The American Journal of Political Science Law and Criminology
ISSN 2693-0803 | Open Access

TYPE Original Research
PAGE NO. 33-43
DOI 10.37547/tajpslc/Volume07Issue04-07

Fight against corruption in the field of public procurement

Gaibullaev Farrukh Yuldashevich

Head of the Department of Development and Human Resources Management of the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan

OPEN ACCESS

SUBMITED 15 February 2025
ACCEPTED 16 March 2025
PUBLISHED 14 April 2025
VOLUME Vol.07 Issue04 2025

CITATION

Gaibullaev Farrukh Yuldashevich. (2025). Fight against corruption in the field of public procurement. The American Journal of Political Science Law and Criminology, 7(04), 33–43.
https://doi.org/10.37547/tajpslc/Volume07Issue04-07

Abstract: This research paper examines practical problems in areas of public procurement susceptible to corruption, as well as scientifically based proposals and considerations for solving these problems.

Keywords: Corruption, bribery, public procurement, material wealth, crime, offense.

Introduction: The issue of legal instruments to combat corruption is relevant not only in Uzbekistan, but also for countries around the world. In the current conditions, one can observe a qualitative change in corruption activities and an expansion of their boundaries. Today, corruption has been formed as an independent social institution. In our opinion, corruption has become not just a phenomenon, but a social institution, and has all its specific features. That is, the subjects of this crime (the person giving the bribe, the person receiving or transferring it) are distinguished by certain behavioral models, psychological characteristics and personal characteristics. Also, these subjects have such features as a certain system of values, special spiritual foundations, and the separation of the roles of the subjects of the crime. From the point of view of sociology, these features are sufficient to recognize corruption as a separate institution [1].

Nowadays, one can observe the process of qualitative change of such a social phenomenon as corruption. For a long time, this concept was associated with the activities of civil servants, who, “bypassing the law”, helped “their” people to carry out certain actions, receiving material or intangible wealth in return. In today's society, one can see a sharp expansion of the boundaries of this phenomenon: corruption has become an integral part of the socio-economic life of the entire society. It is also worth noting that corrupt activities have long ceased to be only a phenomenon

accompanying public service, but have become a kind of business sector. In our opinion, this sector is a highly profitable activity for officials. The high level of secrecy of corruption and the state of "tolerance" of society to the existence and spread of this phenomenon indicate a low level of fight against it.

The fight against corruption is one of the most urgent areas of activity of state bodies. However, it should be recognized that corruption cannot be overcome by the power of state bodies alone. In this regard, it is necessary to involve civil society institutions in the fight against corruption to the maximum extent possible.

In order to toughen punishment, the main provisions of criminal legislation are being revised within the framework of the fight against corruption. In addition, limiting the opportunities for corrupt officials to sell funds and other property obtained through criminal means would also be a very effective measure.

It can be said that corruption has now been formed as an independent social institution: it has a certain stable form, structural development. This phenomenon unites many entities: both state officials and business entities. They actively use corruption tools in order to solve certain problems in their activities [2].

The problem of corruption is one of the most important problems in the modern world. It hinders the solution of important economic and political tasks, weakens the authority before the people, and hinders the effective development of international trade, economic and other relations. Corruption directly or indirectly affects the values of society, the foundations of morality and statehood. Depending on the degree of spread of corruption in a particular society or state, conclusions are drawn about the possibility of political, economic and social dangers, as well as the level of development of civil society. In the conditions of Uzbekistan, due to complex historical and traditional factors, corruption has become part of the mentality of the population, a certain psychological deviation. For example, most citizens of our country strive to express "gratitude" even after the work is done not for the sake of any self-interest (that is, not on the basis of an agreement on the form, amount and terms of "gratitude"), but out of sincerity and respect. But the problem is that such a deviation becomes a breeding ground for the development of all the negative manifestations of the institution of corruption. For example, businessmen, using the "help" of dishonest officials, circumvent the law, eliminate competitors.

Due to the widespread and stable nature of corruption, it has acquired the status of a "normal, insurmountable" phenomenon for Russian society. People prefer to get used to this phenomenon, adapt to it and use it to solve their own problems or pursue their interests, taking advantage of the opportunity. For some individuals, corruption is not a violation of the law, but rather a "rule of life" accepted by all participants in a corrupt "deal" that satisfies both parties.

As evidence of the state's recognition of corruption as a socially dangerous and destructive institution, the processes of constantly developing, adopting and implementing special measures are cited. These measures are summarized in national anti-corruption plans for a certain period, which are approved directly by the head of state.

Currently, Appendix 1 to the Decree of the President of the Republic of Uzbekistan No. PF-200 dated November 27, 2023, the State Program on Combating Corruption for 2023-2024 is in effect. In particular, this plan provides for measures to improve the system of anti-corruption prohibitions and restrictions, increase the effectiveness of measures to prevent conflicts of interest. It also covers issues such as administrative and criminal penalties for corruption, combating corruption in public procurement and the private sector of the economy, anti-corruption education, involving civil society in the fight against corruption, and developing international cooperation in this area. At the same time, tasks are also set to combat new forms of corruption associated with digital technologies (including the use of cryptocurrency). At the same time, speaking of assessing the state of corruption, it should be noted that it is impossible to give an objective assessment of this phenomenon. Because corruption has complex socio-legal manifestations, a high level of secrecy, and the involvement of a wide range of individuals. According to the Transparency International rating, Uzbekistan ranks 121st out of 180 countries (33 points). According to this rating, our country has the same level of corruption as countries such as Nigeria, El Salvador, Kenya, Mexico, and Togo. Thus, Uzbekistan, with its level of development, developed and effective law enforcement system, is on the same level as "poor" African countries with a much lower anti-corruption system. Interestingly, the so-called "domestic corruption" is widespread in Uzbekistan - corruption in the fields of education, medicine, and housing and communal services. It is difficult to say for sure whether this is due to the low level of legal culture of the population or to the internal customs of society. It should be noted that the high level of corruption is also associated with the risk of corruption abuse in law enforcement agencies, which affects the effectiveness of the fight against corruption. For example, bodies and officials tasked with combating bribery actively use this "mechanism" themselves in practice.

As a result, public trust not only in the system of state bodies, but also in law enforcement agencies, which are one of its constituent elements, is waning. This situation can cause social discontent among the population. This, in turn, can serve as a basis for propaganda slogans of various extremist elements aimed at inciting xenophobia and interethnic conflicts.

The most effective educational and warning method for preventing and stopping corruption crimes is to bring those liable to criminal liability. Currently, the main provisions of criminal legislation are being revised within the framework of the fight against corruption. Criminal-legal analysis and practical observations show that fines prevail as the main punishment for these actions under Articles 210 and 211 of the Criminal Code of the Republic of Uzbekistan (crimes related to bribery and bribery). There is also a relatively lenient nature of sentences related to deprivation of liberty.

Practical experience confirms that the criminal penalty (in particular, the amount of the fine) is often not proportional to the amount of the bribe (the scale of corruption). In this regard, there is a question of revising both the amount of the fine and the terms of imprisonment, and even introducing life imprisonment. It is also necessary to reconsider the priority of applying the fine as the main punishment for corruption.

An important step in the fight against corruption is the development and introduction of mechanisms to restrict the use of material means obtained as a result of these actions. Corruption is one of the elements of the shadow economy, which not only creates unaccounted financial means, but also helps to implement them by “laundering”, including through bribery.

The purpose of the briber in committing a corrupt act is to receive profit. An unscrupulous official seeks to improve his financial situation and satisfy his personal interests. However, the funds obtained in this way have an illegal (undeclared) status, which makes their circulation and use difficult. Of course, the criminal will try to “whitewash” (legitimize) the funds obtained by legal or illegal means. In this regard, it is important to limit the possibilities of using funds and other property obtained through criminal means. However, such restrictions are overcome through a form of corruption in the form of “kickbacks”, that is, when other individuals illegally provide officials with financial benefits. The restrictions are aimed at creating specific conditions aimed at maximum transparency in the financial situation of officials (i.e., income received, real estate or other property, including property or other property rights received as a bribe). It is necessary to strictly and systematically monitor the movement of financial assets of such persons, introduce a system of reporting on income, as well as to take into account the income of family members and close relatives (spouses and minor children). In addition, it is necessary to introduce legislation prohibiting the opening and storage of accounts in foreign banks located outside the territory of the state, the possession or use of foreign financial instruments, and other restrictions. When using funds (for example, purchasing real estate, investing, opening deposits), the official is obliged to explain and confirm the legal origin of these funds (for example, through a declaration). Currently, mechanisms have been developed to identify actual income in excess of legally obtained income. This mechanism is implemented on the basis of providing information on the income of persons holding public positions, civil servants, and their family members (spouses and minor children). However, this mechanism can be bypassed by involving third parties, that is, actually accomplices who actively participate in the implementation of corrupt schemes.

Legislation in the field of public procurement is undergoing significant and, most importantly, timely changes. The speed of financial decision-making is increasing, and as part of the implementation of the state strategy for the transition to a digital economy, it is required to increase the number of participants conducting public procurement electronically. In order to further make the process more transparent, it is advisable to include only participants accredited on electronic platforms in the auctions. These conditions aimed at increasing the efficiency of public procurement are reflected in the changes introduced into the current legislation. The process of reforming the legislation in the field of public procurement has been carried out in two directions at once: various institutions have been established to carry out public procurement and complex legal mechanisms have been introduced to regulate contractual relations [3]. In addition, in many cases, legal norms are formulated in a contradictory manner, which negatively affects the activities of participants in the public procurement process [4].

In order to effectively combat embezzlement and corruption crimes, it is necessary to develop and adopt amendments to the current legislation that prevent theft and corruption in the field of public procurement, and we cannot do without certain implementations, in whole or in part, since some countries have accumulated positive experience in this area. In the context of the rapid improvement of national legislation in the field of public procurement and the transformation of the conditions for carrying out

economic activity in the context of digitalization, it seems relevant to consider the European experience. The countries of the European Union (EU) implement two models of public procurement: centralized, using a single procurement center, and decentralized, in which each customer makes purchases independently. The decentralized model has its advantages in its flexibility, which allows taking into account the specifics of the formation of applications for the purchase of certain goods and services, but requires high costs. The centralized model provides for large-scale wholesale public procurement and therefore reduces the cost of procurement activities in general, but it is less flexible and therefore takes into account less aspects of the applications for the purchase of goods and services needed by the state [5].

Ensuring uniform economic opportunities for participants in public procurement, the formation of a highly competitive environment can only be achieved through the diversity of economic agents and high-quality legal regulation. In this regard, agreed minimum rules for public procurement have been developed within the European Union (EU) and implemented in the national legislation of each EU country. These rules apply only to contracts exceeding a certain amount. If the contract amount does not reach this threshold, national public procurement rules apply.

Amendments to national legislation regulating public procurement may be determined, in part, by the requirements of the European Commission (EC). The EC is the main supervisory authority of the EU in the field of public procurement. In case of violation of the rules, it is possible to initiate proceedings before the Court of Justice of the EU, which may result in changes to national legislation [6]. Thus, the uniformity of EU procurement legislation is constantly monitored. However, such a policy of unification is not always possible, since it is necessary to take into account the different economic situations, economic opportunities and business cultures of EU member states. At the same time, the EU is promoting the idea of opening up the public procurement market to foreign companies. Thus, companies will be able to participate in public procurement in other countries. In our opinion, this concept requires serious improvement. Often, public procurement is a factor that stimulates economic processes within the country, ensuring demand for certain types of products and stimulating the flow of investment into certain sectors. The idea of opening the market proposed by the EU may form a “purposeful contradiction”. In this case, foreign companies may, for various reasons, outbid local participants and offer goods at a lower price, which contradicts the goal of economic development and support for local producers through public procurement [7]. From this point of view, it is necessary to seriously limit the share of foreign companies that have access to the local public procurement market. In the context of the global trend towards protectionist policies and the continuation of the import substitution policy in Uzbekistan, this may to some extent encourage foreign companies to continue the process of localization of production.

European public procurement practice also involves the use of Internet technologies. However, the difference between the EU and Uzbekistan in this regard is reflected in the main motives. In Uzbekistan, the main motive for conducting online sales is to increase the transparency and speed of processes, ensuring economic growth. In the EU, the main motive is to save taxpayers' money by reducing the costs of maintaining the bureaucratic system [8].

Achieving the goal of studying anti-corruption practices in the field of EU public procurement requires, first of all, to identify the reasons for personal interests, for which it is necessary to consider the volume of tenders in EU countries in monetary terms.

Over the past three years, France has been the leader. The state, implementing the principle of “non-discrimination”, allows foreign companies to participate in tenders. However, in order to ensure the development of its economy, French legislation contains court decisions according to which companies that agree to localize their production in France after winning the tender have an advantage over other participants [9]. This confirms the need, first of all, to ensure the economic security of the state that announced the tender and to encourage the localization of production of products, goods and services necessary for the state.

For many years, France has been working to prevent and combat corruption in the field of public procurement. Since the early 1990s, an interdepartmental commission has been operating in the Republic to monitor the state orders and social works markets. French law distinguishes protectionism (покровительство) as a separate type of corruption, which means that public officials participate in the distribution of orders and provide illegal benefits to private enterprises.[10] Administrative control is carried out by heads of organizations, departmental inspectorates, the Central Service for the Prevention of Corruption, the Court of Auditors and regional courts of auditors. According to Article 40, Part 2 of the French Code of Criminal Procedure, any public or municipal official who has information about an illegal act in the course of

performing his duties must immediately report it to the prosecutor.[11] One of the countries that has been conducting large-scale public procurement for many years is the United Kingdom. Public procurement in the United Kingdom is regulated in accordance with EU law, therefore the principle of “non-discrimination” also applies in this country. The 2011 tender, in which the German company Siemens won a £1.6 billion contract, was widely discussed. Those who did not support the UK's EU membership used the incident to highlight the potential damage to the country's economy of the principle of "non-discrimination". In 2010, the UK moved from a decentralised to a centralised system of public procurement. It is worth noting that during this period, spending on public procurement almost halved.

The practice of public procurement in Germany, the largest economy in the EU, is also interesting. Germany has a decentralized system, with each level (federal, regional and municipal) having the right to make independent decisions on budgetary matters. According to the German Federal Ministry for Economic Affairs and Energy, the bulk of public procurement is carried out at the municipal level, with the smallest part at the federal level [12]. In Germany, the participation of at least two participants in a tender is mandatory, and foreign participants are also invited to participate. The principle of “non-discrimination” has been in force in this country since the 1960s and was applied in Germany even before this model was popularized in the EU. The principle also applies to tenders within Germany: if a certain region or municipality announces a tender, not only local representatives but also representatives from other states or foreign countries can participate. Germany's experience in preventing crimes in the field of public procurement deserves special attention, as German criminal law has similarities with Russian criminal law. All activities in the field of public procurement are supervised by the German Federal Ministry of Economics, and national legislation is changing in the process of harmonization with EU norms. Independent executives play an important role in the organization of public procurement, which are supervised by the Court of Audit and supervisory authorities. These independent executives act as regulators of public procurement in Germany. They are strictly prohibited from being dismissed while performing their official duties. The regulatory sources for them are Section 19 of the GWB, Section 20 "Prohibition of Discrimination", the law against unfair competition, as well as antitrust law. Section 30 of the German Criminal Code and other laws are used to qualify corrupt acts by officials participating in public procurement. According to statistics, in Germany, the number of individuals and legal entities held criminally liable for public procurement offences is small: mainly administrative fines are imposed, the amount of which can be very large and higher than similar penalties in the EU (up to €10 million for intentional offences, up to €5 million for negligent offences).

Public procurement in Italy is also decentralized, and any regional or local authority, as well as national or local public organisations (non-profit organisations specifically created to carry out public tasks), can be public procurement customers. Germany and Italy share a similar anti-corruption policy in public procurement. This policy involves the practice of including legal entities that have committed corruption offences in a public register [13].

Increasing transparency is one of the main directions of Italy's public procurement policy. The Public Procurement Act lists the sectors most prone to corruption. Contracting in these areas requires local authorities to publish a list of the organizations they operate in. [14] Disclosure of violations in the field of public procurement negatively affects the business reputation of companies and individual managers. For this reason, internal compliance systems aimed at compliance with international and national regulatory legal acts in the fields of antitrust law, competition law and anti-corruption law are widespread in Germany and other EU countries.[15] The volume of public procurement in Belgium lags behind other EU countries in terms of financial indicators. Belgian law does not contain a specific provision providing for liability for violations of the procedure for implementing public procurement, therefore criminal offenses in this area are classified as corruption in the civil service. Depending on the severity of the crime, liability can be in the form of imprisonment or a fine.[16].

Thus, in recent years, the experience of combating corruption in the field of public procurement in Europe has been largely unified. This creates conditions for the use of effective and cost-effective tools in the fight against corruption. Such a strategy will allow the EU member states to create a single regulatory, legal and economic space.

The formation of economic and legal conditions for the implementation of the public procurement process in Uzbekistan is a strategically important task. It is necessary to emphasize once again the need to limit the number of foreign participants in the public procurement process. Public procurement is an important means of forming demand for domestic products, ensuring economic growth and improving the living standards of the population. This tool for

regulating market relations should be used as effectively as possible for the development of various sectors of the economy.

The modern concept of a legal and social state cannot be imagined without supporting an effective and transparent public procurement system. However, one of the main problems in this area is the large number of criminal acts committed during the placement and execution of orders for goods and services for state and municipal needs. Due to the special importance of public procurement for the public interest, states resort to criminal sanctions as a means of preventing crimes in this area. However, the issue of the effectiveness of such sanctions is still relevant and is the subject of scientific debate both in Uzbekistan and abroad.

The system of combating irregularities in the procurement mechanism in the Federal Republic of Germany is recognized as one of the most effective systems in the world. According to some experts, German public procurement is carried out in the most developed way in Europe [17]. Since the 1970s, national German procurement legislation has been replaced by European Union standards. The European Union has ensured the gradual creation of a competitive and open market by issuing directives. Today, EU rules cover and regulate procurement institutions in detail in the following areas: 1) advertising of procurement; 2) independent assessment of the competence of companies; 3) awarding contracts; 4) legal remedies in case of breach of agreements or legal requirements. Important EU documents in this area include: Directive 2014/24/EU on public procurement adopted on 26 February 2014; Directive 2014/23/EU on the award of concession contracts adopted on 26 February 2014; Directive 2014/25/EU on the coordination of procurement laws by entities operating in the energy, transport and postal services sectors adopted on 26 February 2014.

The above regulatory legal acts are being successfully implemented into the national law of the Federal Republic of Germany. This process is managed by the Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie). Officials responsible for placing public orders have professional independence and are accountable only to the German Court of Auditors and supervisory authorities.

The following laws can be mentioned among the national legislation in the field of public procurement in Germany: the Law against restrictions of competition in the performance of public contracts (Verordnung über die Vergabe öffentlicher Aufträge) [18]; the Rules for the award of public works contracts and tenders (VOB/A); the Procedure for the award of works and services (VOL). Participants in the German public procurement system have different levels of legal protection depending on the size and type of public contract. If the contract comes from the federal government, a tender for a sum exceeding 130 thousand euros must be held at the European level. If the contracting authority is a federal state (Bundesland) or a municipality, the threshold for a European tender is increased to 200 thousand euros. The most common means of protecting the rights of the parties in procurement relations are administrative remedies (usually fines) and judicial review of the contract. Judicial review consists of two stages: first, a complaint must be filed with a special independent body, and then with a court. Grievance procedures are public, and in 2015, 751 complaints were received and successfully processed by the courts [19].

In addition to judicial remedies, participants in trade also have access to antitrust law. Important provisions are also enshrined in the Unfair Competition Act (Gesetz gegen unlauteren Wettbewerb) and the Competition Restrictions Act (Gesetz gegen Wettbewerbsbeschränkungen)[20]. Economic crimes are regulated in Chapter 26 of the German Criminal Code (Strafgesetzbuch)[21]. Crimes against market competition are regulated in detail in Sections 298-302. These crimes include: restriction of competition in tenders and bidding (§ 298 CC); bribery and bribery in economic activities (§ 299 CC); particularly serious cases of bribery and bribery (§ 300 CC). In addition to the listed elements of the crime, this section determines the amount of property fines and the content of extended compensation to the injured party. An interesting feature of the criminal law regulation of public procurement is that it is precisely in the context of procurement activities that a separate structure is allocated for bribery (the subjects of such a crime can only be economic entities participating in the state economic turnover).

The penalties for the above-mentioned crimes are enshrined in the German Criminal Code (Chapter 30), as well as in additional legislative acts. Criminal penalties applicable to persons involved in corruption include: fines, deprivation of the right to hold certain positions or engage in certain activities, confiscation of illegally acquired property for the benefit of the state, and deprivation of liberty.

An important feature of the criminal law of Germany in the field of public procurement is that criminal penalties are relatively insignificant compared to administrative sanctions. When imposing penalties, law enforcement agencies have the right to proceed not only from the

requirements of the law, but also from their own sense of justice and the assessment of the appropriateness of the penalty [22]. Administrative fines for violations of competition law can be higher than criminal fines under French law [23].

The severity of criminal liability for corruption (active or passive) varies depending on whether the actions taken by the person receiving the bribe fall within the scope of his or her authority. Liability for corruption-related crimes can apply not only to public officials, but also to employees of private companies and corporations. The maximum fine for corruption is €5 million for negligent acts and €10 million for intentional acts.

When discussing corruption-related crimes, it is important to remember that gifts can also be considered bribes, depending on their value and intentions. Another set of crimes in the field of public procurement is related to criminal acts such as fraud, embezzlement and forgery. The legal framework for such offences includes the Money Laundering Act (Geldwäschegesetz), which, in addition to criminalising the above-mentioned acts, also sets out reporting requirements for financial institutions.[24] Section 22 of the German Criminal Code contains provisions on the regulation of fraud. The following are circumstances that give rise to criminal liability: general elements of fraud (§ 263); fraud using computer technology (§ 263 “a”); fraud for the purpose of obtaining subsidies (§ 264); fraud in connection with capital investments (§ 264 “a”); insurance fraud (for the purpose of obtaining higher insurance payments) (§ 265); fraud for the purpose of obtaining profits (§ 265 “a”); fraud in connection with obtaining credit (§ 265 “b”). Thus, German legislation has enshrined the most dangerous types of fraud in the Criminal Code, but does not allocate a separate section for fraud in the field of public procurement.

Another category of crimes related to procurement is embezzlement and embezzlement. In the German Criminal Code, such criminal acts are regulated by Article 266: “Breach of trust”. Types of this act include: abuse of credit cards and checks, as well as concealment and embezzlement of employee salaries [25].

An important feature for German criminal law is the problem of distinguishing fraud as an act punishable by criminal punishment and from civil law torts of a similar nature. German doctrine considers the nature of the fraud, the breach of contract (deal) and the damage caused as decisive factors in qualifying the act [26].

An analysis of the experience of organizing public procurement in the Federal Republic of Germany allows us to draw the following conclusions.

The public procurement system occupies a significant place in the overall economic system of a developed state. Modern trends of globalization and world economic integration have a significant impact on the development of procurement trends around the world. These trends include: unification of procurement legislation, openness of the public procurement market, strict adherence to the principles of allocation and execution of state and municipal contracts.

The German system of regulation of public procurement and prevention of crimes in this area is closely intertwined with the pan-European standards of the European Union. Criminal punishment undoubtedly plays a large role in combating abuse (corruption, fraud and waste), but it is not decisive. German legislation considers administrative measures, including the application of fines and the system of awarding public contracts, as an effective means of preventing and eliminating violations, as well as establishing complete transparency in monitoring their legal and effective implementation.

When studying the German Criminal Code, a tendency to widely differentiate the elements of crimes according to their specific characteristics or specific subjects is clearly evident. It should be noted that liability for corruption or other crimes in the field of public procurement applies not only to civil servants, but also to employees of corporations and private firms. If it is proven that a violation of the law has been committed in the field of public procurement, both individuals and legal entities can be held liable.

Public procurement is one of the important means of state control over the country's economy. It is very important to ensure order in this area and effectively manage financial expenditures in this area. Thus, ensuring the effective use of budget expenditures is an important task for the state.

Public procurement is a necessary tool in implementing the state's industrial and social policy. Through this mechanism, it is possible to produce competitive goods, support local manufacturers, as well as small businesses, people with disabilities and other persons in need of state assistance. Through the accurate and effective implementation of public procurement, the state influences the social sphere.

Public procurement reflects the relationship between the state, society and business. Public procurement is aimed at ensuring the needs of society for products and services, and the state is tasked with the effective use of budget funds and protecting the interests of the population.

At first glance, the situation in the field of public procurement may seem good: legal entities and individual entrepreneurs produce their products for the state in order to produce products and provide services for society. However, when analyzing the development of the country's economy, problems with the legislative procedure in the field of public procurement and its implementation are revealed, which leads to the growth of corruption and inefficient spending of budget funds.

Corruption-related crimes in the field of public procurement are very common in Uzbekistan. Even a modern tender system, where all processes are clear and transparent, works differently in practice.

The main reasons that contribute to the spread of corruption in the field of public procurement can be identified as follows:

– ineffectiveness of relevant legislation;

– lack of understanding of the essence of the procedures carried out by officials involved in public procurement;

– low confidence of suppliers in the competitive procurement system and the possibilities of open and fair competition;

– low knowledge of suppliers about their rights and obligations, often a lack of desire to master them;

– passive activity of the bodies liable for monitoring public procurement.

Corruption schemes associated with crimes in the field of public procurement, first of all, seriously undermine the authority of state power, as well as increase public discontent and have a sharply negative impact on the socio-economic situation of the country. This threatens to have a positive impact on the investment climate in the country, undermines the stability of the national financial system, damages the international reputation of the state and encourages the transfer of most of its funds to the "powerful shadow".

Most corruption schemes are most often used by criminals to achieve their criminal goals, namely:

– setting unacceptable terms for other suppliers by the public procurement, i.e. creating such conditions that the terms and conditions are suitable only for one supplier, who is informed in advance and has a secret agreement;

– reaching an agreement with the supplier for an amount lower than that of other participants in public procurement;

– translating evaluation criteria in favor of interested parties, etc. [27].

Let us consider in more detail the most common corruption schemes. Price determination (quotations) is one of the areas most prone to corruption. The second most dangerous area in the public procurement system is tenders. Various cases of collusion may occur during the price determination process, the most common of which is collusion between the customer and the company. For example, the customer sets requirements and criteria that only one company can meet. This in itself is a violation of the law. There are also cases of collusion between companies, who set excessively high prices for their services.

The main disadvantage of tenders is that a set of goods or services is purchased from one company, and not from several suppliers. In rare cases, tenders are held for the purchase of only one type of goods or services, usually everything is purchased in a complex form. Therefore, real manufacturers do not have the opportunity to participate in tenders, they only resell goods, and do not supply them directly. There are a lot of intermediary firms between the customer and the manufacturer. In addition, there are a lot of companies on the market that are aimed solely at participating in tenders. They collude with the customer and fulfill the order by finding a supplier that is convenient for them. In this way, many intermediaries get rich, although the real value of the order is not so high.

Economic relations are directly protected by the Civil Code. However, it should be noted that there are a number of substances that create conditions for committing economic crimes.

One of the most common and least punishable articles is Article 228 of the Criminal Code, namely, falsification of tender documents. According to this article, a person is held criminally liable if he forges official documents and obtains the right to trade or the right to be exempted from a number of obligations through them.

In most cases, tenders are held within a limited time frame. If the commission authorized to conduct the tender has doubts about the authenticity of the documents, it will take a lot of time to determine whether the document is fake or genuine. The customer does not have the right to refuse for formal reasons. As practice shows, in such cases, customers do not submit applications to the authorized bodies and do not initiate criminal proceedings under the relevant articles of the Criminal Code.

In addition, criminals can use fake documents to participate in the tender, but they do not intend to fulfill the contract.

The next most common type of crime in the field of public procurement is fraud. That is, the implementation of the relevant activity by the customer in the form of the supply of goods or the provision of

services.

The most common crime in the field of public procurement is bribery. The most common scheme in practice is as follows: the customer formulates the technical terms of reference in the tender documentation in such a way that it makes it impossible for other participants who could offer their products on a competitive basis to participate in the tender. This situation occurs as a result of collusion between the customer and a previously determined participant. As a result, only a certain participant is able to participate in the tender, while others are excluded due to their failure to fully or partially meet the criteria of the state order. Legal entities and individual entrepreneurs, even if they understand the corrupt actions being carried out by the customer and other participants, do not always try to contact the relevant authorities and initiate criminal proceedings.

Damage caused to the state and society as a result of corrupt actions in the process of placing a state order is conditionally divided into the following four types:

1. Financial losses - contracts concluded under unfavorable conditions for the state and society. For example, purchasing products at prices in excess of market prices, including advance payments instead of deferred payments in the terms of state contracts, etc.;

2. Quantitative losses - the volume of delivered materials or services is in excess or in short supply of the required amount; purchasing goods and services for the personal needs of officials, not for state or public needs, etc.;

3. Quality losses - the conclusion of contracts in violation of technical requirements. For example, the supply of low-quality goods, services or performance of work; insufficient requirements for control over the quality of work and services, etc.;

4. Political losses - deterioration of the investment climate in the country, loss of trust in state bodies and the state, gradual deterioration of the state financial and economic system, violation of the principles of free competition, etc.

In many cases, the sphere of public procurement is very susceptible to the risk of various violations. Although public procurement procedures are not carried out immediately, as soon as they are formed, their individual stages are often at risk of committing crimes.

Scientific studies aimed at analyzing problems in the sphere of public procurement have revealed the following pattern: the more effective state control, the more effectively the public procurement system functions. This directly depends on the number of specialists, their qualified training, legal culture and financial support. The low level of specialists involved in monitoring and controlling violations in the public procurement process leads to significant losses for the state.

One of the most promising areas for preventing corruption in the field of public procurement is the implementation of polygraph tests of persons responsible for the procurement of goods, works and services, as well as tenderers. The testimonies obtained during the polygraph test can be used as evidence in criminal cases in courts. In addition, it is necessary to criminalize such actions as “pre-conclusion of unfavorable contracts” for state needs. Such proposals have been made before, but have not been implemented in practice. It is also possible to expand the circle of persons liable for violations in the field of public procurement, that is, it is proposed to hold accountable not only officials, but also the heads of companies operating in this field.

Public procurement documents often contain corruption-prone factors, that is, rules that contain incomprehensible, complex or burdensome requirements for public procurement participants. Identifying such factors and removing them from documents is an important method of preventing corruption. One of the main directions in ensuring the fight against corruption in this area should be the organization of anti-corruption expertise of procurement documents. The anti-corruption expertise institute was first enshrined in the Law No. ZUR-419 of January 3, 2017 “On Combating Corruption”, and subsequently a number of regulatory legal acts regulating this issue were adopted. However, in the adopted laws, anti-corruption expertise is applied to regulatory legal acts and their drafts. Tender documents prepared by the customer before the auction for each type of procurement are not legal documents, and therefore the legislation on anti-corruption expertise for regulatory legal acts and their drafts does not apply to them. Summarizing the above points, it can be concluded that it is necessary to develop an anti-corruption expertise methodology that would determine the algorithm and sequence of actions of experts to identify corruption-prone factors in procurement documents.

Thus, it is possible to draw a legitimate conclusion that corruption is at a high level in the field of public procurement in modern Russia, that is, cases of abuse of official authority. This situation has a significant impact on the completeness and efficiency of the public procurement process.

When considering anti-corruption measures in the field

of public procurement, it is necessary to turn to the experience of economically developed countries. These countries have managed to overcome the barrier of lawlessness. From this point of view, it is worth highlighting the Bribery Act of 2010 of Great Britain, adopted on April 8, 2010. This law entered into force on July 1, 2011, incorporating the main and necessary norms from previous laws and introducing a number of new rules.

The main advantages of the UK law are the clarity and normative consolidation of the principles of anti-corruption policy, which include:

– timely assessment of corruption risks;

– the principle of extraterritoriality;

– the obligation for all civil servants to know the legislation on anti-corruption policy;

– periodic inspection of the corruption structure of personnel and departments;

– the principle of systematic control and monitoring.

This law establishes measures to combat corruption, in particular, the emphasis is on cases such as abuses between state customers and executors, as well as fraud among personnel. Such measures are of a criminal law nature. According to the law, not only company managers, but also their employees are held liable.

In Uzbekistan, there are authorized bodies to verify the correctness, transparency and efficiency of state and municipal procurement. Such bodies include: the Accounts Chamber of the Republic of Uzbekistan, control and accounting bodies at the regional and municipal levels. Their duties include a thorough examination of all officials involved in public procurement:

From the customer to suppliers - to check the completeness and effectiveness of the order, as well as the quality of the goods and services provided, and to monitor the implementation of all stages of public contracts.

From the supplier to the customer (order) - to check possible collusion and criminal intent between the customer and the supplier or other civil servants involved in public procurement.

In modern conditions, a single effective anti-corruption system has been formed in the field of public and municipal procurement. However, this system cannot function fully normally, since at the same time criminals are improving their skills, and the damage caused by this criminal activity is growing.

There are certain difficulties in investigating crimes, which are associated with the wide scope of schemes in criminal organizations and the large number of counterparties. Corruption not only causes material damage, but also creates additional political, economic and cultural problems for the state. Therefore, modern society cannot develop normally in real conditions.

Information on losses caused by corruption in public procurement can help create an effective and modern system to combat this criminal activity.

REFERENCES

Lunkov A.S. Korrupsiya va obshchestvennyx institutax raznogo tipa. Sotsialno-filosofskiy analiz // Aktual muammolar nauchnogo pravitelstva davlat siyosati Rossiya Federatsiyasi v oblasti protivodeystviya reforme. Ekaterinburg, 2014. № 1. C. 217. https://elibrary.ru/tuatlf.

Yagodin R.S., Volkova P.A. Protivodeystvie korruptsii // Leningradskiy yuridicheskiy jurnal. 2017. № 2. – S. 260. https://elibrary.ru/zdozar

Smirnikova Yu. L., Krovikova M. A. Administrativnaya otvetstvennost za narusheniya poryatka osushchestvleniya zakupok tovarov, rabot, uslug uchun obespecheniya gosudarstvennyx va munitsipalnyx nojd u sub'ektov malogo predprinimatelstva // Administrativ. pravo va protsess. 2017. № 11. S. 35–39.

Smirnikova Yu. L. Neopredelennost yuridicheskoy konstruktsii otvetstvennosti za netelevoe ispolzovanie byudjetnyx sredstv (sootnosenie norm KoAP RF va BK RF) // Administrativ. pravo va protsess. 2009. № 4. S. 15–17.

Osipov G. V., Glotov V. I. Mashtab, mexanizm va prichin "bytovoy korruptsii" // Vestn. RAEN. 2017. T. 17. № 1. S. 3–7.

Kasyanov R. A., Smaznova A. P. Control v sfere gosudarstvennyx zakupok v ES i EAES: sravnitelnyy analiz polnomochiy Evropeyskoy komissiyasi va Evraziyskoy ekonomycheskoy komissiyasi // Zakony Rossiya: opyt, tahlil, amaliyot. 2017. № 11. S. 74–80.

Tishenko T. V. Institutsionalnaya sreda gosudarstvennyx zakupok i ee vlyanie na deyatelnost iqtisodiy iqtisodiy sub'ektlar // Ros. predprinimatelstvo. 2019. T. 20, № 1. S. 123–140.E-procurement // European Commission. URL: https://ec.europa.eu/growth/singlemarket/public-procurement_en (дата обращения: 27.11.2024).

Conseil d'Etat, 7 /10 SSR, du 14 January 1998, 168688, publié au recueil Lebon. URL: https://www.conseil-etat.fr/

Bocharnikov I. V. Zarubezhnyi opyt protivodeystviya korruptsii // Gos. Vlast i mestnoe self-government. 2008. No. 9. S. 16–23.

Marco J. Borba protiv korruptsii vo Frantsii // Journal.

yes right 2012. – No. 7. S. 34–40.

Public Procurement in Germany // Federalnoe ministerstvo ekonomiki i energetiki Germanii. URL: https://www.bmwi.de/Navigation/EN/Home/home.html (data obrascheniya: 27.09.2019).

Juridicheskie i organizatsionnye antikorruptsionnye mery: comparative investigation / A. S. Avtonomov, N. A. Golovanova, V. V. Dr. Grib ; otv. ed. A. S. Autonomov. M.: Jurist, 2017. 132 p.

Tsirin A. M., Dymberova E. D., Shindyapina E. D. Financial mechanism against corruption: international standards and national solutions // Jurn. yes right 2013. No. 9. S. 100–113.

Sushkova O. V. Konkurentnye mechaniznyi oborota farmatsevticheskikh izdeliy i biotechnologii v predprinimatelskoi deyatelnosti // Konkurentnoe pravo. 2019. No. 2. S. 17–24.

Semykina O. I. Criminalization finansovo-hozyaystvennyx otnosheniy v sphere gosudarstvennyx zakupok (comparativist analysis) // Jurn. zarubezh. Zakonodatelstva i sravn. justice 2018. No. 3. S. 161–170.

Verordnung über die Vergabe öffentlicher Aufträge. [Electronic resource]. - The regime is accessible: http://www.gesetze-im-internet.de/vgv_2016/ (data obrashcheniya: 10.11.2024).

Statisticheskie dannye Federalnogo ministrystva Federalnoy respubliki Germanija po economie i energetike za 2023 g. https://www.destatis.de/DE/Home/_inhalt.html (data obrashcheniya 25.11.2024).

Gesetz gegen unlauteren Wettbewerb. http://www.gesetze-im-internet.de/uwg_2004/ (data obrashcheniya 02.12.2024).

Gesetz gegen Wettbewerbsbeschränkungen. http://www.gesetze-im-internet.de/gwb/ (data obrashcheniya 02.12.2024); Strafgesetzbuch. http://www.gesetze-im-internet.de/ stgb/ (data obrascheniya 05.12.2024).

Klepitsky I.A. Sistema khozyaystvennykh prestupleniy. M.: Statut, 2005. - 572 p.

Code Penal, v ed. 2000. https://yurist-online.org/laws/foreign/criminalcode_fr/_doc-5-.pdf (data obrashcheniya 25.11.2024).

Geldwäschegesetz. http://www.gesetze-im-internet.de/gwg_2017/ (data obrashcheniya 25.11.2024).

Jahreswirtschftsbericht 2015: Investieren in Deutschlands und Europas Zukunft. [Electronic resource]. - The mode is available at: https://www.bmwi.de/Redaktion/DE/Publikationen/Wirtschaft/jahreswirtschaftsbericht-2015.html (data obrascheniya 25.11.2024).

Artemenko N.V. Prednamerennost neispolneniya dogovornykh obyazatelstv kak konstruktivnyi priznak moshennychestva v sphere predprinimatelskoy deyatelnosti: doctrinal nye i pravoprimenitelnye podkhody // N.V. Artemenko, A.D. Nechaev, A.M. Razogreeva, E.V. Tishchenko, N.G. Shimbareva. - Journal of the Juridical Faculty of the Yuzhnogo Federal University. 2016. - No. 1. - S. 48-56.

Shestak V.A., Belyy P.F. Prestupnye narusheniya v sphere goszakupok v Federativnoy Respublike Germanija // Obrazovanie i pravo. 2020. – No. 11. – S. 277-279.

Kupreev S.S. Obshchestvennyy control kak sredstvo protivodeystviya corruptionsii v organakh vlasti i upravleniya // Administrativnoe i municipalnoe pravo. 2016. No. 9. S. 10–12.