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INTEGRATING ADB INTEGRITY AND ANTI-CORRUPTION MECHANISMS INTO UZBEKISTAN'S LEGAL FRAMEWORK: SANCTIONS REGIME AND NATIONAL LIABILITY

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Abstract

This thesis examines the legal and institutional issues involved in integrating the Asian Development Bank's (ADB) integrity and anti-corruption mechanisms into Uzbekistan's national legal framework, with particular emphasis on sanctions procedures and domestic legal liability. It explores the relationship between ADB's administrative sanctions, including debarment and cross-debarment, and the national systems governing criminal, administrative, civil, and disciplinary responsibility. The analysis focuses on the legal status of ADB sanctions, the exchange of information between international financial institutions and national authorities, due process guarantees, and the prevention of double punishment for the same conduct where legally relevant. It argues that effective cooperation requires clear institutional coordination, consistent evidentiary standards appropriate to each proceeding, and respect for the distinct purposes of international administrative sanctions and national legal liability.

Keywords: Asian Development Bank, ADB, integrity, anti-corruption, sanctions, debarment, cross-debarment, Uzbekistan, national liability, public procurement, due process.

Introduction

The implementation of development projects financed by international financial institutions requires effective mechanisms to prevent fraud, corruption, collusion, coercion, obstruction, and other prohibited practices. The Asian Development Bank (ADB) has established an integrity framework designed to protect the resources it administers, promote ethical conduct in financed activities, and ensure that individuals and entities found to have engaged in prohibited practices may be subject to appropriate institutional sanctions.

In Uzbekistan, projects supported by international financial institutions operate within a national legal system that provides for criminal, administrative, civil, and disciplinary liability, alongside measures intended to prevent corruption and protect public procurement. The interaction between ADB's integrity framework and domestic law therefore raises important questions concerning the legal nature of sanctions, the exchange of information, the allocation of investigative responsibilities, and the relationship between international financing requirements and national enforcement procedures.

A central issue is that an ADB sanction and a decision by a national court or competent authority are not necessarily the same type of legal measure. ADB may impose institutional sanctions affecting eligibility to participate in ADB-financed activities, while national authorities determine liability under the applicable legislation of Uzbekistan. The consequences, procedures, and legal purposes of these measures differ.

The purpose of this thesis is to analyse how ADB integrity and anti-corruption mechanisms can be coordinated with Uzbekistan's legal framework, focusing on the sanctions regime, national liability, procedural safeguards, and institutional cooperation. The principal argument is that effective integration does not require the automatic incorporation of ADB sanctions into domestic law. Instead, it requires clear rules for recognising the practical consequences of international sanctions,

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exchanging relevant information lawfully, referring potential offences to competent national authorities, and preserving the independence of domestic legal proceedings.

ADB's integrity framework addresses prohibited practices connected with activities that the institution finances, administers, or supports. These practices include corruption, fraud, coercion, collusion, and obstruction, as well as other integrity violations defined in the applicable framework. The institution's Office of Anticorruption and Integrity investigates suspected violations, while designated sanctions bodies consider enforcement decisions. [1]

The Investigation and Enforcement Framework, published in October 2024, describes the procedures for receiving complaints, conducting investigations, imposing sanctions, disclosing decisions, handling appeals, reinstating eligibility, and referring matters to national authorities. It emphasises administrative procedures intended to support fairness, consistency, and due process. [1]

ADB sanctions can include debarment, suspension, and other enforcement or disclosure measures. Debarment generally makes an individual or entity ineligible to participate in ADB-related activities for the applicable period and under the conditions specified in the decision. The consequences may extend to certain officers, employees, principals, or affiliated entities, depending on the applicable rules and the facts of the case. [2]

An additional feature is cross-debarment, through which participating multilateral development banks may mutually enforce certain debarment decisions. The 2010 Agreement for Mutual Enforcement of Debarment Decisions involves the ADB, World Bank Group, African Development Bank Group, European Bank for Reconstruction and Development, and Inter-American Development Bank Group. Recognition is subject to the agreement's eligibility criteria and any relevant legal or institutional considerations. [3]

These mechanisms can have substantial practical effects on companies participating in Uzbekistan's internationally financed projects. A firm sanctioned by ADB may lose eligibility for relevant ADB-financed opportunities even if no domestic criminal conviction has been issued. Similarly, a qualifying sanction imposed by another participating development bank may affect eligibility under the cross-debarment arrangements.

However, an ADB sanction is an institutional measure governed by the bank's applicable procedures. It is not automatically equivalent to a criminal conviction, an administrative penalty under Uzbekistan's legislation, or a judicial determination of civil liability. This distinction is essential when designing a national system for cooperation with international financial institutions.

Uzbekistan has established a legal framework for combating corruption and regulating public procurement. The Law On Combating Corruption, No. ZRU-419 of 3 January 2017, provides the general legal basis for preventing and combating corruption. It identifies the relevant principles and institutional responsibilities and includes measures aimed at preventing corruption in public procurement. [4]

The Law On Public Procurement, No. ZRU-684 of 22 April 2021, establishes principles and requirements governing public procurement, including the inadmissibility of corruption. Article 81 provides for the responsibility of public procurement participants and officials for compliance with procurement legislation and proper performance of contractual obligations. [5]

Uzbekistan's Criminal Code provides for criminal liability for conduct that satisfies the elements of offences defined by national law, including relevant corruption-related offences. Administrative, civil, and disciplinary measures may also apply where their respective legal grounds are established. [6]

These national mechanisms and ADB's integrity framework pursue related objectives but operate through different legal processes. ADB determines whether conduct connected with ADB-related activities constitutes an integrity violation under its framework. National authorities determine

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whether the same or related conduct constitutes an offence or other legal violation under Uzbekistan's legislation.

Consequently, the existence of an ADB investigation or sanction should not automatically determine the outcome of national proceedings. It may provide information relevant to a domestic investigation, subject to applicable laws on evidence, confidentiality, and information sharing. Domestic authorities must independently establish the facts and apply the legal standards and procedures prescribed by national law.

Likewise, a domestic investigation or judicial decision may be relevant to ADB's assessment, but its effect under the ADB sanctions framework depends on the applicable institutional rules. A structured system of cooperation is therefore needed to facilitate the exchange of relevant information without conflating international administrative enforcement with domestic legal liability.

The first challenge is the difference between the legal nature and purpose of ADB sanctions and domestic liability. ADB debarment primarily protects the integrity of activities supported by the institution by restricting the participation of parties found responsible for integrity violations. National criminal liability, by contrast, requires the establishment of a legally defined offence through the competent domestic process.

This distinction creates a need for clear rules on how ADB sanctions should be considered by Uzbek public bodies and implementing agencies. A sanction should be relevant to procurement eligibility where the applicable financing and procurement rules require or permit that consequence. It should not automatically be treated as proof of criminal guilt or as a substitute for a national court judgment.

A second challenge concerns the exchange of information between ADB and national authorities. Suspected fraud or corruption in an internationally financed project may involve contractors, subcontractors, public officials, consultants, or intermediary companies. Investigating such conduct may require access to procurement records, contracts, payment information, ownership structures, and communications.

ADB's Investigation and Enforcement Framework includes provisions on referrals to national authorities. [1]

For Uzbekistan, effective cooperation requires clear channels through which relevant allegations and supporting materials can be referred to competent authorities, subject to applicable confidentiality, data-protection, and procedural requirements.

Institutional coordination should clarify which authority receives a referral, how it is registered, how jurisdiction is determined, and how information can lawfully be shared with ADB. It should also preserve the independence of domestic investigations and protect the rights of individuals and entities involved.

A third challenge concerns procedural safeguards. ADB and national authorities operate under different procedural frameworks and evidentiary standards. ADB's sanctions procedures are administrative, while criminal proceedings in Uzbekistan are governed by national criminal procedure and the relevant guarantees of a fair trial.

Integration should therefore avoid automatic equivalence between an international sanctions decision and a domestic finding of guilt. Any domestic restriction, penalty, or other adverse legal consequence must have a sufficient basis in applicable national law and comply with relevant procedural guarantees.

The possibility of appeal under ADB's framework and the availability of remedies under national law should also be clearly distinguished. This approach supports institutional cooperation while preventing the international sanctions system from being used as an informal substitute for domestic legal procedures. [1]

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Cross-debarment presents a practical challenge for implementing agencies responsible for procuring goods, works, and services under ADB-financed projects. Procurement personnel must determine whether a bidder or relevant associated entity is subject to an applicable sanction and whether that sanction affects eligibility under the governing procurement rules.

ADB maintains a Debarment and Suspension Register to support these checks. Its published information distinguishes publicly disclosed sanctions and cross-debarment decisions from the complete register, access to which is restricted. [2]

Uzbek implementing agencies should establish procedures for checking the relevant register at appropriate stages of procurement, verifying the identity of bidders, documenting screening results, and seeking clarification where the identity or scope of a sanction is uncertain. These procedures should also account for changes in corporate ownership, name, or structure where the applicable rules make those matters relevant.

Such screening should be conducted consistently with the applicable procurement framework and the precise scope of the sanction. It should not become an informal basis for excluding bidders beyond the restrictions authorised by the relevant rules.

Several measures could improve the integration of ADB's integrity mechanisms with Uzbekistan's national legal framework.

First, implementing agencies should adopt clear internal procedures for integrity screening in ADB-financed procurement. These procedures should specify who checks sanctions registers, how results are documented, and how uncertain cases are escalated for legal review.

Second, cooperation between ADB and competent Uzbek authorities should be supported by defined referral and communication channels. These should establish responsibilities for receiving allegations, preserving relevant records, and transmitting information in accordance with applicable law.

Third, guidance should clarify the distinction between international administrative sanctions and national criminal, administrative, civil, and disciplinary liability. This would help prevent both the automatic transfer of international sanctions into domestic law and the mistaken assumption that an ADB sanction is irrelevant to procurement eligibility.

Fourth, PIU personnel, procurement committees, auditors, and legal advisers should receive training on prohibited practices, conflicts of interest, beneficial ownership risks, document verification, reporting channels, and the consequences of sanctions under the applicable procurement rules.

Fifth, implementing agencies should strengthen preventive controls. These may include declarations of conflicts of interest, transparent procurement records, proportionate due diligence on bidders and subcontractors, audit trails for procurement decisions, and mechanisms for reporting suspected misconduct.

Finally, any future legal or institutional reform should be based on an assessment of existing legislation and the actual needs of internationally financed projects. Where domestic law does not provide a sufficient basis for a particular consequence of an international sanction, the appropriate response is to consider a lawful regulatory or legislative solution rather than assume that the sanction is automatically enforceable as a national penalty.

Conclusion

The integration of ADB integrity and anti-corruption mechanisms into Uzbekistan's legal framework requires a clear distinction between international institutional sanctions and domestic legal liability. ADB's framework provides procedures for investigating integrity violations, imposing sanctions, managing appeals, and enforcing qualifying cross-debarment decisions. Uzbekistan's national legislation establishes the legal grounds and procedures for determining domestic liability.

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The principal challenges concern the different legal nature of the two systems, information exchange, procedural safeguards, the practical implementation of cross-debarment, and the allocation of institutional responsibilities. Addressing these challenges requires more than general commitments to anti-corruption. It requires clear procedures for sanctions screening, lawful information sharing, referrals to competent authorities, and the independent determination of domestic liability.

The central conclusion is that effective integration should combine international sanctions compliance with national legal safeguards, rather than treat one system as a substitute for the other. Such an approach can strengthen the integrity of internationally financed procurement, protect public and development funds, improve accountability, and support consistent application of the law.

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