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## ANTI-CORRUPTION: WORLD EXPERIENCE AND KAZAKHSTAN CASE

### Abstract

The study is devoted to the analysis of the problem of combating corruption as a strategic problem in the context of world experience. The authors of the article state that anti-corruption is regulated at the level of international law, at the same time, each country has its own features of legal regulation. The state anti-corruption policy of modern states is justified as a set of measures and mechanisms, at the level of national and related international law, aimed both at countering corruption offenses, as well as other acts of a corrupt nature, and at preventing them. The study also

makes the case that preventing corruption, promoting transparency and strengthening institutions are critical to achieving sustainable development goals. The authors illustrated the problem using the example of modern anti-corruption models: Asian countries, Latin American countries, the USA, African countries. Comparison with international standards made it possible to assess the level of development of the anti-corruption system in the Republic of Kazakhstan and identify its strengths and weaknesses.

**Keywords:** law, corruption, corruption crime, counteraction, legal regulation, strategy.

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## **СЫБАЙЛАС ЖЕМҚОРЛЫҚҚА ҚАРСЫ ІС-ҚИМЫЛ: ӘЛЕМДІК ТӘЖІРИБЕ ЖӘНЕ ҚАЗАҚСТАНДЫҚ КЕЙС**

### *Аңдатпа*

Зерттеу жұмысында әлемдік тәжірибе контексіндегі стратегиялық сипаттағы мәселе ретінде сыбайлас жемқорлыққа қарсы іс-қимыл проблемасын талдауға арналған. Мақаланың авторлары сыбайлас жемқорлыққа қарсы іс-қимыл халықаралық құқық нормалары деңгейінде реттелетінін, сонымен қатар, әрбір елде құқықтық реттеудің өзіндік ерекшеліктері қалыптасады, Қазіргі заманғы мемлекеттердің мемлекеттік сыбайлас жемқорлыққа қарсы саясаты шаралар мен тетіктердің жиынтығы ретінде негізделеді, ұлттық және олармен байланысты халықаралық құқық нормалары деңгейінде бекітілген сыбайлас жемқорлық құқық бұзушылықтарға, сондай-ақ сыбайлас жемқорлық сипаттағы өзге де ісәрекеттерге қарсы іс-қимылға, сондай-ақ олардың алдын алуға бағытталған. Зерттеуде сондай-ақ сыбайлас жемқорлықты болдырмау, ашықтыққа жәрдемдесу және институттарды нығайту орнықты даму саласындағы мақсаттарға қол жеткізу үшін шешуші мәнге ие екендігі негізделеді. Авторлар проблеманы азиялық елдер, Латын Америкасы, АҚШ, Африка елдері сияқты сыбайлас жемқорлыққа қарсы іс-қимылдың қазіргі заманғы модельдері мысалында көрсетеді. Халықаралық стандарттармен салыстыру Қазақстан Республикасында сыбайлас жемқорлыққа қарсы жүйенің даму деңгейін бағалауға және оның күшті және әлсіз жақтарын анықтауға мүмкіндік берді.

**Түйін сөздер:** заң, сыбайлас жемқорлық, сыбайлас жемқорлық қылмыс, қарсы іс-қимыл, құқықтық реттеу, стратегия.

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## **ПРОТИВОДЕЙСТВИЕ КОРРУПЦИИ: МИРОВОЙ ОПЫТ И КАЗАХСТАНСКИЙ КЕЙС**

### *Аннотация*

Исследование посвящено анализу проблемы противодействия коррупции как проблеме стратегического характера в контексте мирового опыта. Авторы статьи констатируют, что противодействие коррупции регулируется на уровне норм международного права, вместе с тем в каждой стране складываются свои особенности правового регулирования. Государственная антикоррупционная политика современных государств обосновывается как совокупность мер и механизмов, закрепленных на уровне норм национального и связанного с ними международного права, направленных как на противодействие коррупционным правонарушениям, а также иным действиям коррупционного характера, так и на их предупреждение. В исследовании также обосновывается, что предотвращение коррупции, содействие прозрачности и укрепление институтов имеют решающее значение для

достижения целей в области устойчивого развития. Авторы проиллюстрировали проблему на примере современных моделей противодействия коррупции: азиатских стран, стран Латинской Америки, США, стран Африки. Сравнение с международными стандартами позволило оценить уровень развития антикоррупционной системы в Республике Казахстан и выявить ее сильные и слабые стороны.

**Ключевые слова:** закон, коррупция, коррупционное преступление, противодействие, правовое регулирование, стратегия.

*Introduction.* Countering corruption as a strategic problem is being adapted in public policy in many countries of the world as a priority. Anti-corruption activities are a field of social relations regulated by interconnected norms of law. As a rule, countering corruption is closely related to criminal-legal and administrative-legal measures in terms of punishment for crimes of a corrupt nature [1, p.42], is directly related to the management of the public service in relation to compliance with the rules of official conduct, includes certain preventive measures, etc. The doctrine emphasizes that "in modern conditions, the question of a more complex structure of the nature of this phenomenon is actualized" [2, p.72].

On October 31, 2003, the UN General Assembly adopted the Anti-Corruption Convention and requested the Secretary-General to entrust the UN Office on Drugs and Crime to serve as the secretariat of the Conference of States Parties to the Convention (resolution 58/4). Since then, 190 parties have made anti-corruption commitments, demonstrating widespread recognition of the importance of good governance, accountability and commitment.

Institutionally, first of all, anti-corruption is regulated at the level of international law, while each country has its own peculiarities in the legal regulation of these relations. Despite the development of legal norms that contribute to the prevention of corruption and their opposition within the framework of the law of an individual state, the content of these norms is significantly influenced by various factors, for example, the educational level and specifics of cultural relations [3, p.16]. The role of public perception of legislative decisions and the state's belonging to a certain legal family is also great. State anti-corruption policy in this context is a set of measures and mechanisms enshrined at the level of national and related international law, aimed both at countering corruption offenses and other acts of a corrupt nature, and at preventing them.

*Materials and methods.* The methodology and methods of research of this work represent methods of dialectical and formal logic, methods of analysis, synthesis, as well as special methods of legal research: formal-legal, comparative, methods of legal modeling and others.

*Results and discussion.* Anti-corruption activity is an integral element of the development of modern society. Models of countering this phenomenon play a key role, creating the basis for effective strategies aimed at strengthening transparency, accountability and fairness in the management of public and social institutions. However, various countries choose their own approaches to this problem, considering their cultural, economic and political characteristics. In this study, various models of combating corruption and their impact on social relations and institutions are subjected to scientific turnover.

Corruption is a phenomenon in which officials or organizations receive illegal benefits (money, gifts, privileges, etc.) in exchange for unreasonable preferences or to bypass legal procedures. This social evil has penetrated into all spheres - the economy, the provision of public services, the quasi-public sector, business, healthcare, education and others.

Studying the nature of corruption is key to creating a more honest, transparent and democratic system.

Currently, this social evil represents a serious challenge to modern society, directly affecting the standard of living and prosperity of citizens. No state in the world has completely eradicated

corruption, it is only possible to reduce its level. The states of the world are fighting this social evil, a vivid confirmation of this is the measures taken to reduce it.

In modern doctrine, research is being conducted to build models of this phenomenon; scientists identify various characteristics and create a system for its classification. The main grounds for species division are such as territorial characteristics, subjective characteristics, target characteristics, and hierarchical grounds.

However, the primary task of formulating the very definition of corruption has not been solved, not to mention the conceptualization of the basic concepts and characteristics of the essence of this phenomenon, the development of a classification scheme that reflects the specific characteristics.

Difficulties in the process of developing modern theories regarding the nature of corruption and combating corruption arise due to collisions between different areas and branches of science.

Preventing corruption, promoting transparency and strengthening institutions are critical to achieving sustainable development goals.

In the system of international cooperation, the fundamental act is the United Nations Anti-Corruption Convention. Given the transnational nature of corruption, UN conventions are important for coordinating the efforts of all countries of the world. Sweden, Singapore, Hong Kong have demonstrated very successful strategies aimed at reducing corruption. The UN and the conference are the optimal and most promising platform for international anti-corruption cooperation and dialogue. At such events, decisions are made necessary for the further functioning of the UN anti-corruption mechanism.

Preventing corruption, promoting transparency and strengthening institutions are critical to achieving sustainable development goals.

December 9 is established at the universal level by the International Day against Corruption, which emphasizes the most important link between the fight against corruption and peace, security and development. In 2023, the world celebrated the 20th anniversary of the adoption of the UN Convention against Corruption, which is an effective and actionable tool to combat this evil.

In the modern world, "geographical" models of combating corruption have developed: the model of Asian countries, the model of Latin America, the model of the USA, the model of African countries.

The model of Asian countries is characterized by the development of an expanded system of anti-corruption measures, which even allows restrictions on human rights in the investigation and application of sanctions. It should be noted that criminal penalties for corruption crimes are very severe, up to the use of the death penalty. The anti-corruption policy of Asian countries is also characterized using such methods as remuneration for effective civil servants, involvement in improving measures to counter corruption of private companies, measures to protect competition.

The model of Latin America is characterized by a combination of legal and illegal means of combating corruption. On the one hand, in Latin America, anti-corruption is based in general on international law, ethical standards are in force that help prevent corruption offenses. On the other hand, the potential of public service legislation is used to a lesser extent, and surprisingly, the close relationship between government and criminal officials is used, which ensures the implementation of individual measures.

A feature of the anti-corruption model in African countries is the underdevelopment of anti-corruption legislation, which does not implement international anti-corruption standards. Accordingly, there is no reason to note the level of effectiveness in general of the state anti-corruption policy. Refusal to adapt anti-corruption standards to national legislation plays a decisive role in their ranking in the most corrupt countries in the world [4].

The American model of fighting corruption is unique. It should be noted that only two years ago an anti-corruption strategic program on a national scale was developed and implemented in this country. This event occurred as a result of the work of the Summit for Democracy. This large-scale event is seen as a conglomerate of representatives of government agencies, civil society and the private sector of individual countries. Despite the fact that the United States has long declared itself

in the international legal arena and actively applies detailed anti-corruption legislation both at the national level and to prosecute foreign officials for bribery, there has still been no single strategic document in the country. This document focuses on increasing awareness of the transnational dimensions of corruption. The emphasis of the modern US anti-corruption strategy focuses on such an important priority as the introduction of modernized practices.

Currently, Kazakhstan has ratified the fundamental international instruments in the field of combating corruption - the UN Convention against Corruption and the UN Convention against Transnational Crime. In addition, there are 25 multilateral and bilateral international treaties in force to combat corruption. Kazakhstan is a member of the International Association of Anti-Corruption Agencies. In the modern period, the republic is taking measures to implement the Concept of the Anti-Corruption Policy of the Republic of Kazakhstan for 2022 - 2026.

To counter corruption, the potential of the public is actively used, public control has been strengthened, represented by several non-governmental organizations. Under the Anti-Corruption Agency, Special Monitoring Groups have been created, which consist of members of the public, their main goal is to assess the implementation of the Anti-Corruption Strategy.

One of the most important factors in combating corruption is the automation of business processes. The state program "Digital Kazakhstan" is designed to create amenities for obtaining public services of Kazakhstanis, as well as to exclude direct contact to state bodies.

It is important to develop a system of transparency and openness in government departments and organizations, including mandatory public declaration of income and property of civil servants; providing protection to whistleblowers and allowing them to remain anonymous; implementation of an e-government system and digitalization of processes, which reduces the possibility of corruption schemes and increases the efficiency of public administration; development of educational content.

The system of anti-corruption measures also includes the following:

- anti-corruption monitoring based on data of legal statistics and appeals of individuals and legal entities, materials of bodies of universal and regional international organizations, sociological data of media materials;

- analysis of corruption risks;

- formation of anti-corruption culture;

- application of international anti-corruption standards;

- financial control instruments - declarations of individuals on assets and liabilities, as well as income and property; reports on transactions of property nature and financial activities related to state property to the state body exercising the powers of the owner in relation to state property (Article 11 of the Law);

- anti-corruption restrictions;

- organizational and legal mechanisms ensuring accountability, control and transparency of procedures in the field of entrepreneurship [5; 6].

The analysis of the effectiveness of the Law of the Republic of Kazakhstan of November 18, 2015 No. 410-V "On Combating Corruption" and law enforcement practice gives grounds for concluding that certain positive results have been achieved. First, this law helped reduce the level of corruption in the country [7]. Through the introduction of new controls and punishments, it was possible to detect and suppress cases of corruption, which contributed to the creation of a more transparent and honest management system.

In addition, the law made it possible to improve the investment climate in the country. By fighting corruption, foreign investors gained more confidence in the business environment and were able to expand their projects in the country. This led to economic growth and the creation of new jobs.

Another positive result is an increase in the responsibility of officials who previously could abuse their position and power with impunity. The Anti-Corruption Act provided tools for investigating and prosecuting offenders.

Some experts note that misunderstandings and ambiguities may arise in the process of implementing the law. Insufficient specifics in some of its provisions can lead to improper charges or their incorrect qualification. In addition, some officials may use the law to fight politically, accusing their opponents of corruption without sufficient evidence. In some cases, the law can become a tool for abuse of power and strengthening corruption ties. This can cause citizens' distrust of the legislative system and negatively affect confidence in the government.

In the Republic of Kazakhstan, many reforms have been undertaken regarding legislation to counter this evil to effectively combat corruption.

Issues such as increasing wages for civil servants, developing ethical standards, carrying out a set of preventive measures, and continuous reforms in accordance with the challenges of the time are becoming relevant. Amendments to legislation were introduced to expand the rights of citizens and organizations to protect against corruption. Administrative and criminal punishment for corruption was strengthened.

**Creation of anti-corruption bodies:** The Anti-Corruption Agency of the Republic of Kazakhstan was established in 2015. The organization was empowered to prevent, detect and investigate corruption misconduct in state bodies and organizations.

**The introduction of e-government and digitalization:** Digitalization of public services and the introduction of e-government led to a reduction in the interaction of citizens with public services and, therefore, a decrease in opportunities for corrupt illegal actions.

**Raising the wages of civil servants:** In order to prevent corruption among civil servants, it was decided to raise their wages to a level that ensures a decent life.

**Formation of an ethics code and an ethics commission:** As part of the fight against corruption, an ethics code was developed that defines the norms of ethical behavior of officials and civil servants. An ethical commission was also created, responsible for monitoring compliance with the code.

Reforms and improvements to the Anti-Corruption Act continue as Kazakhstan's government attaches great importance to fighting corruption and creating an honest and transparent state apparatus.

For comparison with international standards of anti-corruption laws, for example, the UN Convention against Corruption, which is a fundamental international document in this area, can be used.

The UN Convention against Corruption was adopted in 2003 and includes international standards and mechanisms to combat corruption. It identifies the main crimes related to corruption and proposes recommendations for their suppression and punishment. The Convention also includes preventive measures against corruption, including the obligation of States parties to develop and implement effective anti-corruption policies and measures.

For comparison with international standards, it is possible to analyze the compliance of the country's national anti-corruption laws with the requirements provided for by the UN Convention against Corruption. It is important to make sure that the legislation of the country includes all the main crimes related to corruption identified in the Convention and provides for appropriate penalties. It is worth noting that the Concept of Anti-Corruption Policy of the Republic of Kazakhstan for 2022-2026 was approved and implemented. The introduction of a new wage system for civil servants has a very positive effect on the formation of zero tolerance for corruption offenses.

We can also compare the effectiveness of the implementation of anti-corruption policies and measures proposed in international standards with real practice in the country. For example, we can analyze statistics on the number of investigations and prosecutions of crimes related to corruption and the level of punishment of corrupt officials. If a country is not effectively fighting corruption and punishing those responsible, it could be a sign of incomplete compliance with international standards.

Comparison with international standards makes it possible to assess the level of development of the anti-corruption system in the country and identify its strengths and weaknesses. This makes it

possible to carry out further reforms and improve the anti-corruption system so that it meets international standards and is more effective in combating corruption.

*Conclusion.* The problem of combating corruption requires an integrated and innovative approach. Obviously, classical and modern strategies include the use of technology, digitalization and transparency. Examples of successful applications of these models, as well as challenges and perspectives in this area, emphasize the relevance of the topic. An important finding is the need to adapt models to diverse conditions, taking into account cultural, economic and political characteristics. Active uses of the public and increased civilian control appear to be key elements in the successful fight against corruption.

We are convinced that only joint efforts by the state, the public and the international community can lead to long-term success in countering corruption.

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## ӘКІМШІЛІК ӘДІЛЕТ ИНСТИТУТЫНДАҒЫ КЕЙБІР МӘСЕЛЕЛЕР

### Аңдатпа

Мақалада Қазақстан Республикасындағы әкімшілік әділет институтының өзекті мәселелері қаралады. Азаматтардың әкімшілік шағым нысанында жүгіну құқығының іске асырылуы талданады. Әкімшілік шағым және әкімшілік наразылық, олардың ұқсастықтары мен айырмашылықтары сияқты ұғымдар ғылыми айналымға ұшырады, олардың мақсаттары, міндеттері мен функциялары, сондай-ақ адам мен азаматтың құқықтық мәртебесін қамтамасыз етудегі әкімшілік шағым (талап қою) институтының рөлі айқындалады.

Авторлар әкімшілік әділет институтын адамның конституциялық құқықтары мен бостандықтарын қамтамасыз етудің тиімді құралы ретінде қарастырады. Зерттеу Қазақстан Республикасында әкімшілік әділет институтының тиімділігін арттыру бойынша қорытындылар мен ұсыныстарды қамтиды.

**Түйін сөздер:** әкімшілік, мемлекеттік әкімшілік, әкімшілік әділет, азамат, шағым, талап, атқарушы билік, өтініш, сот.

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## НЕКОТОРЫЕ ПРОБЛЕМЫ ИНСТИТУТА АДМИНИСТРАТИВНОЙ ЮСТИЦИИ

### Аннотация

В статье рассматриваются актуальные проблемы института административной юстиции в Республике Казахстан. Анализируется реализация права граждан на обращение в форме административной жалобы. Научному обороту подвергнуты такие понятия, как административная жалоба и административная претензия, их сходства и различия, определяются их цели, задачи и функции, а также роль института административной жалобы (иска) в обеспечении правового статуса человека и гражданина.