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THE CONCEPT OF CORRUPTION CRIMES AND THE HISTORY OF ITS ORIGIN

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Niyozova Salomat Saparovna

Doctor Of Law, Professor Of The Department Of Criminal Law, Criminology And Anti-Corruption, Tashkent State University Of Law, Uzbekistan

ABSTRACT

This article describes issues such as the concept of corruption crimes and the history of its origin. The article also analyzes the opinions and comments of scientists on the concept of corruption and its origin, and the author's suggestions and recommendations are given in this regard.

KEYWORDS

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Crime, responsibility, punishment, corruption, corruption, offense, development, history, prevention, law.

INTRODUCTION

Corruption is one of the deadliest vices that is detrimental to the results of wide-ranging reforms in our country and hinders growth.

The Decree of the President of the Republic of Uzbekistan Sh.M.Mirziyoev dated February 7, 2017 "On the Strategy for further development of the Republic of Uzbekistan" was an important step towards achieving the goals of eliminating corruption in all areas, and the roots of causes of corruption.

The tasks of reforming the most important frontiers in the life of society and the state, as well as finding solutions to the problems that have accumulated over the years, have been defined on the basis of the Republic of Uzbekistan's Strategy of actions on five priority areas of development.

In addition, with the decree of the President of the Republic of Uzbekistan on measures to further improve the anti-corruption system in 2019, it is necessary to recognize the implementation of regular organisational and legal reforms in the field of combating corruption in our country with the state program on combating corruption in the years of 2019-2020.

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Also, the Presidential Decree on THE DEVELOPMENT STRATEGY OF THE NEW UZBEKISTAN for 2022-2026 emerged as a new stage in the fight against corruption. It would also be appropriate to note the fact that, for the first time in Uzbekistan, a separate body was created - the Anti-Corruption Agency, responsible for identifying and systematic analysis of corruption risks, eliminating the factors that give rise to them.

It is worth noting that corruption as a transnational crime in recent years became one of the topics widely discussed by international organisations. Corruption is even being described by politicians as a factor of leading to the global crisis. This issue is complex and difficult to solve, it is treated as a disease in society. Corruption-causing damage is equal for all states. It has a negative impact on various structures of the state, including the tax system, and reforms in the social sphere.

In our country, from the very first days of independence, serious attention has been paid to the issue of combating this problem. Over the past period, a solid legal framework and systematic practice aimed at combating corruption and crime and its prevention have been formed. In the years of independence, several reforms were carried out in the sphere of law enforcement, and normative-legal acts on corruption, and other criminal cases were adopted.

Since the first days of the independence, within the framework of the targeted policy on the elimination of corruption in Uzbekistan, legal and institutional structures are being improved, and international cooperation in this area is strengthening.

In the legal literature, there are various perspectives on the idea of corruption. According to a lawyer scientist and German-American politician K. Frederic, there is also the issue of "corruption" in English and other languages, and if we look back in history, any attempt to shed light on any concept of corruption, as well as the analysis of the concept of corruption, leads to conflict, and it has a completely different meaning and meanings.

The most harmful feature of corruption is when a public official satisfies the bribe-illegal giver's demand for a certain fee - the other party in exchange for a bribe - or turns a blind eye to his illegal acts, which affects and hinders the state's and society's interests. Corruption is a social obstacle. Indeed, corruption is a societal phenomenon that stems from flaws in the civil service's organization as well as the mentality of civil officials. This emphasizes the need for administrative, legal, and organizational measures in the fight against corruption. Corruption is a crime in which an official position is used for personal benefit. One of the most common characteristics of the shadow economy is corruption. In most circumstances, corruption is described as public officials accepting bribes from citizens for personal gain or to amass a fortune. The word "corruption" comes from the Latin word "corruption" which means "to bribe or to destroy". According to the authors of the legal encyclopedia "Corruption is a policy or criminal action in the field of public administration, expressed in the exploitation of rights and opportunities of power provided to them by officials for personal gain". Corruption is defined by the Encyclopedic Dictionary of Legal Terms as "the illegal use of material and other wealth, privileges, and related opportunities by persons authorized (or equated to them) to perform state functions, as well as the use of this wealth and privileges by individuals or legal entities to allow it to be occupied illegally". According to some sources, corruption is described as "a criminal action in the field of politics or public administration in which officials utilize their position and privileges for personal benefit".

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According to M.Kh.Rustambaev, bribery is a concept that includes three independent official crimes against the order of the governing bodies - receiving a bribe, giving a bribe, and mediation in bribery. Each of these aggravated acts may not be committed without connection with the offenses provided for in articles 210-212 of Uzbekistan's Criminal Code. They are so interconnected that the absence of the fact of taking a bribe also excludes the fact of giving a bribe. The social danger of this crime is explained by the fact that receiving a bribe drastically changes the established procedure for officials to exercise their official powers, thereby grossly violating the interests of the civil service. Bribery is a relatively common and specific phenomenon of dangerous criminal activity that undermines the foundations of power and governance, undermines its public image, and infringes on the legitimate rights and interests of citizens.

In this regard, the Law of the Republic of Uzbekistan "On combating corruption", adopted on January 3, 2017, defines the concepts of corruption.

In particular, corruption — illegal use by a person of official or duty position with the aim of obtaining tangible or intangible benefits in personal interests or in the interests of other persons, and an unlawful provision of such benefit;

Corruption offense — an act possessing signs of corruption, for the fulfillment of which the legislation provides for liability;

Conflict of interests — a situation, in which personal interest (direct or indirect) affects or can affect the proper performance by a person of official obligations or duties and in which arises or may arise a contradiction between personal interest and the rights and legitimate interests of citizens, organizations, society or the state.



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One of the main priorities of Uzbekistan's Development Strategy is to improve the organizational and legal framework against corruption, increase the effectiveness of anti-corruption measures, increase the population's legal culture, and organize effective interaction of state bodies with civil society institutions and the media from 2017 to 2021.

In the law of the Republic of Uzbekistan "On combating corruption" is necessary to increase the legal consciousness and legal culture of the population, form an uncompromising attitude towards corruption in society, to implement measures to prevent corruption in all spheres of the life of the state and society, to timely identify, eradicate corruption violations, to eliminate them, the inevitability of liability for the commission of corruption offenses is defined as the main directions of state policy in the field of combating corruption, ensuring the printing press.

In the law, the Republican interdepartmental Commission on combating corruption, the General Prosecutor's office, the State Security Service, the Ministry of Justice, as well as the Department for combating economic crimes under the General Prosecutor's Office of the Republic of Uzbekistan are defined as state bodies directly involved in the fight against corruption. The composition of these bodies includes specialized anti-corruption units.

In general, corruption occurs in practice through the commission of corruption offenses. Therefore, the study of the concept of corruption crimes and their components is one of the main methods and tools in the fight against corruption and the prevention of corruption. It should be noted that the term "corruption" is often understood as a crime of bribery for profit. However, the list of corruption crimes is not limited to bribery. Before defining the concept of International Journal Of Law And Criminology (ISSN – 2771-2214) VOLUME 04 ISSUE 01 Pages: 15-25 SJIF IMPACT FACTOR (2021: 5.705) (2022: 5.705) (2023: 6.584) OCLC – 1121105677

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corruption crimes, it is necessary to understand the meaning of the term "corruption". Today, it is difficult to find a definition that fully covers all the elements of the concept of "corruption". Definitions of this term in the theory of criminal law can be divided into two types, conditionally, as approaches in the broad and narrow senses .

An example of the first type of approach the "Code of Conduct for Law Enforcement Officials" was adopted by the General Assembly of the United Nations on 17 December 1978. According to paragraph 7 of Article "b" of this document, corruption is understood as "the act or omission of an official committed in any form in favor of a person presenting this interest within the limits of his official powers". In the Convention on civil and legal liability for corruption adopted by the Council of Europe in 1999, corruption shall be defined as "the act of directly, indirectly giving, accepting, proposing or requesting any privileges to evade the obligations and rules of conduct required of a bribe-taker" is given. Most of us can witness a broad approach to the concept of "corruption" in international legal documents, and in the works of lawyers of national and foreign countries. According to this approach, corruption, any activity aimed at obtaining illegal benefits not only by bribery but also through the use of career authority is understood. In particular, the United Nations anti-corruption convention did not give a direct definition to the concept of "corruption", even though it contained a number of lists of crimes as types of corruption.

In accordance with Chapter 3 of this Convention, bribery of public officials, bribery of foreign public officials and officials of international public organizations, looting, misappropriation or misappropriation of property by public officials, criminal proceeds money laundering, obstruction of justice, abuse of office, illicit enrichment, bribery in the



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private sector, theft of property in the private sector, concealment of property obtained as a result of corruption crimes are defined as corruption crimes.

From the early years of independence, when we realized that the level of corruption in our society is high, this illusion threatens the system of state power, the most important of which is the provision of legal rights and freedoms of citizens, institutional forces for combating corruption were established in the General Prosecutor's office, the State Security Service and the Internal Affairs.

Since the Republic of Uzbekistan has made it a priority to restore a democratic and legal state, it has become clear that legal reforms and actions in such a state must first and foremost be based on the legal framework, which includes laws, decisions, and normative acts enacted by authorized entities in the country.

The existence of corruption processes in the judicial system obstructs the provision of the stamp of its independence, as well as the right to conduct fair judicial procedures and the impartial and honest execution of the courts' functions. This circumstance sets conditions for society's confidence in the legal system to deteriorate.

Fighting corruption in any society is impossible without first establishing and improving its legal foundations.

Following the Republic of Uzbekistan's independence, the necessary legal framework for the development and implementation of effective anti-corruption measures in the judicial system was established and improved.

An important political and legal document in this regard is the Constitution of the Republic of Uzbekistan.

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Article 106 of the Constitution of the Republic of Uzbekistan clearly stipulates that the judiciary in the Republic of Uzbekistan operates independently of the legislative and executive branches, political parties, and other public associations.

According to Article 112 of the Constitution of the Republic of Uzbekistan, "Judges shall be independent and subject solely to law. Any interference in the work of judges in administering law shall be inadmissible and punishable by law". This fundamental principle is enshrined in the Criminal Procedure Code of the Republic of Uzbekistan, the Law on Courts, and a number of other regulations and further clarified in the legal documents.

According to Article 14 of the Code of Criminal Procedure of the Republic of Uzbekistan, judges and assessors are independent in the people's administration of justice and subject only to the law. Judges and people's counsels review and resolve criminal cases in accordance with the law. It is strictly forbidden to interfere in any way with the activities of judges and people's advisers in the administration of justice, and it is strictly established that such interference is punishable by law.

The strict procedure for consideration of criminal cases by the judiciary in the Criminal Procedure Code of the Republic of Uzbekistan provides for the prevention of corrupt practices in this activity.

Also, an important special legal document to prevent corruption in the activities of criminal courts is the law of the Republic of Uzbekistan "On the Law of Courts", adopted on December 14, 2014.

This law contains norms that directly regulate the activities of courts and strict rules and procedures that must be followed by judges on the basis of the law

Article 4 of the law of the Republic of Uzbekistan "On the Law of Courts" is called "Independence of judicial power", according to which judges are independent, subject only to the law. It is not allowed to interfere in any way in the activities of judges in the implementation of a just trial, and such interference will lead to liability in accordance with the law.

Judicial power in the Republic of Uzbekistan acts independently from legislative and executive powers, political parties, and other public associations.

In accordance with Article 63 of the law "On the Law of Courts" of the Republic of Uzbekistan, the independence of the judges is ensured through: the procedure established by law for their election, appointment to office, suspension, and termination of the powers of a judge; immunity of the judge; strict procedure for the administration of justice; a secret conference of judges when making decisions and the prohibition to demand its disclosure; the statutory liability for disrespect for a judge, interference with the administration of justice, and violation of the immunity of a judge; providing the judge at the expense of the state with material and social security corresponding to his high status.

These fundamental rules are important in that they are aimed at preventing corruption in the judiciary.

Article 25 of the Law of the Republic of Uzbekistan "On Combating Corruption" of January 3, 2017 "On ensuring the independence and freedom of courts, transparency of their activities" on the timely detection and suppression of corruption offenses has been identified as one of the program's main directions.



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Similarly, the Council of Europe Convention on Criminal Liability for Corruption does not provide a clear definition of this concept, but Chapter 2 of the Convention lists a number of corruption offenses that must be criminalized: active and passive bribery of public officials, bribery of members of national councils, private sector active and passive bribery, abuse of office, money laundering, bribery of a foreign government official, bribery of members of foreign state councils, bribery of an official of an international organization, bribery of officials of international parliamentary councils and bribery of officials of international courts.

It should be noted that, according to scholar B.Shamsutdinov, corruption is not a separate crime with a single composition. Criminal law provides for liability for corruption-related offenses, not for corruption. This means that corruption is the sum of a number of crimes.

In our national criminal law, the substances provided for by the responsibility for corruption crimes are not concentrated in a single chapter of the Criminal Code. Most of the corruption crimes are reflected in Chapter 15 of the Criminal Code ("Crimes against the management order"), and some in Chapter 10 ("Extortion of the properties of others"), Chapter 17 ("Crimes against public security") and Chapter 24 ("Military official crimes").

Below, we describe the crimes of corruption from a criminal point of view, focusing one by one on the issues of their object, objective side, subject, and subjective side.

According to M.Kh.Rustambaev, "The object of a crime is a social attitude to which criminal aggression is directed and which can be harmed by that aggression.



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From this, we can understand that the object of a crime is a social relationship protected by criminal law, and as a result of the commission of a crime, it is harmed or at risk of harm. Opinions about the object of corruption crimes can be seen in the works of a number of foreign jurists.

In particular, A.N.Agybaev said the object of such crimes was "the proper functioning of the state apparatus".

It should be noted that the rapid reforms in our country will certainly bear fruit. This, of course, will pave the way for further improvement of our legislation and criminal law.

With the adoption of the Anti-Corruption Law, the goals and objectives of law enforcement agencies in the fight against corruption have significantly improved.

The laws "On Internal Affairs Bodies" and "On State Security Service" were adopted, the system of prosecutor's offices was reformed, and the goals and objectives of the Department for Combating Economic Crimes were defined.

The Republican Interdepartmental Commission on Combating Corruption, established in accordance with the relevant decree of the President, coordinates the activities of government agencies in the fight against corruption, and its working body is the General Prosecutor's Office of the Republic of Uzbekistan.

The commission, which operates on a community basis, is responsible for organizing the development and implementation of state and other anti-corruption programs, prevention, detection, combating, and mitigation of corruption offenses, as well as the causes and conditions of corruption. In order to develop and implement state programs to combat corruption to International Journal Of Law And Criminology (ISSN – 2771-2214) VOLUME 04 ISSUE 01 Pages: 15-25 SJIF IMPACT FACTOR (2021: 5.705) (2022: 5.705) (2023: 6.584) OCLC – 1121105677 Crossref 0 2 Google 5 WorldCat MENDELEY



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ensure the effectiveness of measures to monitor and evaluate the effectiveness of organizational, practical, and legal mechanisms.

In order to strengthen parliamentary control in the fight against corruption, in March 2019, in the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan were established Committees on Prevention of Corruption and Judicial Issues.

In order to increase the efficiency of the civil service, and to meet the needs of government agencies and organizations in qualified personnel, in accordance with the Presidential Decree of October 3, 2019, the Civil Service Development Agency under the President of the Republic of Uzbekistan was established. This agency is responsible for the implementation of a unified state policy in the field of personnel development, the improvement and adoption of the Law "On Civil Service", as well as the gradual implementation of the system of declaration of income, property, and expenses of officials.

The Public Chamber under the President of the Republic of Uzbekistan was established by the Presidential Decree dated April 16, 2020. The Chamber was empowered to establish close cooperation between citizens, society, and the state, as well as to exercise public control in the field of anti-corruption in order to strengthen public control over the activities of state bodies and institutions, including the prevention of corruption.

At the same time, due to significant changes in the public administration system in recent years, optimizing the goals and objectives of the competent authorities in the fight against corruption, active development of parliamentary and public oversight institutions, targeted implementation of administrative reforms, the widespread introduction of market management mechanisms and etc. It is necessary to review the system of coordination of activities to combat and prevent corruption and to implement the next stage of anti-corruption reforms.

In this regard, in its Address to the Oliy Majlis of the Republic of Uzbekistan on January 24, 2020, he initiated the establishment of an independent anticorruption body accountable to the Parliament and the President.

Anti-corruption agencies are responsible for investigating, and developing anti-corruption policy, analytical activities, crime prevention, interaction with civil society, data collection and analysis, and monitoring the implementation of the anti-corruption program.

Anti-corruption agencies have the authority of law enforcement agencies to identify and prosecute officials who have committed corruption-related offenses, as well as the return criminally obtained property.

The third and most common model includes institutions aimed at preventing corruption. In practice, prevention and coordination functions are combined into a single organ or delegated to different organs. Coordinating councils (commissions, committees) in the fight against corruption, as a rule, bring together representatives of various government agencies involved in the fight against corruption. It can also be in the form of structures that are represented at the top and at the business level.

They also often include representatives of the nongovernmental sector (NGOs, academies and businesses, experts, international organizations, etc.). International Journal Of Law And Criminology (ISSN – 2771-2214) VOLUME 04 ISSUE 01 Pages: 15-25 SJIF IMPACT FACTOR (2021: 5.705) (2022: 5.705) (2023: 6.584) OCLC – 1121105677 Crossref



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Similar structures include the Government Ethics Office (USA), the Central Anti-Corruption Service (France), the Central Awareness Service (India), the Independent Commission on Combating Corruption and Civil Rights (Republic of Korea), and the Anti-Corruption Coordinating Commission (Bulgaria). Examples include the Anti-Corruption Monitoring Group (Albania), the Anti-Corruption Monitoring Commission (Slovenia), the National Anti-Corruption Council (Croatia), the Anti-Corruption Council (Serbia), the Interagency Working Group (Albania), and the Presidential Anti-Corruption Council (Russia).

Specialized institutions for the prevention of corruption (Georgia Anti-Corruption Council, National Council for Anti-Corruption Policy of Ukraine, Anti-Corruption Commission under the President of the Republic of Kazakhstan, Working Group of the Security Council for Monitoring the Implementation of the State Anti-Corruption Strategy of Kyrgyzstan, Tajikistan Anti-Corruption National Council, the Council for Combating Corruption of Armenia, the Anti-Corruption Commission of Azerbaijan, etc.) prioritize and coordinate the activities of law enforcement agencies, monitor the fight against corruption at the central, regional, local and departmental levels.

In many countries, specialized anti-corruption agencies have the following main functions:

- Systematic analysis of the state and trends of corruption in various sectors of the economy, identifying the areas (sectors) most prone to corruption;
- Formation and implementation of state policy in the field of prevention and combating corruption;
- Development of state and other programs aimed at eliminating the systemic causes and conditions of corruption offenses, increasing the effectiveness of anti-corruption measures;

- To take effective measures for the introduction of deontological norms of integrity in the civil service, to analyze the effectiveness of departmental systems for the prevention and resolution of conflicts of interest, to ensure compliance with prohibitions and restrictions by civil servants;
- Introduction and organization of the system of declaration of income and property of civil servants, verification of the accuracy of declarations, as well as the timely response to corruption;
- Comprehensive monitoring of the process and results of the investigation of corruption offenses that seriously harm national interests, threaten security and ensure socio-political stability;
- Formation of an intolerant attitude to all forms of corruption through the development and implementation of comprehensive programs aimed at raising the legal awareness and legal culture of the population in society, anti-corruption education and training;
- Coordination of the activities of ministries and departments, prevention of corruption, organization at the departmental level, the formation of mechanisms for effective interaction of government agencies with the media, civil society institutions, as well as the assessment of their activities in these areas;
- Introduction of internal control and audit, international anti-corruption tools, information and communication technologies, organization of anti-corruption monitoring in public and economic administration bodies;
- Ensuring the effectiveness of anti-corruption expertise of regulations and their drafts, as well as the development and implementation of proposals to improve the legislation.

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Prevention of corruption crimes is one of the main functions of specialized anti-corruption bodies, which is to prevent antisocial behavior of officials, to prevent corruption, to identify the conditions that led to them on the basis of analysis of relevant risks and threats .

According to N.A.Lopashenko, "Attempts to extort bribes lead to bribery of the bribe-taker, and this is the essence of corruption. Bribery is at the heart of corruption, and it will always be there".

The aforementioned definition of corruption, in our opinion, is not worthwhile and does not adequately reveal the depth of the subject under investigation. This definition limits corruption offenses to simply bribery crimes, which we believe is an incorrect approach to the problem. The rationale for this is that corruption crimes cover a broad range of offenses, including bribery. Corruption is the collection of crimes perpetrated by officials for personal gain while wielding state power or administration. Officials understand corruption as causing material or intangible harm to a large number of people by abusing their power or official powers in ways that are illegal.

Corruption is a severe danger to the rule of law, democracy, human rights, trust in government, governance, equality and social justice, healthy economic competition, and economic progress. It also aims to stifle democratic and civil society institutions establishment and development.

Corruption is certainly not an illusion that has arisen today and it has been in existence since ancient times. The ancient Greek philosopher Aristotle said that "in any state system - through laws and other orders, the work should be organized in such a way that it should not allow illegal enrichment of officials".

The French thinker Charles Montesquieu said, "It is known from centuries of experience that a person with

any authority has a tendency to abuse it and walks in that direction until this official achieves a certain goal".

For a long time, there has been a negative attitude toward corruption in our country's history, as well as in historical sources and the works of thinkers, scientists, and writers. For instance, it is stated in our great ancestor Amir Temur's "Temur's Statutes" that officials should be fair and just in collecting taxes from the people as well as caravans of traders crossing the Silk Road.

The works of his contemporaries, Alisher Navoi, Mirzo Ulugbek, Bobur, Akhmad Danish, and Muqumi, also criticized the abuse of trust by ordinary people.

Hilda Hukham, a British writer, described the situation in the book "Ruler of the Seven Worlds" about our ancestor A.Temur. Once emir of the country complained that he overpaid taxes, and the emperor convinced the people of the correctness of his demand, he punished this emir, confiscated his property and returned it to the people.

The fact that the Kokand and Khiva khanates, which are now located in the territory of Central Asia, and also in the emirate of Bukhara, abuse of service duties of officials, was observed, and frequent palace coups, riots, robberies of power, as a result of the escalation of bribery, caused them to be weakened and led to their conquest by the Russian Empire.

New forms of corruption flourished even during the Soviet period. Many people recall the corrupt practices that existed in obtaining state-provided housing, purchasing a vehicle, attending university, receiving vacation vouchers to sanatoriums, and traveling abroad on business. Unfortunately, many of them have been passed down from the former Soviet regime.



23

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Corruption in the government system has resulted in numerous wars and military conflicts between states. Corruption in the government system was one of the factors that contributed to the demise of the former USSR.

From the foregoing, it is possible to conclude that the emergence of corruption has a long history, and its circulation is still present in all state systems, including the most reactive and democratic, but in today's reality, it remains one of the most important tasks to reduce it as much as possible and avoid its harmful effects.

Corruption offenses are crimes in which an official or employee uses the powers entrusted to him or her for the purpose of material or non-material benefits of individuals or other persons, as well as the misappropriation of officials for these purposes.

To conclude, the following should be implemented in order to prevent corruption. Including: 1) Illegal enrichment is an increase in the amount of money or property of an official of a state body, state-owned organization, or citizens' self-government body in excess of the amount of money provided for in the income and property declaration, provided that the official is confident about the legal source of this property does not provide evidence.

2) Wealth increase - the acquisition of cash and other property, property rights, and intangible assets as a property directly or through another individual or legal entity, as well as the reduction of financial liabilities and the acceptance of work performed and use of services.

3) In addition, the legislation does not clearly define the concepts of a civil servant and property declaration. A clear definition of the above concepts can also be effective in the fight against corruption. It is necessary to create an electronic information system for the



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formation, processing, and verification of income and property declarations.

1. Based on international standards and foreign experience, actions such as offering bribes, promising bribes, extorting bribes and accepting offers of bribes should be recognized as a complete crime. Taking into account the requirements of international standards, the concept of an official in criminal law should be described in the following wording: "An official is a person who is appointed or elected to a permanent, temporary or special position without the right to reprimand or justification:

a. legislative, executive, administrative, judicial, or other public authority of foreign countries, which holds any position, performs organizational management, administrative-economic, or other functions for state bodies or foreign state enterprises (foreign official);

b. a person (official of an international organization) who holds any position in the International Organization, as well as in the Parliamentary Assemblies of international judicial bodies and international and national organizations, or who has the authority to conduct business on its behalf by an international organization".

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