The Republic of the Union of Myanmar

Anti-Corruption Commission

Typologies Report of Corruption

2022

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Introduction

1. Corruption is one of the main causes that makes the decline of political, economy, administration, social and culture adversely affect. Moreover, it is the main obstacle in the path towards poverty reduction and development of the country. Corruption is a deeply rooted issue in respective societies in Myanmar for many decades. The Commission determined to combat the deeply rooted corruption together with the citizens corruption and is taking as a national responsibility and implementing anti-corruption strategies.

2. Myanmar signed the United Nations Convention Against Corruption (UNCAC)on 2 December 2005, ratified it on 20 December 2012 and became a State Party. The Anti-Corruption Law was approved by the Pyidaungsu Hluttaw on 7 August 2013 and came into force it on 17 September 2013 after the President of the Union signed and issued it. The Anti-Corruption Commission was formed on 25 February 2014 in accordance with the provisions of the Law. The Third Commission was started on 20 February 2021 with the Chairman, Secretary and 11 members, in accordance with the provisions of the Anti-Corruption Law and it is implementing the functions of the Anti-Corruption Commission.

Definition of Corruption

3. According the Myanmar Anti-Corruption Law (2013), Section 3 (A), Corruption refers to any of the following acts:

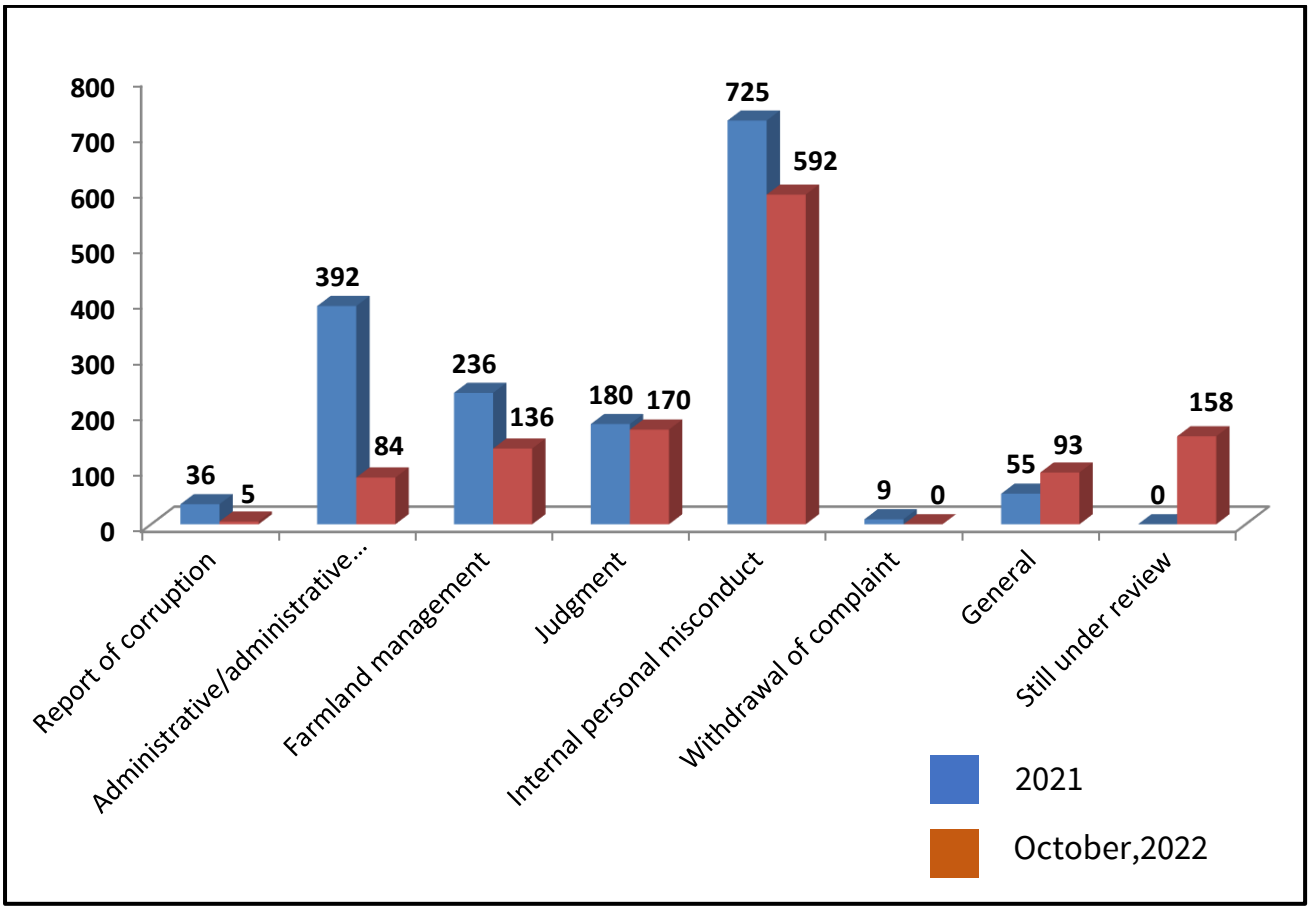
(i) Giving and attempting to give to, or taking or attempting to take any gratification directly or indirectly from a person concerned by abuse of position or otherwise in order to do something illegal, avoid doing something legal, or to give or deprive any person of any rights to which they are entitle;

(ii) Causing loss of or damage to State-owned finance or property by violating any existing rules, regulations or procedures while managing State-owned finance in government departments, government organizations, public organizations or other organization, or claiming, acquiring, administration or liquidation of their assets, or entering into or, executing any agreement relating to them.

Objective of this Report

4. To understanding the typologies of corruption cases and identify the corruption related money laundering risks.

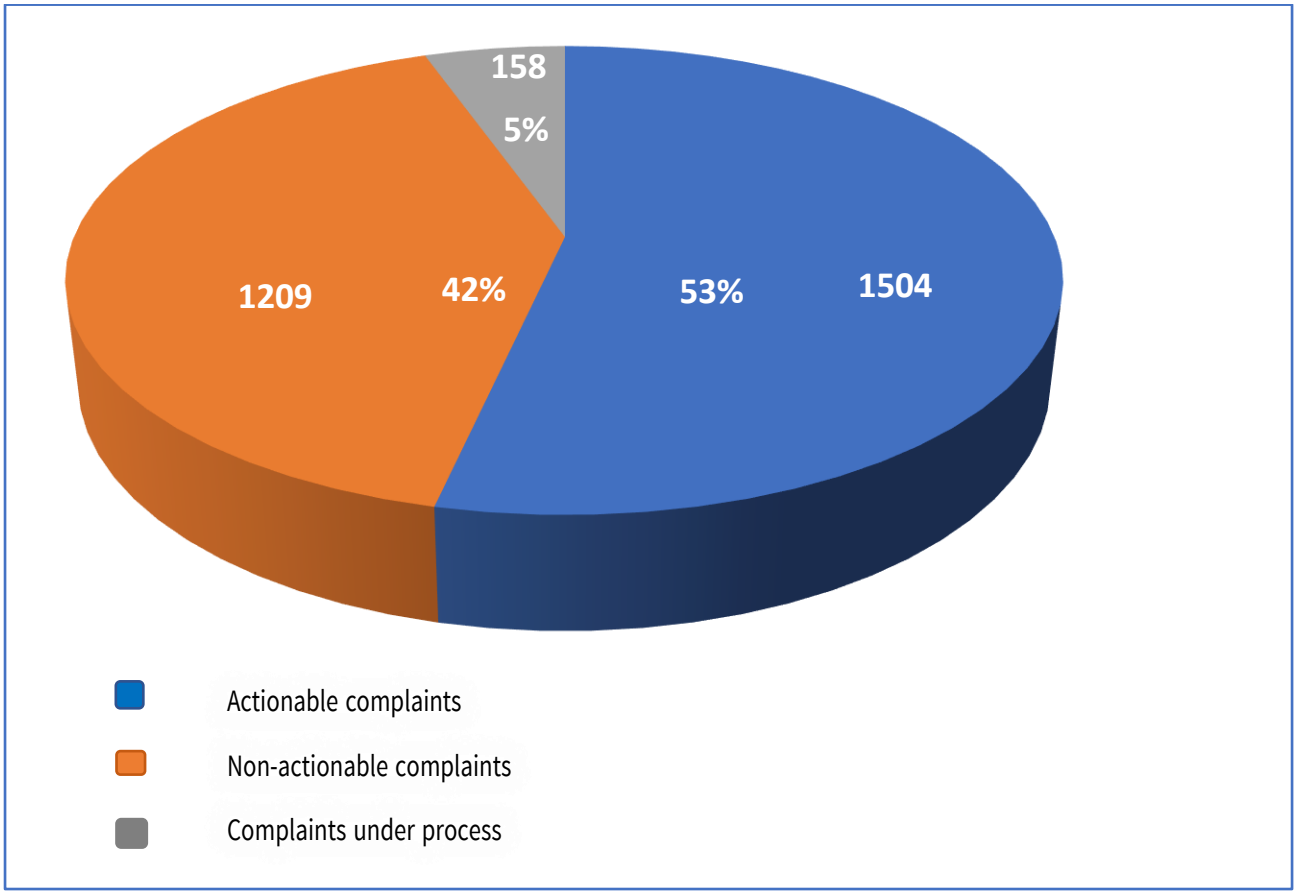
Chart 1: Receipt of Complaints



5. During from 2021, February to 2022, October a total number of complaints received 2871 are as followed:

Sr. No	Receipt of Complaints	Quantity
(i)	Transfer by government department or any government organization	37
(ii)	Reporting directly to the Commission	2426
(iii)	Sending copy of complaint to the Commission	360
(iv)	Anonymous complaints	48
	Total	**2871**

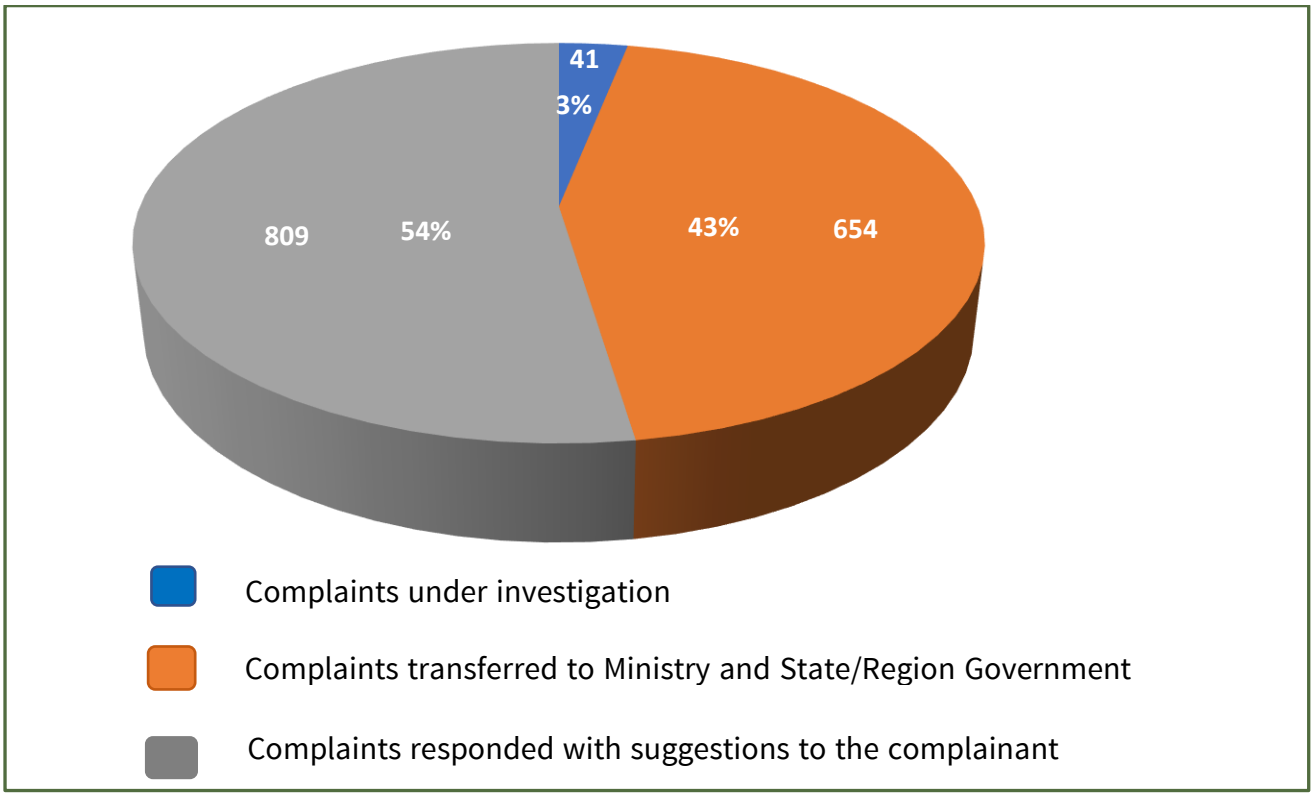
Chart 2: Action Taken on Receipt of Complaints (2871)



6. A total number of actions taken on receipt of complaints are as followed:

(i)	Actionable complaints are 53 %	1504
(ii)	Non-actionable complaints are 42 %	1209
(iii)	Complaints under process are 5 %	158
	Total	**2871**

Chart 3: Complaints under action (1504)



7. A total number of complaints under action are as followed:

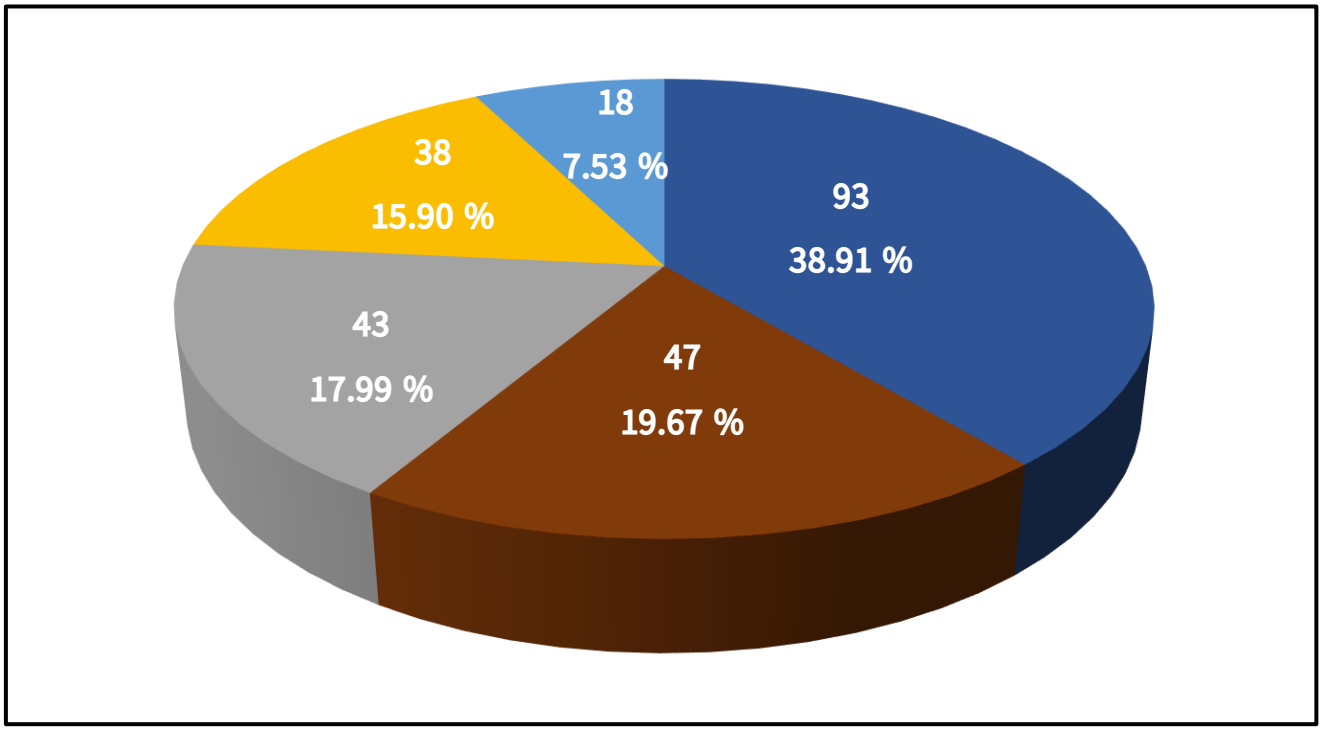
(i)	Complaints under investigation is 3 %	41
(ii)	Complaints transferred to Ministry and State/ Region Government is 43 %	654
(iii)	Complaints responded with suggestions to the complainant is 54 %	809
	Total	**1504**

Table 1: Prosecuted persons in their respective positions/ ranks

Sr. No	Positions/ Ranks	(1.2.2021 to 31.10.2022)			25-2-2014 31-10-2022
		2021 Year	2022 Year	Total	
1	Political Post Holders	56	21	77	**79**
2	Senior Officials	4	4	8	**35**
3	Officials	5	2	7	**73**
4	Non-Officials			-	**73**
5	Public Servants			-	**19**
6	Others	3	3	6	**28**
Total		**68**	**30**	**98**	**307**

8. The above table shows according to the investigation and prosecuted persons in their respective positions/ ranks by the commission from 25 February 2014 to 31 October 2022. Political Post holders are 79, senior officials are 35, officials are 73, non-officials are 73, public servants are 19 and other persons are 28. So, the total number of prosecuted persons are 307.

Chart 4: Types of corruption cases



9. The typologies based on 239 criminal cases prosecuted by ACC under the anti- corruption law from February 2021 to October 2022.

(i) 93 cases are loss of State-owned Finance by violating any existing rules, regulations or procedure, 38.91 %

(ii) 47 cases are loss of State-owned Finance by Procurement Instruction (1/2017), 19.67 %

(iii) 43 cases are taking gratification by abuse of position or otherwise in order to do something illegal, 17.99 %

(iv) 38 cases are loss of State-owned Finance by the official's misconduct, 15.90 %

(v) 18 cases are bribery, 7.53%

List of Prosecution and confiscation on corruption cases

10. There are 153 numbers of cases charged according to section 55, 82 numbers of cases according to section 56 and 4 numbers of cases charged according to section 55/63 of the Anti-Corruption Law that were prosecuted from 2021 to October 2022. The Anti-Corruption Commission closed 56 number of cases with reference to order No. 172/2021 of the State Administration Council Office. Myanmar Kyat 259.67 million and US$ 13326746 were seized.

Changing trend of typologies

11. In many corruption cases, not only loss of damage to the state-owned finance or property by violating any procedures, regulations, policy but also buying the luxury things such as housing, land and automobile with the lower price than actual price from the bribe givers. This is the changing trend of typologies in Myanmar.

Case Study (1)

Requesting for a bribe through someone else without requesting by themselves

12. Some political post holders will participate in the next election. During the period of carrying out the duty, they misuse on their authorities by requesting, attempting to request and using the state-owned money, expenses and the item for winning their party.

In attempt to taking, requesting from the subordinates in current department that they are assigned, a political post holder commit corruption in the form of raising fund and physical assistance or monetary assistance for a representative to participate in an election by concealing the request from the subordinates and businessmen.

The inspector said that a member of parliament must resign as soon as he accepts a political post. A political post holder has the right to contest as a member of parliament in the election according to the specific law of the relevant department, and donations, they can accept assistance but have no right to ask for it. It has been verified that if a candidate runs before giving up his political post, he is not privilege ask for any assistance from the subordinate staff.

Case Study (2)

Buying the apartment by paying less than the actual value

13. This case is about participating in the respective management committee and using his/her authority to purchase or obtain material/ valuable items from any business related to management without paying a reasonable price.

A person who has the authority to participate in the relevant management bought an apartment worth 2,50 million kyats from a businessman related to the management, knowing the price of the apartment but buying it for less than the current market price, committing corruption. The inspectors investigated that he violated the rules, procedures and directives. The investigator revealed the violation of his compliance on the rule and procedures. Causing the loss or damage to the state – owned finance and property by violating rules and law and directives.

Case Study (3)

Because of violating rule and regulation, the state-owned properties and monetary has been lost.

14. The political post holders and competent authorities violates the financial rules, orders and directives. They intentionally misuse these rules and procedures on licensing to business, absence on scrutinizing the construction led the states, misusing on the donated money and property for nations for development of their political parties.

With the purposes of voting from the local people to their party , the competent authorities skipped the budgets in the predetermined projects and intentionally misused that allocated budgets for the other departments under the reason for the regional development (they changed using the budgets under the unrelated title).In tendering process, they rejected the guidance of tendering processes and give the chances of success in tender to the companies that supported to their party and has personal relations. The corrupt offences are absence in checking the condition of government construction, bending the current policies for contracting and tendering without complying any guidance by the Parliament and using nation owned land for their political parties. All the actions mentioned above shows that the competent person and political holders committed the corruption by abusing their authorities.

Case Study (4)

Referring corruption case to continue investigate under Anti-Money Laundering Law

15. Mr. xxx, Myanmar's Labor Attaché of Thailand,(16-12-2017 to 16-8-2019) has been committed the following cases : receiving bribes from 12 companies (574,300 Thai baht) for signing of permits for the submission of demand letters (Demand Letters) by foreign employment agency companies, taking charges from foreign employment agency companies (100 Thai baht per worker) for submitting the name list and received 3,873,000 Thai baht from (16) companies through two regional employees, who committed corruption by abused of position. The wife of labor Attaché Mr. xxx, sold USD (58,692.5 dollars) and Thai baht (975,580 baht) to the owner of Money Changer in -------City 6 times between November 2018 and January 2019. The wife of labor Attaché said that the USD$ he had bought and collected. He denied that the Thai

baht money was temporarily borrowed from her husband's friend Mr. yyy but it was found that it was sold after the day he returned to Myanmar from Thailand. Regarding labor Attaché Wife bank accounts, it was found that the total balance in her private banks at the beginning of July 2018 was 13,371,006.60 (over one hundred and thirty-three hundred thousand Kyats) and the balance of the banks at the beginning of October 2018 was 143,056,105.00 (over one hundred and four hundred Kyats). It was making the money obtained after committing corruption appears as if it had been received illegally. According the finding of investigation report, Anti-Corruption Commission transferred this case to the Ministry of Home Affairs to continue investigate under Anti-Money Laundering Law.

Observation

16. Between 2021 and October 2022, among the 8 categories of complaints sent to the Commission, internal personnel complaints were the highest in percentage, followed by administrative/administrative complaints. The percentage of complaints with strong evidence of corruption is found to be low.

17. Between 2021 and October 2022, there were a total of 2,871 complaints sent to the commission, and the commission could take action on 1,504 complaints (52%). There are 1209 complaints (42%) that cannot be acted upon the complaints that the commission was able to take action on, it was found that 41 (2.72%) of the complaints that were covered by the anti-corruption law and that were examined by the commission's investigative team were 41 (2.72%).

18. From 25-2-2014 to 31-10- 2022, according to the investigated by the commission, prosecution action was taken according to position level in 77 cases (78.57%) of PEPs, 8 high-ranking officials (8.17 %), 7 employees (7.14 %) and 6 other

individuals (6.12 %) were found to have taken action against those who were/were currently in political positions, making a total of 98 cases.

19. According to the 41 complaints investigated between 2021 and October 2022, violations of regulations/instructions of the state's finance, material Due to property damage A total of 125 cases (55.8%) were prosecuted under Section 3(a)(2) of the Anti-Corruption Law, and 99 cases (44.2%) were prosecuted under Section 3(a)(1) of the Anti-Corruption Law due to receiving gratifications.

Analysis

20. Among the complaints sent to the Anti-Corruption Commission, the number of complaints that are covered by the Anti-Corruption Law and the number of complaints that the Commission can form an investigation team is relatively low. In order to be able to fully include the necessary evidence in the complaint for the commission to investigate, it is considered that public awareness should be increased.

21. Among the cases investigated by the Commission are the rules/procedures of the relevant departments/organizations, including the authorized persons of the departments/organizations and those holding political positions. By violating orders and instructions loss of or damage State-owned finance or property cases under Section 3(a) (2) of the Anti-Corruption Law is greater than bribery, and the state-owned finances and properties are greatly affected. Not only taking gratifications, but also the fact that if there is damage to the State-owned finance and properties, the anti-corruption law can be dealt with.

22. While investigate the predicate offences under the Anti-Corruption Law, financial investigations should be parallel investigate in accordance with the provisions of the Anti-Corruption Law. According to the findings of the investigation, ACC should be more transferred to the relevant law enforcement agencies in order to continue taking action under other existing laws, including the Anti-Money Laundering Law.

Conclusion

23. Anti-corruption commission aims to eliminate corruption in the country by raising awareness. In addition to the prevention section and the investigation and action section, recommendations are being made to the state's grievances based on the findings of the investigation.

24. In the implementation of the anti-corruption activities, the six objectives of the anti-corruption law will be taken as the objective, and annual work plans will be established for the development of a clean government and a good administrative system.

Anti-Corruption Commission