the quality of rulemaking. As ACE becomes an established practice in Uzbekistan, it imposes more stringent and higher requirements on the content of the NLAs being developed. ACE also requires that existing NLAs be considered from a new perspective — the identification of the possibilities of using the provisions of the law and the shortcomings in them to extract personal benefit from the official. This formation of critical thinking among NLA developers is an important condition for writing more advanced and effective regulatory norms.

ACE can also improve the quality and content of public discussions of NLA projects, provided that the expert community and civil society activists fully master the methods of ACE. Hence, we can expect an increase in the role and participation of the civil and business communities in rulemaking and lawmaking, as well as the implementation of the rights and opportunities of public control over the activities of the executive and legislative authorities. Now, in Uzbekistan, the participation of civil society in the norm-setting process and ACE still has significant potential for expansion. In support of this, it would be useful to assess the impact of the created conditions in practice, and which was the key reason for the still lack of involvement of the academic and civil communities in ACE. Special attention may be required to analyze the circumstances in which the civil initiative sector operates, as well as the sufficiency of financial support for civic engagement within ACE, and the effectiveness of procedures for competitive financing of civil society projects.

The transformation of the anti-corruption expertise of the NLA into an independent and mandatory type of expertise in Uzbekistan has become an important stage in improving the decision-making system and promoting the principles of good governance. It is necessary to continue to support the development and improvement of this institution in the republic.

It is obvious that efforts to develop anti-corruption expertise of legislation in Uzbekistan will require additional financial and organizational resources. It is necessary to consider this step as an investment in the sustainable development of the republic, since the higher quality and effectiveness of regulatory and legal regulation will have a multiplier effect on the development of society, the economy, the private sector and the state.

Annexes

Annex 1. Additional options for measures to manage corruption risks of legal regulation.

Name of the corruption factor	Options for balancing corruption risks
1. Corruption factors related to powers, rights and obligations	
1.1. Corruptogenic factors affecting competence and powers (width of discretionary powers; uncertainty of powers; presence of duplicate powers and tasks of state bodies; adoption by a state body of normative legal acts on issues not within its competence) 1.2. Other corruption factors related to powers, rights and obligations	• Specifying the conditions in which discretionary powers can be applied. • Replacement of the wording defining the powers of an official from "right" to "obligated", with the establishment of a specific deadline for the performance of the obligation, as well as the introduction of performance reporting procedures. • Introduction of requirements for justification by the official of the decision he made. Introduction of a limited list of types of justifications. • Implementation of the requirement to obtain the approval of a superior manager for the application of decisions that go beyond those described in the normative legal acts (hereinafter referred to as the NLA). • Introduction of the requirement to obtain the opinion of the courts regarding the jurisdiction of the regulated sphere to the specific government authority.
1.2.1. Lack of necessary authority and resources from the executor to perform a task or assignment	• The requirement of the regulatory impact assessment report. • Requirement to include a feasibility study on the adequacy of human and financial resources for the execution of the act in the assessment report регулирующего воздействия.
1.2.2. Delayed regulation	• The requirement of the regulatory impact assessment report. • Based on the results of the assessment, the introduction of balancing norms that require an active information campaign, as well as the organization of preparatory activities that will facilitate the costs of regulated entities for the transition to new regulatory norms.

1.2.3. Conflict of interest	• The requirement of the regulatory impact assessment report. Based on it:
	  • *Analysis of corruption risks that may arise between regulatory authorities and individual, which are subject to regulation at the stage of application of the NLA. Implementation of norms requiring disclosure of information by the regulatory authorities on actions against regulated entities, including the justification of the decisions taken.*
	  • *Comparison of the benefits of the beneficiaries of the novel to a group of regulated entities that will not be entitled to similar benefits.*
	  • *Analysis of the process of initiating the development of the NLA project. Search for signs of risk of interest of the beneficiaries of the novel with the developers - vertical jurisdiction, mutual participation in the authorized capital, participation of employees or managers of the NLA project developer in the work of the management bodies of key beneficiaries.*
	  • *Introduction of procedures for disclosing information about affiliates of the beneficiaries of the novella in the process of obtaining benefits during the implementation of the NLA.*
	  • *The requirement to introduce reporting standards that allow the antimonopoly regulator or higher authorities to monitor the risks of conflict of interest at the stage of application of benefits and preferences.*
	  • *Introduction of norms that specify the circumstances in which a conflict of interest arises within the framework of the application of this NLA. Thus, a barrier to a conflict of interest is established.*
	  • *Introduction of norms prohibiting certain categories of beneficiaries to obtain benefits and privileges from usage of novel, if such receipt of benefits and privileges may be associated with a conflict of interest.*

1.2.4. Unreasonable establishment of benefits	• The requirement of the regulatory impact assessment report. Based on it:
	  ◦ *Analysis of differences in obtaining access of regulated entities to sales markets.*
	  ◦ *Analysis of the conditions for obtaining competitive advantages using NLAs. Protection of the national producer should be carried out according to principles and criteria not related to the names of legal entities, their jurisdiction, the presence of the state's share in the authorized capital.*
	  ◦ *Analysis of criteria related to economic characteristics, such as the size of the authorized capital, organizational and legal form, for their realism and adequacy to the goods and services produced.*
	  ◦ *For example, it is not justified to grant preferences only to joint-stock companies or economic entities that have a certain amount of trade turnover.*
	  ◦ *Criteria should be established to ensure transparency, accountability of the financial and economic activities of the entity receiving benefits.*
	  ◦ *Requirement of protocols of public discussions of the draft NLA, which reflect the views of various groups of regulated entities, including those who will not be entitled to enjoy benefits.*
	  ◦ *Requirement for reports on online discussions and comments.*
	• Making an opinion on the validity of benefits and advantages, suggested by the draft of NLA. Implementation of public accountability mechanisms for legal entities receiving benefits, which allow assessing the ratio of the volume of benefits to the economic benefits they received.

1.2.5. Unjustified postponement of the entry into force of a legal act.	• Requirement for a regulatory impact assessment report. Based on it:
	  ◦ *Cost/benefit analysis of the draft NPA, taking into account different dates of entry into force.*
	  ◦ *Correlation of the results of the cost/benefit analysis with the analysis of the conflict of interest and the validity of establishing advantages.*
	  ◦ *Making a conclusion regarding the validity of the dates of entry into force.*
	• Implementation of standards that determine the plan of preparatory actions on the part of the developer of the NPA, which should ensure the preparation of society and entrepreneurship for the novel.

1.2.6. Disproportion of rights and obligations.	• Introduction of a limited list of rights for officials. Each type of right granted must be balanced by an accountability mechanism either to a higher authority, to parliament, to the local kengash or to the public. • Introduction of mechanisms for appealing the actions of officials. • Introduction of responsibility for specific types of actions and omissions within the framework of the NLA, indicating specific procedures to launch consideration of the issue of holding a specific official accountable.
2. Corruption factors related to administrative procedures	
2.1. Absence or incompleteness of administrative procedures	• Implementation of provisions that define the basic principles on which the draft ANA is based, as well as mechanisms for monitoring compliance with these principles. • Introduction of mechanisms for appealing the actions of officials. • Introduction of responsibility for specific types of actions and omissions within the framework of the NLA, outlining specific procedures for initiating the consideration of holding the officials accountable.
2.2. Unreasonable application of exceptions to the established rules	• Negative expert opinion, with recommendations to reject the request for registration of an NLA until rational and realistic norms are proposed.
2.3. Establishing unnecessary and unreasonable claims	• Negative expert opinion, with recommendations to reject the request for registration of an NLA until rational and realistic norms are proposed.
2.4. Uncertainty of time limits	• Introduction of provisions that define the basic principles on which the draft NLA is based, as well as mechanisms for monitoring compliance with these principles. In this case, it is advisable to assign the authority to monitor compliance with the principles to the supervisory authorities. • Introduction of mechanisms for appealing the actions of officials. • Introduction of responsibility for specific types of actions and omissions within the framework of the NLA, indicating specific procedures for starting consideration of bringing a specific officials to justice.
2.5. Uncertainty of the number of payments	• Negative expert opinion, with recommendations for rejecting the request for registration of an NLA until economically reasonable amounts of payments are provided.

2.6. Disproportion of sanctions	• Introduction of provisions that define the basic principles on which the draft NLA is based, as well as mechanisms for monitoring compliance with these principles. In this case, it is advisable to assign the authority to monitor compliance with the principles to the supervisory authorities. • Introduction of mechanisms for appealing the actions of officials. • Introduction of responsibility for specific types of actions and omissions within the framework of the NLA, indicating specific procedures for launching consideration of the issue of involvementконкретного должностного лица к ответственности.
3. Corruption factors related to control	
3.1. Lack of appeal procedure	• Negative conclusion of the examination with recommendations for rejecting the request for registration of the NLA.
3.2. Gaps in ensuring transparency and public control; lack of forms and types of control over the activities of state bodies	