



# PROSPECTS FOR ESTABLISHING THE RIGHTS OF PERSONS WHO HAVE REPORTED CORRUPTION OFFENSES IN THE REPUBLIC OF UZBEKISTAN

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<b>Article history:</b>		<b>Abstract:</b>
<b>Received:</b> 28 <sup>th</sup> May 2024	<b>Accepted:</b> 26 <sup>th</sup> June 2024	This article analyzes the prospects for establishing the basic rights of persons who have reported corruption offenses.
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Today, following the indicators of corruption crimes in the world, the amount of damage caused by this crime is increasing every year. And this, in turn, indicates the relevance of creating and improving effective mechanisms for preventing and countering corruption crimes.

Statistics published in 2010 by the Association of Certified Fraud Examiners (ACFE) show that 40 percent of fraud and corruption-related crimes are solved through informants worldwide, and that providing whistleblowers with means to report suspicious activity is an important part of the anti-corruption program, and management actively informs employees about suspicious activity for informing them, as well as for protecting them from harassment and violence against them<sup>1</sup>. It is also noted that, according to a study conducted by PricewaterhouseCoopers (PwC), today about 31% of corruption crimes are solved through informants, but the level of these figures is considered low. The main reason was the lack of internal notification networks in some organizations, as well as the lack of a legal framework and mechanisms for legal protection of the rights of informants<sup>2</sup>.

Paragraph 3 of the state anti-corruption program for 2023-2024, approved by Decree of the President of the Republic of Uzbekistan dated November 27, 2023 № DP-200 "On measures to further improve the anti-corruption system and increase the effectiveness of the system of public control over the activities of state bodies and organizations", provides

for the protection of the rights of applicants about corruption. mechanisms for the development of a draft regulatory legal act providing for the following as the main task. As a result, it is necessary to legally protect the rights of those who have reported the disclosure of corruption offenses, as well as further increase the activity of those who have reported it in the fight against corruption and improve their protection mechanisms.

As we know, psychological support is important to protect those reporting corruption crimes from harassment and violence, as well as to ensure safe and confident progress that needs to be reported in the mind. It is important that a mechanism be developed in the notification system to protect the persons they report for what they have reported. Failure to provide this protection leads to a decrease in confidence in law enforcement agencies of the persons who reported it, and, as a result, to a decrease in the level of reports of corruption offenses. In this way, their confidence in what they report can be enhanced by ensuring the rights of the individuals they report.

According to Article 28 of the Law of the Republic of Uzbekistan "On Combating Corruption" information about persons reporting corruption offenses constitutes an official secret and is subject to disclosure only in cases provided for by law, and in cases where information about persons reporting corruption offenses, as well as based on the written permission of the head of the body engaged in anti-corruption activities, if there are sufficient grounds confirming the

<sup>1</sup> (Electronic source): Association of Certified Fraud Examiners, Business Fraud, Report to the nations on occupational fraud and abuse, page 4. Available from <http://www.acfe.com/rtnn/docs/2014-report-to-nations.pdf>

<sup>2</sup> (Electronic source): PricewaterhouseCoopers (2011). Global Economic Crime Survey 2010, page 13. Available from <http://www.pwc.co.uk/forensic-services/publications/>



actual threat to the life and health of persons, those who report corruption offenses and their close relatives, the use of violence against them, the destruction or damage of their property, the anti-corruption authorities are obliged to disclose them and take the necessary measures to protect them<sup>3</sup>.

Therefore, information about persons reporting corruption offenses is an official secret and is not allowed to be disclosed. However, disclosure of information about the identity of informants may lead to cases of harassment, harassment and violence against them by third parties in relation to their lives and health. In this regard, as the rights of persons who have reported corruption offenses, it is necessary to establish the right to require authorized State bodies to protect their personal and property security, as well as to apply protective measures or apply for their cancellation.

For example, in accordance with the Law of the Republic of Tunisia "On the Protection of Whistleblowers", it is established that persons reporting this have the right to directly (orally, in writing and electronically) contact the competent authorities about ensuring their personal safety through notification<sup>4</sup>. It is necessary to ensure that the informing persons of the authorized state bodies receive information about the procedure for applying and the nature of the security measures applied to them as a result of a request to ensure their personal and property security.

It is known that according to the second part of article 28 of the Law of the Republic of Uzbekistan "On Combating Corruption", information about persons reporting corruption offenses is an official secret and is disclosed only in cases provided for by law and on the basis of written permission from the person himself, as well as the head of the body carrying out anti-corruption activities<sup>5</sup>. However, despite the fact that information about the persons reporting this is subject to disclosure in cases provided for by law, which circumstances are not specified in the current legislation. This, in turn, calls into question the obligation of informants to keep personal information confidential. Non-disclosure of informed or disclosed sources of information of informants and sources related to the identity of the

informant, based on the rules established by international standards, is an important factor in ensuring the rights of informants.

In the EU Directive on the Protection of Persons reporting corruption (EU 2019) protecting the confidentiality of information about the identity of a person reporting corruption during an investigation is an important measure to protect persons reporting corruption. It is provided that information about the identity of the informing person is allowed by the investigative authorities only if there are grounds provided for by national legislation to ensure their safety<sup>6</sup>.

Therefore, it is necessary to develop specific grounds for disclosing information about persons reporting corruption offenses and establish that the person reporting this has the right to demand that the source of information reported or disclosed be kept secret.

It is known that according to the first part of article 28 of the Law of the Republic of Uzbekistan "On Combating Corruption", persons reporting corruption offenses and their close relatives are protected by the state<sup>7</sup>. If their lives, health and property are threatened by third parties in relation to the persons reporting this, or if they are harassed, abused and harassed, there may be a real danger not only in relation to the persons reporting this, but also in relation to their next of kin. The current Law of the Republic of Uzbekistan "On Combating Corruption" does not provide that close relatives of persons who have reported a corruption offense against them have the right to apply directly to the state body responsible for protection, if there is a real threat to their life, health and property as a result of the commission by the person who reported the corruption offense. Therefore, as the basic right of the informing person, it is advisable to grant the right to appeal related to the requirement to apply protective measures against close relatives.

The analysis also shows that it is important to increase the awareness of the informing person about the rights, duties and other circumstances related to reporting corruption offenses, and to provide them with legal assistance. In particular, although, in accordance

<sup>3</sup> The Act "On Combating Corruption" of the Republic of Uzbekistan. 03.01.2017. No. LRU-419.

<sup>4</sup> (Electronic source): La Presse de Tunisie. 2017. "Loi sur la protection des dénonciateurs: Il est urgent de publier les textes d'application" [Law on the protection of whistleblowers: It is urgent to publish the texts of application], in La Presse, 26 May 2017.

<sup>5</sup> The Act "On Combating Corruption" of the Republic of Uzbekistan. 03.01.2017. No. LRU-419.

<sup>6</sup> (Electronic source): Directive (EU) 2019/1937 of the European parliament and of the council of 23 October 2019. "On the protection of persons who report breaches of Union law". 23.10.2019.

<sup>7</sup> The Act "On Combating Corruption" of the Republic of Uzbekistan. 03.01.2017. No. LRU-419.



with article 20 of the European Union Directive on the Protection of Reported Persons (EU 2019), each State has the right to establish a system of free legal assistance to reported persons, its national legislation, however, does not provide which authorized State bodies will provide this legal assistance<sup>8</sup>.

According to foreign experience, the Commission of the Republic of Korea on Anti-Corruption and Civil Rights may request legal assistance from the Korean Bar Association in providing legal assistance to persons who have reported this<sup>9</sup>. However, in the Netherlands, it can be seen that the government has provided opportunities and resources to the legal advisory Center (Advice Centre for Whistleblowers), which advises direct informants<sup>10</sup>. The Consultation Center was established and funded by the Ministry of the Interior and the Ministry of Social Security and Employment, but operates independently of them. The Center consists of a three-person committee representing the private sector, the public sector and trade unions, as well as junior staff, including a director, three senior legal advisers, a communications consultant, an office secretary and an administrative assistant<sup>11</sup>.

Therefore, it becomes important to ensure the rights of persons who have reported corruption offenses to appeal against decisions of state bodies, actions (inaction) of officials and violations of labor legislation. It is known that the secrecy of personal data of persons who have reported corruption offenses is an essential element of the notification institution. However, information about the identity of the person who reported this may be disclosed in cases provided for by law and on the basis of the written permission of the person himself, as well as the head of the body carrying out anti-corruption activities. In this case, the possibility of psychological pressure and violence by third parties arises in relation to the person who reported this. Because of this, it is important to provide psychological assistance to the people you report. If you do not establish a system of psychological assistance to

informants, this can lead to some negative consequences. Including:

- informing individuals and caregivers (informing individuals and organizations or organizations and legal entities providing care);
- the state body, the organization and the founder of the organization after consulting on labor efficiency issues, since the persons informing the psychologist about the results of work, in turn, consult on labor efficiency issues;
- to report that as a result of zinc exposure to humans, they have suffered due to exposure to lettuce<sup>12</sup>.

According to psychological scientist Dr. Michael Crichton, psychological support for people reporting corruption crimes calms the emotions experienced by the Informant. This, in turn, promotes constructive and creative communication between all participants in the message. This approach is very important to prevent an escalation of the conflict.

We believe that psychological support for informing people reduces their risk of developing mental health problems such as anxiety, depression and adjustment disorders caused by the message. The analyses show that psychological support of informants, the organization of free types of psychological services for them can have a positive impact on the psychology of informants. The reason is that after an Informant reports a corruption offense, they are pressured, fired from their jobs and commit any form of violence, they can become depressed, suffer moral harm and commit suicide. In this regard, it is advisable to establish as the basic rights of informing persons an appeal to the court without paying a state fee and receiving free psychological assistance in order to recover material and moral harm caused to the informant himself.

Based on the above analysis, the following proposals were put forward to improve the current legislation:

*Firstly*, to establish as the rights of persons who have reported corruption offenses, the right to demand

<sup>8</sup> (Electronic source): Directive (EU) 2019/1937 of the European parliament and of the council of 23 October 2019. "On the protection of persons who report breaches of Union law". 23.10.2019.

<sup>9</sup> The Republic of Korea, Act on Anti-Corruption (as amended in 2012), section 39.

<sup>10</sup> United nations office on drugs and crime. The United Nations Convention against Corruption. "Resource guide on good practices in the protection of reporting persons". United Nations, August 2015. All rights reserved, worldwide. Page-75.

<sup>11</sup> (Electronic source): United nations office on drugs and crime. The United Nations Convention against Corruption. "Resource guide on good practices in the protection of reporting persons". United Nations, August 2015. All rights reserved, worldwide. Page-76.

<sup>12</sup> (Electronic source): Nick Thorpe "The role of psychological support in a whistleblowing incident". <https://www.fieldfisher.com/en/insights/the-role-of-psychological-support-in-a-whistleblow>



from authorized state bodies to protect their personal and property security, as well as to apply protective measures or apply for their cancellation;

*Secondly*, to ensure that informed persons receive information about the procedure for applying and the nature of security measures applied to them as a result of a request from authorized state bodies to ensure their personal and property security;

*Thirdly*, to develop specific grounds for disclosing information about the reporting persons and establish that the reporting person has the right to demand that the source of information about which is being reported or disclosed be kept secret;

*Fourthly*, granting the informing person the right of appeal related to the requirement to apply protective measures against his close relatives, as a right;

*Fifthly*, establish the right to receive free legal advice from the State body providing protection and non-governmental bodies specializing in providing free legal assistance; Sixth, to ensure the right of persons who have reported corruption offenses to appeal against decisions of state bodies, actions (inaction) of officials and violations of labor legislation;

*Seventhly*, as the basic rights of informants, it is advisable to establish an appeal to the court without paying a state fee and receiving free psychological assistance in order to recover material and moral harm caused to the informant himself.

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