

# **ANTI-CORRUPTION LEGISLATION OF THE REPUBLIC OF BELARUS AS A FACTOR OF LEGAL CULTURE OF THE MODERN BELARUSIAN SOCIETY**

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## **INTRODUCTION**

Corruption is a complex social phenomenon that has many aspects – political, socio-psychological, economic, including financial, as well as legal, cultural-historical, spiritual-moral and informational. In this regard, the fight against corruption should be comprehensive. The development of anti-corruption legislation is aimed at improving public relations in the sphere of exercising public power, as a consequence, reducing corruption risks. The purpose of this study is to analyze the anti-corruption legislation of the Republic of Belarus in the context of the effectiveness of the proposed anti-corruption measures.

It should be noted that the social understanding of corruption is related to the application of this concept as a general term, which means that officials use their official position in personal or group interests. The harm caused by corruption in the public sector is determined by the fact that corruption actions are contrary to the interests of society, while they are carried out at the disposal of public resources and contrary to the legitimate interests of citizens, society, the state and the civil service. In turn, corruption in the private sector is related to service in commercial and other non-governmental organizations and manifests itself in bribery of officials. The effective fight against corruption presupposes a clear legislative definition of corruption offences and the definition of their subjects – categories of officials of the public and private sectors, whose illegal activities cause harm to the state and society.

The world experience in combating corruption suggests that it is based on the assumption that corruption:

- includes numerous forms of illegal use by a public official (an equivalent person), as well as by a private official (hereinafter referred to as an official) of his powers, legal status and the opportunities arising from it;
- leads to the violation of duties assigned to the official in his or her status in personal, group or corporate interests;
- is aimed at obtaining by the official any illegal benefits of property and non-property nature for himself or for third parties.

The importance of the fight against corruption is determined by the fact that the systemic nature of corruption, primarily in the field of public administration, poses a threat to national security (state security), harms

public interests and undermines the moral foundations of society. In this regard, the fight against corruption is a factor of the legal culture of society, an indicator of the adoption of international standards for the exercise of public power. The criterion of effectiveness of legislative measures against corruption is the systemic nature of anti-corruption legislation, the state of law and order in society, the level and dynamics of corruption (objective indicators), attitude to corruption in society (subjective indicators).

## **1. System of anti-corruption legislation of the Republic of Belarus. Main objectives, principles and measures to combat corruption under the legislation of the Republic of Belarus**

The legislative regulation of the fight against corruption is based on the Constitution of the Republic of Belarus of March 15, 1994 in the editions of the national referendums of 1996 and 2004, which proclaimed the Republic of Belarus a legal state<sup>1</sup>. The Republic of Belarus has approved the basic UN documents on combating corruption: the Convention on Criminal Liability for Corruption of January 27, 1999 (ratified by the Law of the Republic of Belarus of 26.05.2003 № 199-3)<sup>2</sup>, the United Nations Convention against Corruption of October 31, 2003. (ratified by Law of the Republic of Belarus of 25.11.2004 № 344-3)<sup>3</sup>; United Nations Convention against Transnational Organized Crime of 15 November 2000. (ratified by the Law of the Republic of Belarus of 03.05.2003 № 195-3)<sup>4</sup>. The Republic of Belarus recognizes the following documents of the Council of Europe in the field of combating corruption: the Convention on Civil Liability for Corruption of November 4, 1999 (ratified by the Law of the Republic of Belarus of 26.12.2005 № 75-3)<sup>5</sup>; the Convention on Criminal Liability for Corruption of 27 January 1999 (ratified by the Law of the Republic of Belarus of 26.05.2003 № 199-3)<sup>6</sup>.

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<sup>1</sup> Конституция Республики Беларусь с изм. и доп., принятыми на респ. референдумах 24 нояб. 1996 г. и 17 окт. 2004 г. Минск, 2016. Ст. 1.

<sup>2</sup> О ратификации Конвенции об уголовной ответственности за коррупцию от 27 января 1999 года : Закон Респ. Беларусь от 26.05.2003 № 199-3. URL: <http://pravo.newsby.org/belarus/zakon1/z111.htm> (дата обращения: 03.07.2019).

<sup>3</sup> О ратификации Конвенции Организации Объединенных Наций против коррупции от 31 октября 2003 г. : Закон Респ. Беларусь от 25.11.2004 № 344-3. URL: <http://pravo.newsby.org/belarus/zakon0/z966.htm> (дата обращения: 03.07.2019).

<sup>4</sup> О ратификации Конвенции против транснациональной организованной преступности : Закон Респ. Беларусь от 03.05.2003 № 195-3. URL: <http://pravo.newsby.org/belarus/zakon1/z115.htm> (дата обращения: 03.07.2019).

<sup>5</sup> О ратификации Конвенции о гражданско-правовой ответственности за коррупцию : Закон Респ. Беларусь от 26.12.2005 № 75-3. URL: [http://22gp.by/media/doc/konv\\_gr\\_otv.doc](http://22gp.by/media/doc/konv_gr_otv.doc) (дата обращения: 13.07.2019).

<sup>6</sup> О ратификации Конвенции об уголовной ответственности за коррупцию от 27 января 1999 года : Закон Респ. Беларусь от 26.05.2003 № 199-3. URL: <http://pravo.newsby.org/belarus/zakon1/z111.htm> (дата обращения: 03.07.2019).

In this regard, it is legitimate to assert the adoption by the Republic of Belarus of the global principles of the fight against corruption.

The system of national anti-corruption legislation includes the following legal acts in force: the Law of the Republic of Belarus “On Combating Corruption” of July 15, 2015 № 305-3<sup>7</sup>, Decrees of the President of the Republic of Belarus: “On Approval of the Concept of National Security of the Republic of Belarus” of November 9, 2010 № 575<sup>8</sup>; “On Approval of the Regulation on the Activities of the Coordination Meeting on Combating Crime and Corruption” of December 17, 2007 № 644<sup>9</sup>; “On Criminological Expertise” of May 29, 2007 № 244<sup>10</sup>; “On Measures to Improve Criminological Expertise” № 230 of June 6, 2011<sup>11</sup>, as well as the Resolution of the Council of Ministers of the Republic of Belarus “On Approval of the Model Regulation on the Anti-Corruption Commission” of December 26, 2011 № 1732<sup>12</sup> and a number of others. These normative legal acts in aggregate determine the system of measures and tasks in the sphere of combating corruption in the republic.

The basic legal act is the Law of the Republic of Belarus “On Combating Corruption” of July 15, 2015, № 305-3. This is the fourth anti-corruption law in the sovereign history of Belarus.

The first Law of the Republic of Belarus was called “On Combating Economic Crime and Corruption” of June 15, 1993, № 2399-XII<sup>13</sup>. It contained only three articles. The following measures to prevent corruption of heads and officials of state bodies, institutions and organizations were established by law:

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<sup>7</sup> О борьбе с коррупцией : Закон Респ. Беларусь от 15.07.2015 № 305-3. URL: [http://pravo.by/upload/docs/op/H11500305\\_1437598800.pdf](http://pravo.by/upload/docs/op/H11500305_1437598800.pdf) (дата обращения: 03.07.2019).

<sup>8</sup> Об утверждении Концепции национальной безопасности Республики Беларусь : Указ Президента Респ. Беларусь от 09.11.2010 № 575. Дата изм.: 24.01.2014. URL: <http://kgb.by/ru/ukaz575/> (дата обращения: 20.06.2019).

<sup>9</sup> Об утверждении Положения о деятельности координационного Совещания по борьбе с преступностью и коррупцией : Указ Президента Респ. Беларусь от 17.12.2007 № 644. URL: [http://www.pravo.by/document/?guid=2012&oldDoc=2007-304/2007-304\(005-051\).pdf&oldDocPage=27](http://www.pravo.by/document/?guid=2012&oldDoc=2007-304/2007-304(005-051).pdf&oldDocPage=27) (дата обращения: 20.06.2019).

<sup>10</sup> О криминологической экспертизе : Указ Президента Респ. Беларусь от 29.05.2007 № 244. Дата изм.: 24.01.2014. URL: <http://www.pravo.by/document/?guid=3871&p0=p30700244> (дата обращения: 03.07.2019).

<sup>11</sup> О мерах по совершенствованию криминологической экспертизы : Указ Президента Респ. Беларусь от 06.06.2011 № 230. URL: [http://pravo.by/document/?guid=2012&oldDoc=2011-65/2011-65\(009-028\).pdf&oldDocPage=5](http://pravo.by/document/?guid=2012&oldDoc=2011-65/2011-65(009-028).pdf&oldDocPage=5) (дата обращения: 20.06.2019).

<sup>12</sup> Об утверждении типового положения о комиссии по противодействию коррупции : Постановление Совета Министров Респ. Беларусь от 26.12.2011 № 1732. Дата изм.: 30.04.2019. URL: <http://pravo.by/document/?guid=3961&p0=C21101732> (дата обращения: 20.06.2019).

<sup>13</sup> О борьбе с преступностью в сфере экономики и с коррупцией : Закон Респ. Беларусь от 15.06.1993 № 2399-XII. URL: <http://pravo.levonevsky.org/bazaby/zakon/zakb1299.htm> (дата обращения: 03.07.2019).

– a ban was introduced on entrepreneurial activities, including through intermediaries, and on entering into transactions with business structures or providing assistance to them;

– it was prohibited to receive remuneration or use services in any form for the performance or non-performance of their official duties;

– the obligation to submit declarations of income, as well as deposits in banks and securities, and financial obligations was established.

The second Law of the Republic of Belarus “On Measures to Combat Organized Crime and Corruption” of June 26, 1997, № 47-3, included 15 articles and to a greater extent provided for a systematic fight against corruption<sup>14</sup>. The law gave a legal definition of corruption (Article 1); defined the range of prohibitions aimed at preventing corruption (Article 8); established the procedure for submission of the income and property declaration (Article 9). The strategic direction of combating corruption remained the same. State bodies combating corruption established internal affairs bodies, state security bodies and procuratorial bodies. Legislation determined the areas of their interaction and provided for the establishment of special units to combat organized crime and corruption.

Improvement of legal regulation of combating corruption is connected with the adoption of the Law of the Republic of Belarus “On Combating Corruption” № 165-3 dated July 20, 2006 (entered into force on January 29, 2007)<sup>15</sup>. The legislator identified the following main tasks in the field of combating corruption:

– protection of the rights and freedoms of citizens and public interests from threats resulting from corruption;

– ensuring the efficient operation of state bodies and other organizations;

– prevention, detection and suppression of corruption offences;

– elimination of the consequences of corruption offences.

With the adoption of the new law “On Combating Corruption” dated July 15, 2015 № 305-3, these tasks have not lost their relevance. The experience of the fight against corruption is reflected in Article 4 of the current Law of the Republic of Belarus in the basic principles of combating corruption, such as legality, justice, equality before the law, transparency, priority of measures to prevent corruption, inevitability of punishment, responsibility, personal responsibility and humanism<sup>16</sup>.

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<sup>14</sup> О мерах борьбы с организованной преступностью и коррупцией : Закон Респ. Беларусь от 26.06.1997 № 47-3. URL: <https://normativka.by/lib/document/500046497> (дата обращения: 03.07.2019).

<sup>15</sup> О борьбе с коррупцией : Закон Респ. Беларусь от 20.07.2006 № 165-3. URL: [https://www.bsuir.by/m/12\\_100229\\_1\\_59236.doc](https://www.bsuir.by/m/12_100229_1_59236.doc) (дата обращения: 03.07.2019).

<sup>16</sup> О борьбе с коррупцией : Закон Респ. Беларусь от 15.07.2015 № 305-3. Там же. Ст. 4.

It is normatively established that the fight against corruption is carried out through a comprehensive application of legal, organizational, cultural, educational and educational measures.

Among the measures of a legal nature are the following: improvement of legal regulation of the activity of state bodies and other organizations; establishment of restrictions and special requirements to ensure financial control over officials; introduction of legal prohibitions in order to differentiate between official (labor) duties and personal, group and other off-duty interests of officials.

The Model Regulation on the Anti-Corruption Commission approved by the Council of Ministers of the Republic of Belarus is aimed at improving the practice of combating corruption in the system of state bodies and organizations. It is established that anti-corruption commissions consisting of at least five members are established by the head of the state body. One of the deputy heads of the state body (organization) shall be appointed the Chairman of the Commission. Members of the commission are heads of structural subdivisions of the state body (organization), which are responsible for the implementation of financial and economic, economic, production activities, accounting, management of budgetary funds, property safety, effective use of property, departmental control, personnel and legal work. The Commission is called upon to cooperate with the state bodies which carry out the fight against corruption, as well as with public associations and other organizations on the issues of combating corruption. Where necessary, the Commission facilitates the resolution of conflicts of interest. In order to combat corruption, it is also possible to establish anti-corruption commissions in public education and health care institutions. The practice of functioning of the commissions has shown their sufficient effectiveness in case of an informal approach.

Organizational measures include planning and coordination of the activities of state bodies (other organizations) to combat corruption; improvement of the system of state bodies, personnel work, procedures for the resolution of issues that ensure the protection of the rights, freedoms and legitimate interests of individuals and legal entities; application of special procedures for the recruitment and promotion of public officials. It is proposed to expand the practice of simplifying and reducing the number of administrative procedures and to introduce the requirement to ensure transparency in the activities of officials. The law provides for the provision of guarantees and compensations to public officials in connection with restrictions to combat corruption, etc.

The Decree of the President of the Republic of Belarus “On Approving the Regulation on the Activities of the Coordination Meeting on Combating Crime and Corruption” of December 17, 2007, № 644, is of great importance

in the legal regulation of the fight against corruption<sup>17</sup>. The Coordination Meeting is a permanent interdepartmental body. Its purpose is to work out coordinated actions of law enforcement bodies on prevention, detection, suppression, disclosure and prevention of corruption offences. The coordination meeting consists of the heads of the state bodies which carry out the fight against crime and corruption (internal affairs bodies, prosecutor's office, state security), heads of other state bodies and organizations which take part in the fight against crime and corruption, as well as heads of subjects of crime prevention.

In the Republic of Belarus, coordination meetings are held at different levels: in the republican, oblasts and the city of Minsk, as well as in districts, districts, cities, cities and transport. The chairpersons of the coordination meetings are, respectively, the Prosecutor General of the Republic of Belarus and lower-level prosecutors of territorial and specialized prosecution offices.

The activities of the coordination meeting are aimed at addressing the following tasks:

- identification of trends and patterns of changes in the crime situation;
- elaboration of a set of coordinated measures to neutralize negative changes in the crime situation;
- increasing the effectiveness of activities to prevent, detect, suppress and uncover corruption offences;
- facilitating the implementation of state programmes to combat crime and corruption;
- evaluation of the effectiveness of law enforcement activities of state bodies involved in the fight against crime and corruption;
- analysis of the practice of implementation of international treaties of the republic of belarus in the field of fighting crime and corruption, implementation of positive foreign experience in fighting crime and corruption;
- organization of coverage of topical problems in the fight against crime and corruption, activities in the field of crime prevention in the media.

Within the framework of the coordination meeting it is carried out: definition of strategy and tactics of struggle against crime and corruption taking into account a criminogenic situation; working out of the coordinated measures on timely prevention of corruption offences, realization of these actions; assistance to carrying out of scientific researches in sphere of legal, criminological and criminalistic maintenance of struggle against crime and corruption, introduction of their results in law-enforcement activity of state bodies.

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<sup>17</sup> Об утверждении положения о деятельности координационного Совещания по борьбе с преступностью и коррупцией от 17.12.2007 № 644. Там же.

The legislatively established cultural, educational and educational measures to combat corruption include: public discussion of draft regulatory legal acts in the field of combating corruption; carrying out activities to inform the public to form intolerance against corruption; anti-corruption training for public officials, students of educational institutions; adoption of codes of ethics (standards of conduct) for public officials and others.

Measures to restore the violated rights, freedoms and legitimate interests of natural and legal persons and to eliminate the consequences of corruption offences are of practical importance in the fight against corruption.

Collectively, the measures established by law are designed to effectively combat corruption.

## **2. Criminological expertise of normative legal acts in the system of legal measures against corruption**

One of the factors of preventive methods of fighting corruption is the improvement of legal regulation of public relations. With regard to draft regulatory legal acts, the Law of the Republic of Belarus “On regulatory legal acts” of July 17, 2018 № 130-3 provides for mandatory legal expertise by the Ministry of Justice. At the same time, it is also possible to conduct other expert reviews – criminological, financial and economic, environmental, linguistic, etc<sup>18</sup>.

In order to reduce corruption risks, draft regulatory legal acts (regulatory legal acts) are subject to criminological expertise. Normatively, this type of expertise is regulated by the Regulation on the procedure for conducting criminological expertise, which was approved by the Decree of the President of the Republic of Belarus “On criminological expertise” of May 29, 2007 № 244<sup>19</sup>. The purpose of the criminological expertise is to identify the norms in the draft normative legal act, the application of which may lead to (entailed) the occurrence of criminogenic risks. Criminological expertise is mandatory with respect to the projects: laws, legal acts of the supreme state authorities – the President of the Republic of Belarus, the Council of Ministers of the Republic of Belarus, a number of state authorities (the State Control Committee, the National Bank, the Administration of Affairs of the President of the Republic of Belarus, the Investigation Committee of the Republic of Belarus). Mandatory criminological examination of draft legal acts of the President of the Republic of Belarus, the Government, the State Control Committee, the

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<sup>18</sup> О нормативных правовых актах: Закон Респ. Беларусь от 17.07.2018 № 130. URL: [pravo.by/document/?guid=3961&p0=Н11800130](http://pravo.by/document/?guid=3961&p0=Н11800130) (дата обращения: 20.06.2019).

<sup>19</sup> О криминалогической экспертизе: Указ Президента Респ. Беларусь от 29.05.2007 № 244. Там же.

National Bank, the Office of the President of the Republic of Belarus, and the Investigation Committee is carried out taking into account paragraph 1 of Edict of the President of the Republic of Belarus № 230 “On Measures to Improve Criminological Examination” dated June 6, 2011<sup>20</sup>.

A number of normative legal acts are not subject to mandatory criminological expertise. These include drafts of non-legislative legal acts, international treaties, local and technical legal acts, acts containing state secrets, and other acts by decision of the President of the Republic of Belarus and the Administration of the President of the Republic of Belarus. It is allowed to carry out forensic examination of a draft legal act, according to which it is not provided for at the initiative of a state body (organization), the Administration of the President of the Republic of Belarus. The exception is the cases when the draft legal act contains state secrets or the expertise is not carried out by the decision of the President of the Republic of Belarus, the Administration of the President of the Republic of Belarus.

The following procedure for conducting criminological expertise of draft regulatory legal acts is established by law:

1. Criminological expertise of a draft legal act is carried out after the Ministry of Justice conducts a mandatory legal expertise.

2. The criminological expertise of draft legal acts of the President of the Republic of Belarus shall be carried out before their submission to the Head of State for consideration.

3. The draft law is sent to the relevant subject of the right of legislative initiative for criminological examination; the draft law under which the subject of the right of legislative initiative is the President of the Republic of Belarus – the Administration of the President of the Republic of Belarus.

4. Draft legal acts of the State Control Committee, the National Bank, the Office of the President of the Republic of Belarus, the Investigation Committee of the Republic of Belarus, and other regulatory bodies are submitted by the relevant regulatory authority.

5. A draft legal act which is adopted (issued) by several regulatory authorities is sent jointly by these authorities or by one of the regulatory authorities.

6. Conducting a criminological examination of a previously adopted (issued) legal act is carried out by the Administration of the President of the Republic of Belarus, the Prosecutor General’s Office, other state body

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<sup>20</sup> О мерах по совершенствованию криминологической экспертизы Указа Президента Республики Беларусь от 06.06.2011 № 230. URL: [http://pravo.by/document/?guid=2012&oldDoc=2011-65/2011-65\(009-028\).pdf&oldDocPage=5](http://pravo.by/document/?guid=2012&oldDoc=2011-65/2011-65(009-028).pdf&oldDocPage=5) (дата обращения: 20.06.2019).



(organization), which are determined by the Administration of the President of the Republic of Belarus.

Forensic expertise is carried out by the State Institution “Scientific and Practical Centre for Strengthening Law and Order of the General Prosecutor’s Office of the Republic of Belarus” (hereinafter referred to as the Scientific and Practical Centre). If necessary, specialists from other state bodies and other organizations may be involved in conducting forensic examinations. In the course of forensic examination of a previously adopted (issued) legal act, the Scientific and Practical Centre may request information on the analysis of the practice of application of this act. The main criterion for evaluation of the draft legal act (legal act) is the possibility of occurrence of criminal risks in connection with the ambiguity of its norms and incompleteness of legal regulation of this sphere of public relations.

The terms of conducting criminological expertise are established by law. The total term of forensic examination is ten working days from the date of receipt by the Scientific and Practical Center of the draft legal act with the necessary accompanying materials. With regard to the draft urgent law, the criminological expertise shall be conducted within three working days. With regard to the draft legal act, which does not provide for mandatory criminological expertise – within a month. If the criminological expertise is carried out in respect of the repeatedly sent draft legal act, the term of carrying out is five working days. Upon agreement with the subject(s) that submitted the draft legal act for criminological expertise, its term may be extended by the head of the Scientific and Practical Center for no more than five working days. Thus, the criminological expertise is carried out in a fairly short period of time, according to its results the Scientific and Practical Center makes a corresponding conclusion.

Upon the decision of the President of the Republic of Belarus, the Administration of the President of the Republic of Belarus, the Prosecutor General’s Office, criminological expertise may also be carried out in respect of a previously adopted (issued) legal act. In this case, the conclusion of the criminological expertise shall be submitted to the Administration of the President of the Republic of Belarus and the subject of the right of legislative initiative.

In the presence of criminal risks, which are established by the results of the criminological expertise, the subject (subjects) of the rule-making shall prepare and submit to the Administration of the President of the Republic of Belarus a reasoned justification for the need to make changes and (or) additions to this legal act. In case of disagreement of the regulatory body with the conclusions contained in the conclusion of the criminological expertise, it

has the right to appeal to the General Prosecutor's Office, which should be considered within ten working days. Based on the results of consideration by the Prosecutor General's Office, a decision is made on the validity or invalidity of the conclusions of the criminological expertise. In case of recognition of the validity of the conclusions on the presence of criminal risks in the draft regulatory legal act, the term for making amendments to the draft act is two months.

### **3. Legislative regulation of the procedure for resolving conflicts of interest in the civil service**

The implementation of preventive measures against corruption is also related to the institution of conflict of interest resolution. For the first time, the concept of "conflict of interest" appeared in Belarusian legislation in the Law "On Introducing Amendments and Additions to the Law of the Republic of Belarus "On Combating Corruption" of 2006, which entered into force on 12.04.2012. This concept is preserved in the current Law "On Combating Corruption" № 305-3 of July 15, 2015. Conflicts of interest are situations in which the personal interests of a public official or his close relatives influence or may influence the proper performance by a public official of his official (employment) duties when he makes a decision or performs other service (work) activities.

This definition of conflict of interest includes many specific situations in which a public official (an equivalent person) may find himself in the process of performing his official duties. Due to the diversity of private interests of public officials, it is impossible to draw up an exhaustive list of such situations. Nevertheless, a number of key "areas of regulation" can be identified in which a conflict of interest is most likely to arise.

Risks of conflict of interest usually arise on two levels: as an organizational conflict of interest and as a personal conflict of interest. An organizational conflict of interest is related to the violation of an organization's objectivity or the presence of large competitive advantages. A personal conflict of interest is possible in cases where private interests of a public official come into real or perceived contradiction with the performance of their official duties.

Preventing organizational conflict of interest is possible by improving the system of state bodies, ensuring legal regulation of the activities of state bodies (other organizations), delimitation of their powers and their strict functioning in the "legal field".

The main reasons for personal conflict of interest are:

- violation of the requirements to the official conduct of public officials;
- failure to perform the duties of a public official;

- failure of a public official to observe the rights and legitimate interests of citizens, organizations, society and the state;

- violation of restrictions and prohibitions related to public service.

Legal restrictions include the following prohibitions:

- to engage in entrepreneurial activity personally or through other persons, to assist close relatives in carrying out entrepreneurial activity using their official position;

- on behalf of the state organizations without the coordination with the higher state bodies (organizations) transactions with the legal persons which proprietors of property are close relatives of the state official;

- personal or through other persons, participation in the management of a commercial organization;

- for holding accounts in foreign banks;

- for membership in political parties and public associations;

- acceptance of property (gifts) in connection with the performance of official (labor) duties;

- to travel at the expense of individuals and (or) legal entities, relations with which are included in the issues of his official (labor) activity;

- for the use for extra-duty purposes of financial, material and technical and information support means, other property of the state body, the organization;

- the use of information obtained during the performance of official (labor) duties, distribution and (or) provision of which is limited;

- to perform other paid work, except teaching, scientific, cultural, creative activity and medical practice.

The procedure of prevention and settlement of personal conflict of interest in connection with the performance of duties of a public official is defined in Article 21 of the Law “On Combating Corruption”:

1. A public official is obliged to notify his or her direct supervisor in writing of the occurrence or possibility of occurrence of a conflict of interest.

2. The head shall inform the head of the state body (other organization) about the emergence or possibility of a conflict of interest and the results of consideration of the self-refusal of the public official.

3. The head of the public body (other organization) shall immediately take measures to prevent or settle the conflict of interest.

In order to prevent or settle a conflict of interest, the head of the state body (other organization) shall have the right to do so:

- provide the public official with written recommendations on taking measures to prevent or settle the conflict of interest;

- suspend a public official from performing acts of service (work) which cause or may cause a conflict of interest for the public official;
- transfer a public official from a position, the performance of duties on which caused or may cause a conflict of interest to another equivalent position;
- to entrust the performance of previous official duties at a new workplace or change the official duties of a public official in order to prevent a conflict of interest or the possibility of its occurrence.

It is also possible to apply other measures, which are provided for by the legislation.

Available practice makes it possible to identify corruption-related offences related to conflicts of interest in the civil service. These include:

- failure of a public official to take measures to prevent conflicts of interest;
- failure to notify the head of a state body of a conflict of interest or the existence of a personal interest that may lead to a conflict of interest;
- possession of securities, shares (participatory interests, shares in charter capitals of organizations), as well as failure to take measures to transfer them into trust management in accordance with the legislation of the republic of belarus;
- engaging in other paid activities without notifying the employer if there is (possibility of) a conflict of interest, etc.

If a public official has not notified about the conflict of interests or the possibility of its occurrence, it is a ground for refusal to appoint him to another public office or to bring him to disciplinary responsibility up to dismissal (dismissal).

Thus, the resolution of the conflict of interest is one of the factors preventing corruption in the field of public administration.

## **CONCLUSIONS**

The national anti-corruption legislation of the Republic of Belarus complies with the global standards of the fight against corruption. It is not immutable and is further improved taking into account its own experience in combating corruption and the practice of foreign countries.

It should be taken into account that corruption, its scale, specificity and dynamics are the result of general political, social and economic problems of the state. The risk of corruption is determined by the fact that it has a decomposing effect on all spheres of society's life – politics, economy and social sphere. As a consequence, the negative consequences of this

phenomenon not only hinder the progressive development of society, but also pose a serious threat to the national security interests of the state.

The process of eliminating the causes of corruption consists in building a modern democratic state based on the rule of law, forming a strong civil society and achieving a high level of legal culture of society. In the Republic of Belarus, as measures of legislatively established measures to counteract corruption, it is determined that there is an anti-corruption criminological expertise of normative legal acts in the Republic of Belarus; the establishment of obligations and restrictions of public officials (equated persons); strict regulatory regulation of the order of prevention and resolution of conflict of interests.

In Belarus, a list of corruption offences is set out in a joint of the Ministry of Internal Affairs of the Republic of Belarus, the State Security Committee of the Republic of Belarus, the State Control Committee, the Operational and Analytical Center under the President of the Republic of Belarus, the Investigation Committee of 27.12.2013 № 43/9/95/ 571/52/274.

It includes ten of the crimes:

- 1) embezzlement through abuse of office (article 210 of the Criminal code);
- 2) legitimization of “laundering” of material assets acquired by criminal means committed by an official with the use of his official powers (part 2, part 3 article 235 of the Criminal code);
- 3) abuse of power or authority out of mercenary or other interests (part 2, part 3 article 424 of the Criminal code);
- 4) inaction of an official out of mercenary or other personal interest (part 2, part 3 article 425 of the Criminal code);
- 5) abuse of power or authority committed out of mercenary or other personal interest (part 2, part 3 article 426 of the Criminal code);
- 6) illegal participation in entrepreneurial activity (art. 429 of the Criminal code);
- 7) bribery, including for the commission of an unlawful act or omission (article 430 of the Criminal code);
- 8) bribery, including for the commission of an unlawful act (omission) (article 431 of the Criminal code);
- 9) bribery mediation (article 432 of the Criminal code);
- 10) abuse of power, abuse of power or inaction by a person out of selfinterest or other personal interest (article 455 of the Criminal Code)<sup>21</sup>.

Previously, corruption offences were recognized in Belarus:

- smuggling committed by an official using his or her official powers (part 3 article 228 of the Criminal code);

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<sup>21</sup> Противодействие коррупции = Combating corruption : учебное пособие / Н. А. Бабий и др. ; под общ. ред. А.В. Конюка. Минск, 2016. С. 375.

- financing of terrorist activities committed by an official using his or her official powers (article 290, remark of the Criminal code );
- forgery (article 427 of the Criminal code);
- receipt of illegal remuneration by employees of a state body or other state organization (article 433 of the Criminal code);
- legalization (“laundering”) of material assets acquired by criminal means (article 235 of the Criminal code).

An indicator of the effectiveness of the fight against corruption is the detection of corruption crimes. Statistics presented on the website of the Supreme Court show the dynamics of corruption crime detection: in 2016, 569 persons were convicted of corruption-related crimes, in 2017 – 694 persons, in 2018 – 1005 persons<sup>22</sup>. The largest number of offenders were convicted of the following offences: embezzlement through abuse of authority (article 210 of the Criminal Code); taking bribes (article 430 of the Criminal Code); giving bribes (article 431 of the Criminal Code); abuse of power or abuse of authority (parts 2 and 3 of article 424 of the Criminal Code); and abuse of power or abuse of authority (parts 2 and 3 of article 426 of the Criminal Code)<sup>23</sup>.

Given the latent nature of corruption, the increase in corruption is linked, inter alia, to the effectiveness of law enforcement agencies. At the same time, it is possible to state the low efficiency of the legislatively established measures against corruption and the incomplete compliance of the level of legal culture of the Belarusian society with the standards of the rule of law.

## SUMMARY

Countering corruption is considered as a factor of the legal culture of the society, an indicator of the adoption of international standards for the exercise of public power. In the author’s substantiation, the effective combating of corruption presupposes clarity in the legislative establishment of corruption offences and in the definition of their subjects – categories of officials of the public and private sectors, the illegal activities of which cause harm to the state and society. The aim of the study is to analyze the anti-corruption legislation of the Republic of Belarus in the context of the effectiveness of the proposed anti-corruption measures. International and regional legal acts in the sphere of combating corruption, which have been ratified by the Republic of Belarus, are established, which makes it possible to draw a conclusion on the

<sup>22</sup> Интернет-портал судов общей юрисдикции Республики Беларусь. URL: <http://www.court.gov.by/ru/statistika/6ed5eb4b3f9f44b8.html> (дата обращения: 23.07.2019).

<sup>23</sup> Уголовный кодекс Республики Беларусь : Закон Респ. Беларусь от 09.07.1999 № 275-3. Дата изм.: 09.01.2019. URL: <http://etalonline.by/document/?regnum=НК9900275> (дата обращения: 20.06.2019).

recognition of international principles of the fight against corruption. The system and evolution of the national legislation in the field of combating corruption is defined. Special attention is paid to the Law of the Republic of Belarus “On Combating Corruption” of July 15, 2015 № 305-3, which establishes a system of measures and tasks in the field of combating corruption in the country. The principles of combating corruption under the legislation of the Republic of Belarus are law, justice, equality before the law, transparency, priority of corruption prevention measures, inevitability of punishment, responsibility, personal liability, humanism. The peculiarities of legal regulation of the activities of anti-corruption commissions are considered. Development of coordinated actions of law enforcement agencies to prevent, detect, suppress, disclose and prevent corruption is designed to facilitate the activities of the Coordination Meeting, a permanent interdepartmental body, which is created in accordance with the Decree of the President. The assessment of criminological expertise of draft normative legal acts in the system of preventive measures against corruption is given, the procedure and terms of its implementation are determined. Particular attention is paid to the conflict of interest in the civil service. One of the reasons for the conflict of interest is the violation of restrictions and prohibitions related to the civil service. In this connection, the legal prohibitions for public officials are analyzed. The dynamics of corruption crimes, the list of which is established at the legislative level and subject to change, is determined. The criteria of effectiveness of legislative measures against corruption are the systemic nature of anti-corruption legislation, the state of law and order in society, the dynamics of corruption.

## REFERENCES

1. Интернет-портал судов общей юрисдикции Республики Беларусь. URL: <http://www.court.gov.by/ru/statistika1/6ed5eb4b3f9f44b8.html> (дата обращения: 23.07.2019).
2. Конституция Республики Беларусь с изм. и доп., принятыми на респ. референдумах 24 нояб. 1996 г. и 17 окт. 2004 г. Минск, 2016. 62 с.
3. О борьбе с коррупцией: Закон Респ. Беларусь от 15.07.2015 № 305-3. URL: [http://pravo.by/upload/docs/op/H11500305\\_1437598800.pdf](http://pravo.by/upload/docs/op/H11500305_1437598800.pdf) (дата обращения: 03.07.2019).
4. О борьбе с коррупцией: Закон Респ. Беларусь от 20.07.2006 № 165-3. URL: [https://www.bsuir.by/m/12\\_100229\\_1\\_59236.doc](https://www.bsuir.by/m/12_100229_1_59236.doc) (дата обращения: 03.07.2019).
5. О борьбе с преступностью в сфере экономике и с коррупцией: Закон Респ. Беларусь от 15.06.1993 № 2399-XII. URL:

<http://pravo.levonevsky.org/bazaby/zakon/zakb1299.htm> (дата обращения: 03.07.2019).

6. О криминологической экспертизе : Указ Президента Респ. Беларусь от 29.05.2007 № 244. Дата изм.: 24.01.2014. URL: <http://www.pravo.by/document/?guid=3871&p0=p30700244> (дата обращения: 03.07.2019).

7. О мерах борьбы с организованной преступностью и коррупцией : Закон Респ. Беларусь от 26.06.1997 № 47-3. URL: <https://normativka.by/lib/document/500046497> (дата обращения: 03.07.2019).

8. О мерах по совершенствованию криминологической экспертизы : Указ Президента Респ. Беларусь от 06.06.2011 № 230. URL: [http://pravo.by/document/?guid=2012&oldDoc=2011-65/2011-65\(009-028\).pdf&oldDocPage=5](http://pravo.by/document/?guid=2012&oldDoc=2011-65/2011-65(009-028).pdf&oldDocPage=5) (дата обращения: 20.06.2019).

9. О нормативных правовых актах : Закон Респ. Беларусь от 17.07.2018 № 130. URL: [pravo.by/document/?guid=3961&p0=H11800130](http://pravo.by/document/?guid=3961&p0=H11800130) (дата обращения: 20.06.2019).

10. О ратификации Конвенции о гражданско-правовой ответственности за коррупцию : Закон Респ. Беларусь от 26.12.2005 № 75-3. URL: [http://22gp.by/media/doc/konv\\_gr\\_otv.doc](http://22gp.by/media/doc/konv_gr_otv.doc) (дата обращения: 13.07.2019).

11. О ратификации Конвенции об уголовной ответственности за коррупцию от 27 января 1999 года : Закон Респ. Беларусь от 26.05.2003 № 199-3. URL: <http://pravo.newsby.org/belarus/zakon1/z111.htm> (дата обращения: 03.07.2019).

12. О ратификации Конвенции Организации Объединенных Наций против коррупции от 31 октября 2003 г. : Закон Респ. Беларусь от 25.11.2004 № 344-3. URL: <http://pravo.newsby.org/belarus/zakon0/z966.htm> (дата обращения: 03.07.2019).

13. О ратификации Конвенции против транснациональной организованной преступности : Закон Респ. Беларусь от 03.05.2003 № 195-3. URL: <http://pravo.newsby.org/belarus/zakon1/z115.htm> (дата обращения: 03.07.2019).

14. Об утверждении Концепции национальной безопасности Республики Беларусь : Указ Президента Респ. Беларусь от 09.11.2010 № 575. Дата изм.: 24.01.2014. URL: <http://kgb.by/ru/ukaz575/> (дата обращения: 20.06.2019).

15. Об утверждении Положения о деятельности координационного Совещания по борьбе с преступностью и коррупцией : Указ Президента Респ. Беларусь от 17.12.2007 № 644. URL: <http://www.pravo.by/>



document/?guid=2012&oldDoc=2007-304/2007-304(005-051).pdf&oldDoc  
Page=27 (дата обращения: 20.06.2019).

16. Об утверждении типового положения о комиссии по противодействию коррупции : Постановление Совета Министров Респ. Беларусь от 26.12.2011 № 1732. Дата изм.: 30.04.2019. URL: <http://pravo.by/document/?guid=3961&p0=C21101732> (дата обращения: 20.06.2019).

17. Противодействие коррупции = Combating corruption : учебное пособие / Н. А. Бабий и др. ; под общ. ред. А.В. Конюка. Минск : Акад. управления при Президенте Респ. Беларусь, 2016. 498 с.

18. Уголовный кодекс Республики Беларусь : Закон Респ. Беларусь от 09.07.1999 № 275-3. Дата изм.: 09.01.2019. URL: <http://etalonline.by/document/?regnum=НК9900275> (дата обращения: 20.06.2019).

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