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On the issue of anti-corruption in the Republic of Kazakhstan

In the article attention is paid to the country in which the fight against corruption has gained a national scale and has been going on 18 years since the introduction of this problem in the legal field. The history of the Republic of Kazakhstan in combating corruption. Attention is given to articles of the Criminal Code and the Code of Administrative Offences of Kazakhstan indicating the characteristics and types of punishment for corruption crimes and offenses. Also reviewed the legislation of foreign states in the fight against corruption.

Key words: corruption, Criminal Code, Administrative Code, Anti-Corruption, Republic of Kazakhstan, On Combating Corruption and United Nations Convention against Corruption.

The history of corruption started at the dawn of our civilization, in the days of our ancestors, and still, after many thousands of years, we do not see its end. Originating as banal offerings to tribal chief in exchange for his favor, corruption has acquired a global dimension. In today's world, due to the active development of private business and public administration, as well as an enormous leap forward in the field of information technology, corruption has acquired the status of international problem. Bribery by corporations of senior officials overseas has acquired a mass character. Globalization has led to the fact that corruption in one country became a negative impact on the development of many countries. At the same time the country with the highest level of corruption is not confined to the third world liberalization in the former socialist countries in the 1990s accompanied by flagrant abuse of power. In its issue of December 31, 1995 the newspaper «Financial Times» declared 1995 the «year of corruption». established the International Anti-Corruption Day To promote knowledge of the UN Corruption (9 December).

No country can claim victory in the world today on this social phenomenon of corrupting the system. However, on the world stage still have certain participants, whose success in the fight against corruption can only wonder. Evidence of victory, not complete, but rather a confident victory could serve countries such as Denmark, Finland, Sweden, Norway, New Zealand and the Netherlands. They are leaders of annual study entitled «Corruption Perception Index» of the international non-governmental organization Transparency International, as of January 27, 2016 [1].

At the moment, due to the worsening in relations between the Russian Federation and the United States, working in tandem with the European Union, in the information field of Russian pop-up messages about the determines that no objective in research of Transparency International and the allegations in the work of «promoting American interests» [2]. However, these statements are put in doubt when you analyze the social and economic situation of the countries leading the research findings and the countries that holds a backward position.

This article will focus on the country in which the fight against corruption has gained scale of «holy war» and is carried out at least 18 years since the introduction of this problem in the legal field. Consider the history of the Republic of Kazakhstan in combating corruption.

After the collapse of the Soviet Union in 1991, Kazakhstan gained independence and became an independent republic. In this transitional period of its development, corruption is not only preserved, but became even more extended. This is due to the emergence of market relations, which only yesterday was not in a socialist state, where the company began to live by the idea of «permissiveness and unlimited opportunities if you have money». Especially in the first years after the collapse of the Soviet Union began to observe the massive violations of the law in all spheres of society, ignoring the laws, permissiveness in the behavior of many people, including government officials.

Costs and mistakes made in the course of reforms, the weakening of state and public control over the crime, the lack of the necessary legal framework have turned the threat of corruption in many areas of public life in reality. Weak interest of society to combat corruption at all levels and the natural reluctance of the state apparatus employees to refuse easy money prevents the successful struggle against this phenomenon. Corruption causes huge, sometimes irreparable harm to the interests of society, the state and individuals. It slows down the rapid technological development of society, but it seems very few people care about it.

In order to understand the distinctive features of the policy pursued since 1998, when it was adopted by the Law of the Republic of Kazakhstan dated 2 July 1998 «On Combating Corruption» we must analyze the research findings Transparency International from 1999. It should be noted that the ranking of countries in the initial period of introduction of the practice of these studies took place on a 10-point system.

As for 1999, Kazakhstan is in line with Georgia and Albania with the index 2.3 points and is on the 84 place out of 99 possible. The last position occupied by Nigeria and Cameroon, while Denmark, Finland and Sweden are the top three leaders [3].

These data will be logically considered the beginning of monitoring the effectiveness of the Republic of Kazakhstan legislation and the practical activities of the state and society for the prevention and eradication of corruption offenses.

These information on 2004, 6 years after the activation of anti-corruption point to a slight deterioration of the situation in the Republic of Kazakhstan. Of the 145 participants in the study engaged 122 position Kazakhstan along with Kyrgyzstan, Niger and Sudan, having a rating of 2.2 points on a 10 point scale [3].

After 8 years in 2012 and up to the release of a new study 27 January 2016 Kazakhstan has an index of 28 points already on the 100 point scale [3]. This shows a slight advancement of the country, but at the same time demonstrates the low efficiency of penal measures against corrupt officials and information and educational work among potential bribe-takers, and generally in society.

Combating corruption is a priority for public policy of the Republic of Kazakhstan. Interacting with the outside world, Kazakhstan is trying to maintain a dialogue with other countries and to participate in a unified international activities in order to coordinate actions in a single international legal system. It should be noted that the Republic of Kazakhstan is a member of the United Nations Convention against Corruption (UNCAC).

Considering the need for stricter anti-corruption legislation was adopted the Law «On Combating Corruption» of 18 November 2015. This law is aimed at the comprehensive coverage of the problem of corruption as a phenomenon in general and defines the principles and priorities for the implementation of anti-corruption policy. It sets the goals and tasks of the state to ensure the prevention, early warning and implementation of legal supervision in relation to perpetrators of corruption transactions. Achieving the goal of combating corruption is implemented as well by generating social climate of intolerance towards corruption [4]. Particular attention is paid to the identification of the causes and conditions conducive to corruption offenses, and the elimination of their consequences.

President Nursultan Nazarbayev in his article «Nation Plan — The path to the Kazakhstani dream» said that Kazakhstan will fight corruption consistently and systematically, which confirms the number of adopted laws aimed at improving the public service system and the tightening of legislation on anti-corruption [5].

However, on the results of the new Law «On Combating Corruption» dated 18 November 2015 it is too early to say and we can only partially predict the vector of anti-corruption policies on the basis of differences in the present and the previous law. In carrying out this analytical work, we should not forget that the economic conditions have a direct impact on the problem and the definition of the situation today in the country, it is not limited to the legal regulation. It is worth paying attention as well and on the shady side of the problem, which formed the apparent gaps in the legislation. Under the «shadow» causes manifestations of corruption offenses means the criminalization of power generation within the state apparatus groups of persons who have the motivation to joint criminal enterprise through the abuse of power and the formation of hidden, not transparent fraud.

This phenomenon takes place in any state and you can not ignore or belittle the fact of his presence. According to Article 4 of the Law «On State Service of the Republic of Kazakhstan» dated November 23, 2015 the public service is based on 20 principles, some of which are the principles of legality, transparency, transparency of government activities and the intolerance of the offenses [6]. That these principles need to limit yourself to government officials in the event of the temptation to become an accomplice in the crime.

Distinctive features of the new policy of the Republic of Kazakhstan on counteraction to corruption is the formation of a general anti-corruption culture. This purposeful activity implies a set of measures of educational, informational and organizational measures to raise public intolerance to corruption offenses. In order to ensure transparency of officials at all levels on a par with the state control bodies set up community councils. Law of the Republic of Kazakhstan «On Public Councils» on November 2, 2015 defines the purpose of creating opportunities performance expression of civil society views on matters of public concern. The objectives of public councils is to develop interaction between the central and local executive authorities

and bodies, as well as the organization of public oversight and transparency of central and local executive bodies and local self-government [7].

Such practices for the Republic of Kazakhstan is an innovation. In order to develop this method of combating corruption and increasing the confidence of citizens of Kazakhstan can use the experience of foreign countries, where such methods have passed approbation and shown to be effective in practice.

The high degree of transparency of all government agencies and the majority of private equity companies in Denmark provides leadership in the ranking of perceptions of corruption. Information about the activity of state bodies and their officers is contained in publicly available on the internet portals that allow citizens to access information about possible corruption offenses by public officials. The Danish International Development Agency (Danida) is actively developing a zero tolerance policy and the unacceptability of any manifestations of bribery in the process of both internal activities of the organization, and in cooperation with international partners. As part of the policy of zero tolerance anti-corruption provisions are made in the contracts and agreements by all companies, and the failure of these requirements may result in termination of the contract and non-cooperation. An obligatory condition for many transactions need to sign a declaration on non-use of bribery. With his signature the person declares to refuse to participate in the processes of corruption, and in the case of involvement in such guarantees compensation for possible losses. In addition, as part of its Danish International Development Agency has organized its own anti-corruption hotline in order to be able to report suspected misuse of funds Agency [8].

An interesting method of combating corruption is New Zealand, which is also the country with the highest index of corruption perception. This method is «Learning to fight corruption», which is a released Transparency International New Zealand and SFO e-learning course. In the process of self-learning online provides comprehensive training on the prevention of corruption in business and the study of legislation in this area. Particular attention on the formation of a culture of intolerance towards corruption pays New Zealand Ministry of Justice. In the framework of the project «Say» no «to bribery and corruption!» Ministry conducts various information and educational talks, which says that the citizens can make everyone to contribute to the fight against these phenomena, and what is on this positive effect. For citizens ensured the possibility of filing a complaint in electronic form, without revealing his identity, websites New Zealand Police and the SFO. For organizations recommended the development of its own anti-corruption policy, the establishment of monitoring systems and the requirements for partners and business — agents, maintenance staff familiarization with the laws on bribery and corruption, and what to do if they are detected [9].

However, in addition to the overall work on the prevention of bribery, although it should have an advantage in the anti-corruption policy of the state, need to take any specific legal measures in the control of officials to prevent corrupt practices and eliminate consequences caused by illicit enrichment of public officials and other legal and physical persons.

A concrete step towards the eradication of corruption was conducting anti-corruption monitoring is most effective to manifest itself in the sphere of financial control for public employees and potential candidates for leadership positions. According to Article 11 paragraph 1 of the Law of the Republic of Kazakhstan «On Combating Corruption» for the purpose of financial control measures shall present a declaration of assets and liabilities and the declaration of income and assets. Such measures are intended to ensure the transparency of operations and financial transactions of civil servants in order to give the public an opportunity to carry out monitoring of all property and financial relations officials. For the first time in the register of civil servants reporting also gets information not only on income but also on the costs.

The Criminal Code of the Republic of Kazakhstan in Chapter 15. Corruption and other criminal offences against interests of public service and public administration establishes punishment for taking bribes in the form of a fine of 60 times higher than amount of bribes or imprisonment for a term of three to seven years with confiscation of property, with the lifelong deprivation of the right to occupy certain positions or engage in certain activities. Receiving a bribe in especially large amount is punishable by a fine of 80 times higher than amount of bribes or imprisonment for a term of ten to fifteen years, with confiscation of property, with a lifetime disqualification to hold certain positions or engage in certain activities. While bribery is punished by a fine of fifty times the amount of bribes or imprisonment for a term of ten to fifteen years, with confiscation of property, with a lifetime disqualification to hold certain positions or engage in certain activities (Art. 366, Art. 377) [10].

At the same time the Code of Administrative Offences of the Republic of Kazakhstan establishes penalties not only for those directly committing corruption offense, but also for those who did not report such vio-

lation to the appropriate authority, or to recruit a person who has to commit a corruption offense. In these cases, individuals charged with a fine (Art. 680, Art.681) [11].

The fight against corruption must be waged on all fronts, including, of course, need to make punitive sanctions against unscrupulous officials and other persons engaged in socially important activities. For example, Singapore's successful strategy against corruption in the state apparatus capable of Kazakhstan to implement for preventing certain analogue of the Bureau to investigate corruption cases and give it wide powers in the field of operational-search measures in respect of dishonest officials. This body has been newly formed Agency for Civil Service Affairs and Anti-Corruption. However, the methods of work of the Singapore Office a truly authoritative and are very tough. It has the exclusive right without a court order to detain and search suspects in acts of corruption, if there are grounds under the Act. Maybe to investigate not only the suspect but also his relatives and guarantors, check any of their banking, equity and bank accounts and financial records. May cause for questioning the witnesses, as well as to investigate any offense, opened in the course of studying the corruption case. The Bureau has the right to prosecute any citizen, regardless of his status, rank or creed. Exceptions to the higher civil service is not done. Combined with the office of the Prime Minister's Bureau headed by a Director, directly subordinate to the head of state. Agency such a way, independently of the police and other government agencies with a significant political and functional independence of the entire bureaucracy, including officials of ministerial rank. The small staff of the Bureau staff provides each employee fairly high wages, which, coupled with a rigorous selection to the post in the Bureau ensures the effectiveness of its work and prevents employees temptation to illegally enrich themselves financially [12].

Fighting corruption in Kazakhstan will soon acquire widespread. This will be an unprecedented struggle for the improvement of our country's statehood. If in the past years to achieve the desired result was not possible, but today, with experience of foreign countries, have already passed approbation of methods and tools of counteraction of corruption in Kazakhstan an opportunity to realize in practice its legislation to eliminate corruption. It is important to note that the results of this hard work is directly dependent on the interest and the active role of the state, namely the senior officials, on whose shoulders rests the responsibility for his subordinates and his people. The culture of intolerance towards corruption will get its development only through an active information policy of openness and transparency, warranty inevitability of responsibility for the committed offense. Eradicating Kazakh nepotism, increasing public understanding of the harmful effects of the country receipt of certain benefits and opportunities through a variety of illegal mechanisms is crucial to building a law-developing state. It is necessary, instead of creating visibility of the fight against corrupt officials to carry out real, effective preventive measures and to make hard decisions about offenders.

It is important to enhance the legal awareness of citizens and ensure the development of legal literacy not only among those who specialize in this field as a professional, but also among people who are not directly related to law enforcement and legislative activities. Increasing the legal awareness of citizens will ensure neutralization of the policy of «hushing up» the facts of corrupt transactions and eliminate the passive attitude of the society to bribery. Intolerance to the manifestation of bribery should be the principle of reciprocity: bribery, as well as its decision should not be in the subconscious of the human positive associations in terms of helping themselves to a certain benefit from bribing an official.

Along with the anti-corruption is necessary to eliminate the root causes of this «disease» by improving the system of public services to citizens, ensure the timely and speedy obtaining citizen the necessary information and materials. Simplification of procedures for obtaining public services citizens will prevent the phenomenon of bribery by citizens themselves, will bring close to zero the temptation officials avail themselves of easy money.

In addition to the restrictions on freedom and recovery from innocent to corruption offenses should be carried out human and harsher measures. We are talking about the death penalty. The death penalty is by its very nature goes into the category of «hard stick» and inspires genuine fear to anyone who thinks about the enrichment of an illegal manner or have been enriched. Let the right to life and is a natural and inalienable right of everyone, and many would argue against such drastic measures against the perpetrators, but a manifestation of humanity to corrupt individuals helps negligent attitude towards corruption, which in turn leads to a fall across the state and as a consequence of social and the country's economic system.

At the moment, the President of the Republic of Kazakhstan introduced a moratorium on the death penalty, which makes it impossible to use this temporary punishment. Kazakhstan declares itself a democratic state, and the principles of its activity does not allow a light hand to translate this sentence from the category of something rare in the ranks of the ordinary measures of special hardened criminals. It should be in the

Criminal Code separately highlight the use of the exceptional measure of punishment in cases of corruption offenses is not only very severe, but in general, any corruption offense [10; Art. 47]. The experience of bringing the death penalty for corruption is already available in some countries, like China, which is known for its tough policy on corruption offenders.

Kazakhstan, being on the world stage relatively young country, through trial and error, by taking into account the experience of foreign countries has the ability to suppress corruption and to be beaten to start at least a few positions forward in the index of countries on the perception of corruption, and even stand on a par with more developed countries. The fight against corruption is essential for the country's prosperity, raising living standards and improving the state apparatus. Corruption at 100% is not possible to eradicate. No country can declare its complete absence, but this should not be a reason to stop or to weaken the fight for a clean, incorruptible society based on law and the same equal before him.

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Қазақстан Республикасында сыбайлас жемқорлыққа қарсы іс-қимыл мәселесі

Мақалада сыбайлас жемқорлыққа қарсы күрес мемлекеттік деңгейде оның құқықтық алаң аясында пайда болған сәттен бастап он сегіз жыл жүргізіп келе жатқан мемлекетке көңіл бөлінген. Қазақстан Республикасында сыбайлас жемқорлыққа қарсы іс-қимылдың тарихы қарастырылған. Қазақстан Республикасы Қылмыстық кодексі және Әкімшілік құқық бұзушылық туралы кодексінің баптарында қарастырылған сыбайлас жемқорлық қылмыстар мен құқық бұзушылықтар үшін белгіленген жазаның ерекшеліктері мен түрлері сипатталған. Сонымен қатар автор шет мемлекеттердің сыбайлас жемқорлыққа қарсы іс-қимыл туралы заңнамаларын жан-жақты зерттеген.

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К вопросу о противодействии коррупции в Республике Казахстан

Отмечено, что в Республике Казахстан борьба с коррупцией приобрела государственный масштаб и ведется уже восемнадцать лет, с момента введения этой проблемы в правовое поле. Рассмотрена история страны в противодействии коррупции. Уделено внимание статьям Уголовного кодекса и Кодекса об административных правонарушениях РК, указывающим на особенности и виды наказания за коррупционные преступления и правонарушения. Также рассмотрено законодательство зарубежных государств о противодействии коррупции.

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