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Anti-corruption monitoring within the framework of the model legislation of the commonwealth of independent states

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Abstract: This article examines the development and role of anti-corruption monitoring within the framework of the Model Legislation of the Commonwealth of Independent States (CIS). It traces the evolution of this mechanism from its absence in early model laws to its comprehensive regulation in the Model Law "On Anti-Corruption Monitoring". The article highlights its significance as a systematic, scientifically grounded mechanism for assessing anti-corruption policies and other significant elements. This article suggests leveraging CIS model laws to strengthen national anti-corruption frameworks.

Keywords: Anti-corruption monitoring, Commonwealth of Independent States, CIS, corruption, model law, model legislation.

Introduction: Corruption is a persistent issue that has been a part of social and governmental development for thousands of years. Without the necessary collaboration between government and civil society institutions, as well as effective anti-corruption measures, corruption can become a significant threat to the efficient operation of political, economic and other governmental mechanisms, as well as the credibility of governmental authority. Corruption undermines public confidence in state institutions, law enforcement agencies and the judicial system. It erodes people's trust in justice, fairness and the rule of law, leading to social inequality and other harmful consequences that negatively impact society and the state. This issue has become increasingly significant and alarming.

Realizing the potential negative consequences that could arise from the absence or insufficiency of timely and coordinated anti-corruption measures, many states are increasingly paying closer attention to anti-corruption policy, striving to develop and implement anti-corruption strategies, programs and plans. This approach should be considered as one of the international anti-corruption standards, as the development and subsequent implementation of an effective and coordinated anti-corruption policy is a mandatory requirement for states that are parties to the UN Convention against Corruption. In accordance with paragraph 3 of Article 5 of the Convention, each State Party shall endeavor to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption [1]. Taking into account this conventional requirement, it should be noted that an accurate and objective understanding of the current state of corruption, its level, dynamics, characteristics, areas of prevalence, development trends, factors contributing to its emergence and spread within a country, the effectiveness and efficiency of anti-corruption measures and initiatives, as well as society's attitude toward corrupt practices and the anti-corruption efforts undertaken, must become a necessary condition and an integral component for the planning, development, organization, implementation and coordination of an effective state anti-corruption policy. In our view, anti-corruption monitoring should be used to address these tasks.

Anti-corruption monitoring is a relatively new type of monitoring. The fundamental beginning of the scientific understanding of monitoring (as a general phenomenon) dates back to the mid-1950s of the 20th century [2, p. 42]. The beginning of its widespread use dates back to the second half of the 20th century [3, p. 14]. On the international stage, one of the first official mentions of this tool was the speech by Canadian climatologist and meteorologist R.E. Munn in 1972 during the United Nations Conference on the Human Environment [2, p. 42].

Initially, the monitoring tool was applied in fields related to the environment and various natural phenomena and disasters, as humanity began to realize the need to track the state of the environment and the changes caused by human activity. Monitoring was originally used in ecology, soil science, meteorology and biology. Later, its scope expanded to sociology, cultural studies, psychology, pedagogy, economics, management theory and other fields. Nowadays, it is quite difficult to identify areas of human activity where monitoring is not used, which allows us to understand that this tool is universal for

many areas of both scientific knowledge and practical application.

Scientific conceptualization of anti-corruption monitoring was initiated at the beginning of the 21st century [4]. Subsequently, this tool received support and scientific development in the publications of various authors [5; 6; 7; 8; 9]. In addition to scientific vision, anti-corruption monitoring has also been reflected in the model acts of the Model Legislation of the Commonwealth of Independent States [10; 11; 12], closer attention to which will be paid within the framework of this article. The main focus should be on how anti-corruption monitoring was formed and developed.

METHODS

Model legislation often falls within the scope of scientific interest for many researchers [13; 14; 15; 16; 17], the topic of anti-corruption research is no exception [18; 19; 20], including among researchers in Uzbekistan [21].

This study employs both general scientific methods (dialectical, systematic, content analysis, comparison) and specific methods (formal-legal, comparative-legal, system-structural, descriptive-analytical).

RESULTS AND DISCUSSION

Since its foundation in 1991, the CIS has continued to carry out large-scale activities, including those aimed at combating corruption. Anti-corruption is an integral part of the interstate system for combating crime in the CIS [22]. One of the priority areas in combating corruption has been the development of model laws, which, in our opinion, play a crucial role in ensuring effective anti-corruption cooperation. These documents serve as recommendations for CIS member states and contain ready-made mechanisms that can later be successfully adapted to the specific conditions of each country. To date, model legislation has been developed on many key issues.

By Resolution № 13-4 of April 3, 1999, the Model Law "On Combating Corruption" [23] was adopted. However, this document did not contain any direct or indirect references to anti-corruption monitoring.

By Resolution № 22-15 of November 15, 2003, the Model Law "Fundamentals of Legislation on Anti-Corruption Policy" [24] was adopted. This document not only defines anti-corruption monitoring - understood as the observation, analysis, assessment and forecasting of corruption offenses, corruption-inducing factors and the implementation of anti-corruption policies - but also includes a dedicated Article 15. This article outlines the procedure for conducting the main types of anti-corruption monitoring, their financing, the purpose of

their results and identifies the subjects and objectives of this activity.

This article states:

- Anti-corruption monitoring includes monitoring of corruption, corruption-inducing factors and measures for implementing anti-corruption policy.
- Monitoring of corruption is conducted to ensure the development and implementation of anti-corruption programs through the observation of corruption offenses and the individuals who commit them, their documentation, document analysis, surveys, experiments, data processing, assessment and interpretation of indicators reflecting corruption prevalence.
- Monitoring of corruption-related crimes, corruption-inducing factors and measures for implementing anti-corruption criminal policy is mandatory.
- Monitoring of anti-corruption policy measures is carried out to assess the effectiveness of such measures, including those implemented through anti-corruption programs. This is achieved by observing the outcomes of measures aimed at preventing, suppressing and holding individuals accountable for corruption offenses, as well as measures for compensating damage caused by such offenses. The process involves analyzing and evaluating the data obtained from these observations and developing forecasts regarding the future state and trends of the relevant measures.
- The results of monitoring anti-corruption policy measures serve as the foundation for developing an anti-corruption program at the appropriate level.

This act also defines the goal of anti-corruption policy as reducing the level of corruption and ensuring the protection of the rights and legitimate interests of citizens, society and the state from corruption-related threats. This is to be achieved through monitoring corruption-inducing factors and the effectiveness of anti-corruption policy measures, as well as by promoting the realization of citizens' and organizations' rights to access information about corruption cases and corruption-inducing factors and their free coverage in the media.

Additionally, one of the priority areas of international cooperation in the field of anti-corruption policy was stated to be the conduct of anti-corruption research. The monitoring of corruption offenses as a whole and their specific types, as well as the publication of reports on the state of corruption and the implementation of anti-corruption measures, are considered as measures for preventing corruption offenses. Special attention in the law is given to reports on the state of corruption

and the implementation of anti-corruption policies.

By Resolution № 31-20 of November 25, 2008, a new edition of the Model Law "On Combating Corruption" [25] was adopted. Within this document, anti-corruption monitoring was proposed to be understood as the observation, analysis, assessment and forecasting of corruption offenses, corruption-inducing factors, as well as the implementation of plans, programs and strategies for combating corruption.

The organization of anti-corruption monitoring was defined as one of the state's powers in the field of combating corruption. Ensuring the analysis of corruption-related crime and the exchange of information between states on anti-corruption measures were identified as key tasks of international anti-corruption cooperation. The publication of reports on anti-corruption measures and their results was established as one of the anti-corruption measures. Additionally, certain processes of anti-corruption monitoring were specified as components of the competencies of national anti-corruption bodies, specialized anti-corruption units and the General Prosecutor's Office.

By Resolution № 37-12 of May 17, 2012, the Model Law "On Anti-Corruption Expertise of Normative Legal Acts and Draft Normative Legal Acts" [26] was adopted. However, this document does not contain any direct or indirect references to anti-corruption monitoring.

The most comprehensive coverage of anti-corruption monitoring within the framework of CIS model legislation was provided through the specialized Model Law "On Anti-Corruption Monitoring" [27], adopted by Resolution № 39-21 on November 29, 2013.

This act is aimed at regulating legal, organizational and other public relations that arise in the process of organizing and conducting anti-corruption monitoring. The definition of this measurement tool was expanded to include a scientifically grounded, comprehensive and systematic activity carried out by authorized entities and participants to collect, summarize, analyze and assess information regarding the effectiveness of anti-corruption legislation and state anti-corruption measures. It also covers the state of law enforcement practices in the field of combating corruption, the perception and assessment of corruption levels by civil society institutions and citizens, as well as activities related to conducting anti-corruption expertise of normative legal acts.

This Model Law also includes provisions that outline the legal foundations, goals and objectives, principles, subjects (their competencies) and participants (their activities), objects, information support, planning, presentation of results, their consideration and

application, as well as aspects of control and oversight over the organization and implementation of anti-corruption monitoring. Additionally, it establishes liability for violations of legislation in this field.

The goals of anti-corruption monitoring include assessing the effectiveness of the legal system in combating corruption, systematizing and improving existing anti-corruption legislation and ensuring the development and implementation of anti-corruption programs.

The tasks of anti-corruption monitoring include:

- Identifying corruption-inducing factors in normative legal acts and draft normative legal acts;
- Assessing the effectiveness of the implementation of normative legal acts in the field of combating corruption and their individual provisions;
- Providing law-making entities with objective information on trends and needs in the legal regulation of public relations in the field of anti-corruption;
- Creating conditions for increasing the transparency of government agencies, including enhancing the participation of civil society institutions in the development and implementation of anti-corruption decisions by state authorities;
- Providing authorized state bodies and their officials with information on the scale and trends of corruption, as well as the effectiveness of nationwide anti-corruption measures.

According to this Model Law anti-corruption monitoring is based on the following principles: legality; mandatory implementation; transparency; systematic planning; objectivity and comprehensiveness; accuracy and completeness of the information provided for anti-corruption monitoring; cooperation between the entities and participants of anti-corruption monitoring.

This Model Law defines the following as objects of anti-corruption monitoring:

- Draft normative legal acts;
- Normative legal acts, their structural parts, as well as public relations related to the implementation of normative legal acts;
- Law enforcement acts of state and non-state bodies;
- Decisions of the Constitutional Court, courts of general jurisdiction and courts handling economic disputes;
- Law enforcement practices related to the identification, prevention and investigation of corruption offenses.

In addition to the aforementioned Model Law, by

Resolution № 39-22 of November 29, 2013, the Recommendations on Conducting Anti-Corruption Monitoring in CIS Member States [28] were adopted. These recommendations include provisions addressing the grounds for conducting anti-corruption monitoring, the content of its main stages, requirements for its organization and implementation, as well as its key indicators.

In particular, anti-corruption monitoring should be conducted based on a unified system of indicators. The indicators used in the process of anti-corruption monitoring must meet the following general requirements:

- They must be sufficient for an objective assessment of the effectiveness of executive authorities, other state bodies, local self-government bodies, their officials and organizations in combating corruption;
- They must allow for tracking and analyzing the characteristics and trends of law enforcement practices, as well as for promptly identifying existing issues in the field of anti-corruption efforts;
- They must ensure the accuracy and reliability of information transmission between anti-corruption monitoring entities, as well as enable data verification;
- They must allow for the correct comparison of anti-corruption monitoring results based on territorial, departmental and other criteria without introducing additional indicators;
- They must provide a sufficient basis for assessing the level and scale of corruption in the state and for determining the effectiveness of political and institutional decisions made in the field of anti-corruption.

These general requirements may be specified and supplemented by national legislation on anti-corruption monitoring.

The necessity for the further systematic and coordinated development of anti-corruption cooperation among CIS countries led to the adoption of the Agreement on Cooperation of CIS Member States in Combating Corruption [29], signed by the heads of CIS member states on October 14, 2022. One of the main tasks of the cooperation was defined as the development and implementation of a coordinated policy, joint programs and measures for conducting anti-corruption monitoring. Additionally, the exchange of anti-corruption monitoring results was identified as one of the key areas of cooperation.

Anti-corruption monitoring has not yet taken its place among the most widely used anti-corruption tools in the legislation of the specified CIS countries. In the Russian Federation, attention to this type of monitoring is given

within the framework of regulatory legal acts of federal subjects, as well as at the municipal level. In Kazakhstan, this anti-corruption tool is addressed in an order issued by the Chairman of the Anti-Corruption Agency of the Republic of Kazakhstan, as well as in an article of the anti-corruption law. In Kyrgyzstan, there is a government directive regarding anti-corruption monitoring. Provisions related to monitoring are also reflected in the anti-corruption law of the Republic of Tajikistan, while in Uzbekistan's legislation, this tool is mentioned only fragmentarily [30], without any specifics regarding the mechanisms of its implementation, which undoubtedly hinders the full utilization of the potential of this diagnostic tool. It would be incorrect to state a complete lack of study of corruption as a threat in Uzbekistan. However, the activities currently carried out by authorized entities in this area are not without shortcomings and appear to be fragmented and unsystematic. This undoubtedly hinders the full utilization of this type of monitoring, as well as the acquisition of the most realistic information regarding the state of corruption in the country, its level and areas of prevalence, the causes and conditions contributing to its spread and the effectiveness of implemented and already completed anti-corruption measures and initiatives. Despite the advisory nature of the model laws mentioned above, their provisions can be used in developing Uzbekistan's own National Model of Anti-Corruption Monitoring.

CONCLUSION

The analysis of anti-corruption monitoring within the framework of the Model Legislation of the Commonwealth of Independent States reveals its evolution as a critical tool for combating corruption across member states. From its initial absence in early model laws, such as the 1999 Model Law "On Combating Corruption," to its detailed conceptualization and regulation in the 2013 Model Law "On Anti-Corruption Monitoring", this mechanism has progressively gained recognition as an essential component of effective anti-corruption policy. The article highlights that anti-corruption monitoring serves as a scientifically grounded, systematic activity aimed at assessing the effectiveness of legal frameworks, tracking corruption trends, identifying corruption-inducing factors and enhancing transparency and public trust in governance. The adoption of supporting documents, such as the Recommendations on Conducting Anti-Corruption Monitoring in CIS Member States (2013) and the Agreement on Cooperation of CIS Member States in Combating Corruption (2022), underscores the CIS's commitment to fostering coordinated anti-corruption efforts.

However, despite these advancements, the practical implementation of anti-corruption monitoring remains uneven across CIS member states. While countries like Russia and Kazakhstan have incorporated it into specific regulatory frameworks, others, such as Uzbekistan, exhibit a fragmented approach with limited legislative specificity, impeding the tool's full potential. This disparity suggests a need for greater harmonization and adaptation of model legislation to national contexts. For Uzbekistan, in particular, leveraging the provisions of CIS model laws could facilitate the development of a robust National Model of Anti-Corruption Monitoring, addressing current shortcomings in systematic corruption assessment and policy evaluation. Ultimately, the success of anti-corruption monitoring hinges on its consistent application, supported by clear legal mechanisms, inter-state collaboration and active engagement with civil society, ensuring it becomes a cornerstone of efforts to reduce corruption and strengthen governance across the region.

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