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THE INSTITUTIONALISATION OF PUBLIC RELATIONS IN THE FIGHT AGAINST CORRUPTION: THE EXPERIENCE OF COUNTRIES OF EASTERN AND WESTERN LEGAL TRADITIONS (UNIVERSAL THEORETICAL FRAMEWORK FOR RELEVANT ANTI-CORRUPTION LAW OF UKRAINE)

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scientific and methodological justification
of ensuring the effectiveness and efficiency
of provisions implementation

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PECULIARITIES OF ANTI-CORRUPTION POLICY AND COMPETENCE OF ANTI-CORRUPTION AUTHORITIES IN UKRAINE

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INTRODUCTION

In today's conditions, shadow economic relations are becoming a factor that really affects the level of state security. One of the main factors that poses a threat to our country's security is corruption, which has occupied all levels of power and permeates all spheres of our country, which significantly impedes socio-economic transformations and adversely affects the image of the country as a whole.

Corruption is recognized as one of the most significant global issues. The most well-known indicator of corruption worldwide (CPI) that published annually by the international organization Transparency International, shows that corruption remains a serious challenge for all regions of the world. It undermines the society's belief in the democratic nature of state processes and causes significant damage to the economy as a whole, as well as to the entrepreneurial activity of individual entities in particular.

According to Transparency International, in the country's annual ranking of corrupt countries, Ukraine remains among the low-performing countries (30 points from possible 100 points in 2017[1], 32 points from possible 100 points in 2018)[2].

Empirical evidence shows that corruption causes: ineffective formation and use of funds of financial resources of public finances; insufficient filling of state and local budgets due to abuse of employees in the administration of taxes and fees; loss of time due to interference, reduction of the efficiency of the state apparatus as a whole; the inability to develop medium and small businesses; lack of investment in production, slowing down of economic growth; low quality of administrative services provided to individuals and legal entities; growth of social inequality; development of organized crime; the decline of political legitimacy of power; low level of citizens' confidence in authorities, and so on[3].

Therefore, the issues of combating corruption are urgent and require the immediate implementation of effective measures.

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[1] Річний звіт Transparency International Україна, 2017. URL: https://ti-ukraine.org/wp-content/uploads/2018/ 08/Richnyi-zvit-TI-Ukraina-2017.pdf.

[2] «Індекс сприйняття корупції»: Україна дещо зміцнила позиції. URL: https://www.radiosvoboda.org/ a/29735869.html.

[3] Антикорупційні засади діяльності органів влади : науково-практичний посібник / за заг. наук. ред. А.В. Роздайбіди. Харків : Вид-во ТОВ «Друкарня Мадрид», 2014. С. 7.

1. Research of the concept of "corruption", tasks and principles of anti-corruption policy in Ukraine

Corruption refers to "the use of a person by the authority given to her or the related capabilities in order to obtain an unlawful benefit or the adoption of such a benefit or the acceptance of a promise / offer of such benefit to himself or others or, accordingly, a promise / offer or an unlawful benefit to a person or her claim to other individuals or legal entities in order to persuade the person to misuse her authority or the opportunities attached to her". Undue advantage include cash or other property, benefits, privilege, services, intangible assets, any other advantages of immaterial or non-monetary nature, which promise, offer, grant or receive without legal justification[4].

Given the negative impact of corruption on society, we can formulate such a definition of corruption. *Corruption* is an unlawful act for the purpose of obtaining unlawful benefits, which are deliberately carried out by officials who are empowered, which adversely affects the activity of the authorities and exerts a disorganization influence on society. Corruption can be manifested in the form of receiving unlawful benefits (money, property etc) by blackmail, provocation, extortion etc.

The subjects of the commission of corruption offenses may be:

1) persons authorized to perform functions of the state or local self-government;

2) persons who are equal to persons authorized to perform state or local government functions (public law officials who receive wages at the expense of the state or local budget; persons who are not civil servants but who provide public services (auditors, notaries, appraisers, etc.), officials of foreign states, officials of international organizations);

3) persons permanently or temporarily holding positions related to the implementation of organizational and administrative tasks or administrative and economic duties, or persons specially authorized to perform such duties in legal entities of private law, regardless of organizational and legal form;

4) officials of legal entities, individuals – in case of receipt from them by the persons specified in clauses 1 and 2 or with the participation of these persons by other persons of undue advantage[5].

When researching the notion of corruption, one should take into account that:

– a socially dangerous act that does not exist separately. This phenomenon is unacceptable, but it exists in all countries of the world and is an integral

[4] Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII. URL: http://zakon.rada.gov.ua/laws/show/1700-18.

[5] Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII. URL: http://zakon.rada.gov.ua/laws/show/1700-18.

part of public authority. Representatives of the state power of any state try to fight corruption and to implement anti-corruption programs in all spheres of life. The difference between the anti-corruption measures of different states lies in the size and rate of corruption, as well as its impact on economic, social, political and other processes;

– a concept that in the course of study includes a set of interrelated administrative, criminal, disciplinary, civil-law violations.

Among the main factors that generate and nourish corruption are the following: economic; legislative; activity of the authorities and management; personnel support[6].

An important factor in preventing corruption is the personnel issue. Thus, the subjects of responsibility for corruption offenses are forbidden to use their official powers and related capabilities in order to obtain unlawful benefits for themselves or other persons, including:

1) unlawfully assist legal entities or individuals in carrying out their business activities, receiving subsidies, subventions, grants, loans, obtaining privileges, concluding contracts (including for the purchase of goods, works and services, especially for state funds);

2) improperly promote the appointment of certain persons;

3) it is unlawful to give preference to certain individuals or legal entities in connection with the preparation of projects, publication of normative legal acts and decision-making, approval of conclusions[7].

A person who claims to hold office in state authorities, including in local self-government bodies, is subject to verification by the head of the relevant body, where the said person plans to occupy a vacant position. In the case of a special examination of a person applying for a post in state authorities (local self-government), in addition to the head of the state authority (local government), specially authorized subjects are involved in the fight against corruption, and, if necessary, other representatives of central executive authorities. Information relating to such verification is confidential except in cases where it contains information about state secrets. In the event of a person's refusal to accept the corresponding position, she may appeal this decision in court.

If a person who was appointed to office in authority of state power (local self-government) committed an offense related to corruption, then subjects who were obliged to check such a person at the time of taking up their duties are personally liable.

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[6] Попова Л.М. Боротьба з корупцією як один з напрямів підвищення економічної безпеки України. *Фінансова система України в умовах трансформації соціально-економічних відносин :* матеріали Міжнародної науково-практичної конференції (м. Харків, 14 квітня 2016 р.). Харків : Харк. нац. ун-т будів. та архіт., 2016. Ч. 1. С. 59–62.

[7] Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII. URL: http://zakon.rada.gov.ua/laws/show/1700-18.

An important element of corruption remains the powerful bureaucracy, which is constantly increasing in our country instead of the reduction of the number of civil servants, as foreseen by the administrative-legal reform. Despite the tough demand for the unification of remuneration in all, without exception, state-owned structures, there are dozens of different schemes and hundreds of different systems of employee bonuses.

Therefore, in order to have a real effect from anti-corruption measures held by the state, it is necessary that the state policy be transparent and open to all segments of the population of the country. After all, the social and legal status of an official person in any sphere grants her the right to use his powers for personal purposes, and an open and transparent policy at the state level will encourage such a person to refrain from corruption offenses, understanding the consequences of the committed corruption act.

The basis for the lawful conduct of any person should be the understanding that corruption offenses are not only a violation of the current legislation, but above all a violation of the rights, freedoms and interests of a person and a citizen, provided by the Constitution of Ukraine as the main value, an attack on public goods. It is here that should be emphasized, considering the fight against corruption as a long-term strategic task. After all, corruption destroys both the political, social and economic system of any country. Therefore, all forms of corruption must be confronted with a strong state of law, which is controlled by civil society.

One of the tasks of the rule of law is to ensure the rights of suspects, accused and convicted persons who have committed corruption offenses. But this category of Ukrainian citizens has in many cases been less protected in legal terms. And these are thousands of people who are forced to fight for their rights, because today's legislation in many cases does not really provide them. Today the rights, legitimate interests of victims of corruption crimes require legislative consolidation.

The economy remains the most vulnerable to corruption. First, because of its scale and its consequences, and secondly, of the particular complexity of the disclosure of crimes in the economic sphere, and thirdly, that it is precisely from this that corrupt people are mainly drawing up funds and means for their existence and the bribery of others, armaments and technical equipment, as well as for the organization and conduct of violent actions.

Therefore, the achievement in practice of the effectiveness of the fight against corruption at all levels requires the implementation of an effective state policy aimed at establishing joint actions of all state bodies in the development of anti-corruption measures, alignment of benchmarks and plans for further cooperation with international partners, improvement of the

investment climate, etc. All the above mentioned measures should be carried out with strict observance of human and citizen's rights and freedoms in accordance with the current legislation[8].

Anticorruption policy is a complex of legal, economic, educational, educative, organizational and other measures aimed at creating a system for preventing and combating corruption and eliminating its causes. The purpose of anti-corruption policy is to eliminate corruption in the state and to ensure the protection of the rights and legitimate interests of citizens and society from its negative consequences, that is, the transition to a transparent system of governance. The subjects of anticorruption policy include the specially authorized bodies (persons) on anti-corruption policy, bodies of state power and local self-government, institutions, organizations, enterprises irrespective of the form of ownership, citizens and their unions[9].

The principles of anticorruption policy are:

– the rule of right and law, the priority of human and civil rights and freedoms;

– equality of all before the law;

– openness and transparency of activity of state authorities and local self-government bodies;

– effective interaction between the legislative, executive and judicial branches of power and the state with the public;

– inevitability of responsibility for the commission of a corruption offense;

– the only state policy in the field of prevention and counteraction to corruption;

– cooperation with foreign states and international organizations, in particular with the Council of Europe Group of States against Corruption (GRECO);

– targeted budget financing of the activities of state authorities and local self-government bodies for carrying out tasks of anticorruption policy;

– access to information about committed corruption offenses, corruption factors and measures to prevent and counter corruption[10].

At the same time, in our opinion, the violation of the principle of the inevitability of liability for the commission of a corruption offense is the establishment of limitation periods for bringing criminal liability in Art. 49 of the Criminal Code of Ukraine. On this occasion, a proposal was made to

[8] Попова Л.М. Адміністративно-правові засади контролю в сфері підприємницької діяльності : монографія. Харків : Майдан, 2018. С. 404–405.

[9] Засади антикорупційної політики : додаток до Розпорядження Кабінету Міністрів України від 08 грудня 2009 р. № 1688-р. URL: https://www.kmu.gov.ua/ua/npas/243284567.

[10] Засади антикорупційної політики : додаток до Розпорядження Кабінету Міністрів України від 08 грудня 2009 р. № 1688-р. URL: https://www.kmu.gov.ua/ua/npas/243284567.

amend the article. 49 of the Criminal Code of Ukraine, in order not to set deadlines for corruption crimes[11].

The legal basis for anticorruption policy in our country is the Constitution of Ukraine, the United Nations Convention against Corruption, and the Organization for Economic Co-operation and Development's (OECD) Istanbul Action Plan on Combating Corruption. In addition, decisions on anti-corruption policy in Ukraine should be based on the international standards and recommendations of the Group of States of the Council of Europe against Corruption (GRECO).

The main objectives of the anti-corruption policy are:

1) improvement of the national legislation by:

– harmonization of legislation of Ukraine and the European Union;

– analysis of legislation in order to identify shortcomings that contribute to the commission of corruption offenses and to prepare proposals for its improvement;

– conducting anti-corruption expertise of draft legal acts;

– introduction of a legal mechanism for preventing the bribing of persons authorized to perform functions of the state or bodies of local self-government, as well as citizens during referendums and elections;

– development and introduction of curricula for students of educational institutions and civil servants on the prevention and counteraction of corruption;

2) institutional reform by:

– adoption of the Administrative Procedural Code of Ukraine;

– improvement of the system and structure of public authorities and local self-government bodies, determination of the mechanism of public control over their activities;

– formation of units in the bodies of state power on questions of prevention and counteraction to corruption;

– developing a procedure for conducting an assessment of the effectiveness of detection and prevention of corruption risks in state authorities;

– improvement of the civil service system;

– abolition of parliamentary immunity;

– transparency of financing of political parties;

[11] Крайник Г.С. Чи потрібні строки давності, щоб корупціонери в Україні й далі уникали кримінальної відповідальності (ст. 49 Кримінального кодексу України)?. *Актуальні проблеми кримінального права, процесу, криміналістики та оперативно-розшукової діяльності* : тези Всеукраїнської наук.-практ. конф. (м. Хмельницький, 03 березня 2017 р.). Хмельницький : Вид-во НАДПСУ, 2017. С. 263–266.

– creation of the Unified State Register of persons who committed corruption offenses;

– transparency of financing of political parties;

3) reform of the law-enforcement and judicial system:

– formation of specialized bodies that will contribute to the prevention, detection, termination and investigation of corruption acts;

– ensuring access to court decisions and judicial statistics;

4) increasing the effectiveness of interaction between public authorities and local self-government with the public through:

– conducting public anti-corruption expertise of draft legal acts;

– ensuring the availability of information about identified corruption offenses;

5) holding analysis:

– corruption offenses and the reasons for their occurrence;

– indicators of the spread of corruption, which characterize volumes, intensity, structure, dynamics, territorial distribution and those who committed them;

– experience of foreign states and international organizations on the prevention and counteraction of corruption[12].

Anti-corruption policy tasks are funded in the following areas: providing an effective mechanism for financial control of the public service; compensation for damage caused to natural or legal persons; creation and maintenance of the Unified State Register of Persons who committed Corruption Offenses; ensuring the implementation of the powers of the special authorized body (person) on issues of anti-corruption policy.

2. Anticorruption authorities, specially created to counteract corruption at the national level, their powers

The fight against corruption at the national level is a complex issue, the solution of which requires the consolidation of efforts of the legislative and executive authorities, the law-enforcement system and the Ukrainian society as a whole[13]. However, the main role in solving this problem belongs to specially created bodies of state control and other law-enforcement bodies. These include, in particular: Supreme Anti-Corruption Court, Specialized

[12] Засади антикорупційної політики : додаток до Розпорядження Кабінету Міністрів України від 08 грудня 2009 р. № 1688-р. URL: https://www.kmu.gov.ua/ua/npas/243284567.

[13] Попова Л.М. Обмеження тіньового сектору економіки України в умовах її інтеграції у Європейський Союз. *Актуальні проблеми правової науки і державотворення в Україні в контексті правової інтеграції :* збірник матеріалів IX Міжнародної науково-практичної конференції (м. Суми, 21–22 травня 2016) / Сумська філія Харківського національного університету внутрішніх справ. Суми : Видавничий дім «Ельдорадо», 2016. С. 297–299.

Anti-corruption Prosecutor's Office, National Anti-Corruption Bureau of Ukraine, National Agency on Corruption Prevention, National agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (Asset recovery and management agency), State Bureau of Investigations.

The powers of the Supreme Anti-Corruption Court include:

1) the administration of justice as a court of the first and appellate instance in criminal corruption proceedings concerning the unlawful seizure of the property of an enterprise, institution, organization (Article 206-2 of the Criminal Code of Ukraine (CCU); legalization (laundering) of proceeds from crime (Article 209 of the CCU); publication of regulatory acts that reduce revenues to the budget or increase budget expenditures in contravention of the law (Article 211 of the CCU), if the crime is committed by:

– the President of Ukraine whose powers have been terminated, the people's deputy, the Prime Minister of Ukraine, a member of the Cabinet of Ministers, etc;

– a civil servant whose position belongs to the category "A";

– a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, a deputy of the regional council, city council of cities of Kyiv and Sevastopol, an official of local self-government, whose position is classified in the first and second categories;

2) analysis of judicial statistics, studying and generalization of judicial practice in criminal proceedings attributed to his jurisdiction, informing about the results of the generalization of the court practice of the Supreme Court and providing him with proposals for drafts of laws on the organization and activities of the Supreme Anti-Corruption Court, special requirements to the judges of this court and guarantees of their activities, as well as their disclosure on their organizational web-site[14].

The person who applies for the position of judge of the Supreme Anti-Corruption Court of Ukraine shall be required by the legislation. Such person should have: a) the necessary knowledge and skills in the field of justice in relation to issues related to corruption; b) a degree in law and at least seven years of experience in the field of law; c) at least five years of seniority as a judge; d) at least seven years of experience in the professional activity of a lawyer, including implementation of representation in court and / or protection from criminal prosecution. In addition, appointment to the post of judge of the Supreme Anti-Corruption Court should take place on the basis of a competition, which creates a special body – the Public Council of

[14] Про вищий антикорупційний суд : Закон України від 07 червня 2018 р. № 2447-VIII. URL: http://zakon.rada.gov.ua/laws/show/2447-19.

International Experts. The said council investigates and evaluates information about existing candidates applying for the position of a judge of the Supreme Anti-Corruption Court and transfers all information to the High Qualifications Commission of Judges of Ukraine.

The legislation of Ukraine also establishes requirements for persons who cannot be appointed to the post of judge of the Supreme Anti-Corruption Court. Such persons include:

1) persons who worked (served) for ten years in the organs of the prosecutor's office, internal affairs, the National Police, etc; held political positions, had a representative mandate;

2) who, during the last five years, were in contractual relations or were members of the governing bodies of a political party;

3) information about which is entered into the Unified Register of persons who committed corruption offenses;

4) who were deprived of the right to occupy certain positions in accordance with the court judgment[15].

In connection with the exercise of their powers, judges of the Supreme Anti-Corruption Court are granted additional guarantees to ensure their personal security and safety of their families and the preservation of their property.

The Supreme Anti-Corruption Court and its apparatus cannot be located in the same building with other courts, state bodies and their territorial units.

Given the current state of detection of corrupt acts, the scale of corruption offenses, the importance of anticorruption control authorities in Ukraine, the need for administrative and legal regulation of their activities should be noted. The authorities of anti-corruption control are the executive authorities, whose activities are regulated by the relevant normative and legal acts on the prevention, detection, termination and disclosure of corrupt acts. The administrative and legal status of these authorities is a set of certain rights and obligations, enshrined in the norms of administrative law, the realization of which is provided by the specified guarantees[16].

Specialized Anti-corruption Prosecutor's Office is an independent structural unit of the General Prosecutor's Office of Ukraine. The main tasks and functions of the Specialized Anti-corruption Prosecutor's Office are:

[15] Про вищий антикорупційний суд : Закон України від 07 червня 2018 р. № 2447-VIII. URL: http://zakon.rada.gov.ua/laws/show/2447-19.

[16] Попова С.М. Адміністративно-правові засади діяльності органів антикорупційного контролю. *Актуальні проблеми правової науки і державотворення в Україні в контексті правової інтеграції :* Матеріали XI Міжнародної науково-практичної конференції (18–19 травня 2018 р.). Суми : Видавничий дім «Ельдорадо». 2018. С. 69–72.

1) supervision over observance of laws during conducting operative-search activity, pre-trial investigation by the National Anti-Corruption Bureau of Ukraine;

2) fulfillment of the requirements of the law when accepting, registering, reviewing and resolving applications and notifications of criminal offenses, timely entering information into the Unified Register of Pre-trial Investigations;

3) to ensure prompt, complete and impartial investigation by the National Anti-Corruption Bureau of Ukraine of criminal offenses and appeal of illegal court decisions at the stage of pre-trial investigation and judicial review;

4) keeping the prosecution in court in criminal proceedings investigated by the National Anti-Corruption Bureau of Ukraine;

5) provision within the limits of the competence of compensation for damages caused by criminal offenses;

6) ensuring the application of the due legal procedure to each participant in criminal proceedings;

7) representation of the interests of the state in cases stipulated by the Law of Ukraine "On Prosecutor's Office" and related to corrupt or corruption-related offenses;

8) implementation within the framework of the functions of the Specialized Anti-Corruption Prosecutor's Office of international cooperation[17].

Specialized Anti-corruption Prosecutor's Office in accordance with the tasks assigned to it provides a number of functions:

– participation in the planning of the work of the General Prosecutor's Office of Ukraine and control over the timely and qualitative execution of the planned activities;

– preparation of materials for the consideration of meetings, organization and control over the implementation of decisions taken on matters that fall within the competence of the Specialized Anti-corruption Prosecutor's Office;

– training within the authority of orders and other organizational and administrative documents;

– carrying out analytical and methodical work;

– working out of projects, laws and other normative-legal acts, making suggestions on improvement of the current legislation;

– providing access to public information and secrecy, keeping information with limited access;

[17] Про затвердження Положення про Спеціалізовану антикорупційну прокуратуру Генеральної прокуратури України : Наказ Генеральної прокуратури України від 12 квітня 2016 р. № 149. URL: http://zakon.rada.gov.ua/rada/show/v0149900-16.

– consideration and resolution of appeals of citizens, inquiries and appeals of people's deputies of Ukraine, representatives of state, non-governmental organizations, other persons, as well as complaints of participants in criminal proceedings on actions and decisions of prosecutors;

– fulfillment of the requirements of the law on the inevitability of liability for a criminal offense committed in connection with corruption;

– prevention of unlawful prosecution and unjustified application of the person, measures of procedural coercion;

– implementation of measures to restore the violated rights of citizens and legitimate interests of the state etc.[18].

The appointment of prosecutors of the Specialized Anti-Corruption Prosecutor's Office is carried out by the head of the Specialized Anti-Corruption Prosecutor's Office on the basis of an open competition. The competition is organized and conducted by a competition commission. The competition is held publicly with the free access of media and journalists at a commission meeting and with the provision of real-time broadcasting.

National Agency on Corruption Prevention (hereinafter – NACP) is a central executive body with a special status that ensures the formation and implementation of state anti-corruption policy.

The NACP consists of five members nominated on a competitive basis by the Cabinet of Ministers of Ukraine for a term not exceeding four years. A citizen of Ukraine, not younger than thirty-five years old, who has the state language, has a higher education and, according to his / her business and moral qualities, educational and professional level, may be elected to the position of a member of the National Agency, and the state of health is capable of performing the relevant duties of the service. The same person cannot occupy the position for more than two consecutive terms.

The main form of the NACP is the meeting, which is held at least once a week. The agenda is approved by such an agency.

The powers of the NACP include:

1) analysis of the state of prevention of corruption in Ukraine, the activities of state authorities and local self-government in the field of prevention and counteraction to corruption; statistical data, research results and other information on corruption;

2) the elaboration of the Anti-corruption Strategy and State Program for its implementation, monitoring, coordination and evaluation of the effectiveness of the implementation of the Anti-Corruption Strategy;

[18] Про затвердження Положення про Спеціалізовану антикорупційну прокуратуру Генеральної прокуратури України : Наказ Генеральної прокуратури України від 12 квітня 2016 р. № 149. URL: http://zakon.rada.gov.ua/rada/show/v0149900-16.

3) preparing and submitting to the Cabinet of Ministers a draft national report on the implementation of the principles of anti-corruption policy;

4) organizing studies on the study of the situation regarding corruption; formation and implementation of anticorruption policy, drafting normative acts on these issues;

5) coordination and provision of methodological assistance in identifying the corruption risks of state bodies and bodies of local self-government in their activities and implementation of their measures for their elimination, including preparation and implementation of anti-corruption programs;

6) monitoring and monitoring the implementation of legislation on ethical conduct, prevention and settlement of conflicts of interest in the activities of persons authorized to perform functions of the state and persons equal to them;

7) control and verification of declarations of persons authorized to perform functions of the state or local self-government, storage and publication of such declarations, monitoring of lifestyle of such persons;

8) the exercise of state control over compliance with restrictions on the financing of political parties, legitimate and purposeful use by the parties of budget funds, the timely submission by parties of income and expenditure reports, the external audit report of the parties' activities and the reliability of the information included therein;

9) approval of the distribution of budget funds for financing statutory activities of political parties;

10) approval of anticorruption programs and development of a typical anti-corruption program of a legal entity;

11) involvement in the formation and monitoring of anti-corruption policy;

12) cooperation with state bodies, non-governmental organizations of foreign states within its competence; exchange of information with the competent authorities of foreign states and international organizations etc.[19].

The NACP has the following rights in order to fulfill its powers:

1) receive from the state authorities and economic entities and their officials the necessary information;

2) to involve scientists and employees of state bodies in carrying out certain work;

3) to accept, for matters falling within its competence, obligatory for performance of regulatory acts;

4) to carry out inspections of work organizations for the prevention and detection of corruption;

[19] Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII. URL: http://zakon.rada.gov.ua/laws/show/1700-18.

5) make provisions on violations of the requirements of legislation on ethical conduct and conflict resolution of interests;

6) initiate an official investigation, taking measures to bring to justice the perpetrators of corruption offenses;

7) to draw up protocols on administrative violations, assigned by law to the competence of the National Agency and apply the measures provided for by law to ensure conducting of cases on administrative corruption offenses[20].

Once every two years, the control over the expenditure of the NACP is carried out by the Accounting Chamber through an audit.

Unlike the NACP, the National Anti-Corruption Bureau of Ukraine (NABU) is a "state law enforcement agency, which is responsible for preventing, detecting, terminating, investigating and disclosing corruption offenses that fall under its jurisdiction, as well as preventing the commission of new ones". NABU's mission is "counteracting a criminal corruption offense committed by senior officials authorized to perform state or local government functions and posing a threat to national security"[21].

These include people's deputies, government members; Head of the National Bank of Ukraine, Secretary of the National Security and Defense Council (hereinafter – NSDC) and their deputies; judges are members of the High Qualifications Commission of Judges and the High Council of Justice; employees of the General Prosecutor's Office of Ukraine and the leadership of the regional prosecutor's offices; management of the State fiscal service of Ukraine and the Ministry of Internal Affairs of Ukraine; the highest officer of all paramilitary formations; employees of local self-government bodies and deputies of regional councils[22].

A citizen of Ukraine, who, according to the current legislation, has passed the test and is enlisted for the position of the commanding staff of NABU for the first time, must take an oath of allegiance to the Ukrainian people.

The duties of NABU include:

1) execution of operational-search facilities for the purpose of prevention, detection, termination and disclosure of criminal offenses, assigned by law to its jurisdiction;

2) pre-trial investigation of criminal offenses;

3) taking measures for the search and seizure of funds and other property that may be subject to confiscation or special confiscation in criminal

[20] Про запобігання корупції : Закон України від 14 жовтня 2014 р. № 1700-VII. URL: http://zakon.rada.gov.ua/laws/show/1700-18

[21] Про Національне антикорупційне бюро України : Закон України від 14 жовтня 2014 р. № 1698-VII. URL: http://zakon.rada.gov.ua/laws/show/1698-18.

[22] Про Національне антикорупційне бюро України : Закон України від 14 жовтня 2014 р. № 1698-VII. URL: http://zakon.rada.gov.ua/laws/show/1698-18.

offenses, the conduct of activities related to the storage of funds and other property that has been seized;

4) carrying out informational and analytical work in order to identify and eliminate the causes and conditions conducive to the commission of criminal corruption offenses;

5) provision of confidentiality and voluntary cooperation with persons who report corruption offenses;

6) implementation of international cooperation within the limits of its competence[23].

During the performance of their duties, the staff of the NABU have the right to take measures of physical influence, as well as to use special means and firearms if necessary. The control over NABU activities is carried out by a committee of the Verkhovna Rada of Ukraine, whose subject matter is the fight against corruption and organized crime.

National agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (Asset recovery and management agency – ARMA) is a "central executive body with a special status that ensures the formation and implementation of state policy in the field of detection and tracing assets that may be subject to arrest, and / or asset management that is seized or confiscated in a criminal proceeding <...>", as well as "assets that are seized or are subject to recovery in the proceeds of the state in actions for the recognition of unfounded assets and their claims"[24].

In addition, ARMA's tasks are:

1) implementation of international cooperation in the field of detection, tracing and asset management;

2) participation in ensuring representation of rights and interests in foreign jurisdictional bodies in cases related to the return of assets derived from corruption and other crimes in Ukraine.

ARMA in accordance with the tasks assigned to it:

1) generalizes the practice of applying legislation that falls within its competence and develop proposals for the improvement of such legislation;

2) conducts analysis of statistical data, research results and other information on detection, tracing and asset management;

3) ensures the execution of appeals of the investigator, detective, prosecutor on the issues of detection and search of assets, as well as pre-trial investigation,

[23] Про Національне антикорупційне бюро України : Закон України від 14 жовтня 2014 р. № 1698-VII. URL: http://zakon.rada.gov.ua/laws/show/1698-18.

[24] Про Національне агентство з питань виявлення, розшуку та управління активами, одержаних від корупційних та інших злочинів : Закон України від 10 листопада 2015 р. № 772-VIII. URL: http://zakon.rada.gov.ua/laws/show/772-19.

prosecutor's office, court for the search for assets, interacts with the said authorities for the purpose of seizing such assets and confiscating them;

4) interacts with the bodies of pre-trial investigation, the prosecutor's office and the court on issues related to the transfer of assets subject to arrest in the conduct of criminal proceedings in the management of ARMA, as well as facilitates the search for premises and sites for the storage of such assets, which are imposed arrest and for which ARMA management is not carried out;

5) establishes and maintain a single state register of assets subject to arrest;

6) provides clarification, methodological and advisory assistance to investigators, prosecutors and judges on issues related to prosecution, valuation and asset management;

7) performs the selection of valuation entities, legal entities that carry out the execution of arrested assets, asset managers, banks and other persons who can provide ARMA services necessary for the performance of its tasks;

8) concludes with civil and legal agreements with legal entities and individuals on issues of valuation and asset management, including on their storage, protection, insurance;

9) controls the effectiveness of asset management transferred to ARMA;

10) monitors and keep records of court decisions on confiscation, satisfaction of claims in favor of the state in criminal proceedings in which ARMA manages assets;

11) interacts with the Ministry of Justice of Ukraine during execution of court decisions on confiscation, collection of state revenue in cases of recognition of unjustified assets and their claims;

12) carries out international cooperation with bodies of foreign states, whose competence includes the identification, tracing and asset management etc.[25].

Cases related to corruption (which are not within the competence of NABU) are investigated by the State Bureau of Investigations (hereinafter – the SBI), which is analogous to the US Federal Bureau of Investigation (FBI). The powers of the DBR include investigating crimes related to the activities of criminal organizations committed by law enforcement officers, as well as particularly grave violent crimes[26].

Unfortunately, the Law of Ukraine "On the State Bureau of Investigations"[27] because of a technical error does not have a post of operational employee, and

[25] Про Національне агентство з питань виявлення, розшуку та управління активами, одержаних від корупційних та інших злочинів : Закон України від 10 листопада 2015 р. № 772-VIII. URL: http://zakon.rada.gov.ua/laws/show/772-19.

[26] Про державне бюро розслідувань : Закон України від 12 листопада 2015 р. № 794-VIII. URL: http://zakon.rada.gov.ua/laws/show/794-19.

[27] Про державне бюро розслідувань : Закон України від 12 листопада 2015 р. № 794-VIII. URL: http://zakon.rada.gov.ua/laws/show/794-19.

this does not allow to announce a competition for such a post, appoint workers and start functioning units[28].

Other counterparts of the Ministry of Internal Affairs of Ukraine and the Security Service of Ukraine, ministries and funds are involved in combating corruption in Ukraine.

At the same time, the current legislative framework needs to be improved in the issues of prevention and counteraction of corruption in public life for the further effective operation of all interested authorities and administrations, organizations and institutions. In fact, the government attempts to counteract corruption only through administrative measures, by creating new bodies, committees and bureaus whose efficiency is very low.

Thus, in the Report on the results of the activities of the National Anti-Corruption Bureau of Ukraine for the first half of 2018, it is noted that the amount of losses and damage caused by criminal offenses for the previous year, classified as NABU, amounted to 196,613.2 million UAH, and their amount of compensation is 360, 4 million UAH, including 107.1 million UAH in the first half of 2018. At the same time, the cash expenses of the National Bureau for the first half of 2018 amounted to UAH 287.4 million[29]. This means that the coefficient of effectiveness of the anti-corruption structure created in our country is not justified.

That is why, in recent years, on the basis of current legislative and other normative legal acts on issues of financial control, as well as the prevention and counteraction of corruption, entrepreneurs develop their own Anti-corruption programs for their enterprises (institutions, organizations). The compliance of the provisions of such a Program is controlled by the special official of the enterprise – the Commissioner responsible for the prevention of corruption. This program examines the essence of anticorruption strategy and anti-corruption measures, standards, procedures, establishes the procedure for their implementation, defines the rights and responsibilities of employees of the enterprise and the authorized person responsible for preventing corruption, describes the procedural moments of protection of employees who reported information about corruption or related to corruption offenses, and informing the Commissioner of the emergence of a real or potential conflict of interest, the procedure for resolving the revealed conflict.

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[28] Попова С.М. Функції правоохоронних органів у боротьбі з корупцією. *Правоохоронна функція держави: теоретико-методологічні та історико-правові проблеми дослідження :* Матеріали міжнародної науково-практичної конференції (Харків, 17 травня 2019 р.). URL: http://univd.edu.ua/general/publishing/ konf/17_05_2019/pdf/85.pdf.

[29] Про внутрішнє та зовнішнє середовище України у 2018 році : Послання Президента України до Верховної Ради України від 20 вересня 2018 р. URL: https://www.president.gov.ua/news/poslannya-prezidenta-ukrayini-do-verhovnoyi-radi-ukrayini-pr-49726.

The development and implementation of such an anti-corruption program by all subjects of entrepreneurial activity will allow state financial control bodies and other law-enforcement bodies to timely identify officials of enterprises and related officials who use powers for illicit enrichment. All offenders risk not only being dismissed but also being brought to administrative or criminal responsibility.

A guarantee of adherence to the principle of transparency in the process of the functions of anti-corruption authorities should be the publication of plans and reports of their work, which would clearly and transparently reflect the results of their anti-corruption activities, and from this would have an economic effect (the principle of effectiveness).In the absence of an economic effect, anti-corruption control activities are inefficient and inappropriate, which is why the principle of efficiency, which is rather indirectly referred to in national regulatory acts, is an important principle of control. In this regard, it is advisable to develop a Methodology for assessing the effectiveness of the control of anti-corruption authorities (where the criteria for evaluating the activities of such bodies should be formulated)[30].

To date, an Anti-Corruption Program NACP for 2018, which deals with the Methodology for Assessing Corruption Risks in the Activities of Authorities, is presented[31], and Methodical recommendations on the preparation of anti-corruption programs[32].

The methodology for evaluating corruption risks in the work of the authorities determines a set of rules and procedures for assessing corruption risks in the activities of the authorities. At the same time, corruption risk is defined as the probability that an event of a corruption offense or offense related to corruption will occur, which may negatively affect the achievement of the authority's stated goals and objectives[33].

The methodical recommendations for the preparation of anti-corruption programs are intended for use by the subjects of the approval of anti-corruption programs. However, there is a need to develop a Methodology for assessing the effectiveness of anticorruption controls on the performance of all created anti-corruption authorities, taking into account their tasks and

[30] Попова Л.М. Адміністративно-правові засади контролю в сфері підприємницької діяльності : дис.. … докт. юрид. наук : 12.00.07 / Міжрегіон. акад. управл. персоналом. Київ, 2018. С. 388.

[31] Методологія оцінювання корупційних ризиків у діяльності органів влади : рішення Національного агентства з питань запобігання корупції від 02 грудня 2016 р. № 126. URL: http://zakon.rada.gov.ua/laws/ show/z1718-16.

[32] Методичні рекомендації щодо підготовки антикорупційних програм : Рішення агентства з питань запобігання корупції від 19 січня 2017 р. № 31. URL: https://nazk.gov.ua/sites/default/files/ rishennya_vid_19.01.2017_no_31.pdf.

[33] Методичні рекомендації щодо підготовки антикорупційних програм : Рішення агентства з питань запобігання корупції від 19 січня 2017 р. № 31. URL: https://nazk.gov.ua/sites/default/files/ rishennya_vid_19.01.2017_no_31.pdf.

functions.In addition, it is appropriate to highlight certain criteria by which the effectiveness of anti-corruption bodies' activity can be assessed, namely: 1) the number of violations of legislation by anti-corruption authorities; 2) the amount of money allocated for anti-corruption measures and the amount of money spent on purpose / purpose misappropriation; 3) the quantity and quality of expert research used in anti-corruption measures etc.[34].

In order to obtain an economic effect from the activities of anti-corruption authorities, it is expedient to develop the Regulations on the interaction of anti-corruption authorities with other authorities of control for the exchange of information on controlled entities, effective methods of carrying out anti-corruption control measures etc. It is also necessary to oblige anti-corruption authorities at the end of each year to present the results of their activities in a consolidated table in order to have an idea of the overall results of their activities[35].

Anticorruption authorities need to monitor and submit proposals on the timely adoption of legislative acts on the Anti-Corruption Strategy for relevant years.

In order to ensure the principles of legality and responsibility, as well as in order to protect and eliminate the violation of the rights of controlled entities, it is advisable to formulate in normative acts defining the legal status of anti-corruption authorities, norms of appeal and, accordingly, the annulment of the administrative act of the anticorruption authority in the court regarding the conduct of anticorruption control measures.In the normative acts regulating the peculiarities of planning anti-corruption measures in the field of entrepreneurship, it is necessary to consolidate the following: if at the planning stage, when collecting information about the controlled object (subject of entrepreneurship), it will be found that there are no grounds for conducting anticorruption control measures at the request of the relevant subject (even when such anti-corruption control measures are planned etc)and the applicant will be informed, the representative of the anti-corruption authority should refuse such a conduct, while making the necessary changes to the work plan and noting them in the next report of this work.

It is also advisable to define the types of offenses that may be committed by representatives of anti-corruption authorities at the planning and anti-corruption stage and determine the responsibility for such offenses, which should include: 1) issuing a regulatory act on an anti-corruption measure in contravention of applicable law; 2) concealment by persons who form the

[34] Попова Л.М. Адміністративно-правові засади контролю в сфері підприємницької діяльності : дис.. … докт. юрид. наук : 12.00.07 / Міжрегіон. акад. управл. персоналом. Київ, 2018. С. 388–389.

[35] Попова Л.М. Адміністративно-правові засади контролю в сфері підприємницької діяльності : дис.. … докт. юрид. наук : 12.00.07 / Міжрегіон. акад. управл. персоналом. Київ, 2018. С. 389.

plan of an anti-corruption measure and the composition of the group that will carry out anticorruption verification of the subject under control, circumstances that may affect or affect the objectivity of the content of the event; 3) concealment by the employees (officials) of the anti-corruption authority, which they plan to contribute to the working group, circumstances that may affect the objectivity of anti-corruption control; 4) interference in the process of planning and implementation of an anti-corruption measure by third parties, which may adversely affect its objectivity; 5) not publishing on the official website of the anti-corruption authority an anti-corruption measures plan and a report on its implementation; 6) failure to use the measures taken by the head of the anti-corruption authority to prevent unlawful interference by third parties in the planning and implementation of anti-corruption measures[36].

Disciplinary and administrative measures should be applied to the head of the anticorruption authority, his employees (officials) in case of commission of the offenses, and third parties should be brought to administrative responsibility.

CONCLUSIONS

The notion of corruption is given in Art. 1 of the Law of Ukraine "On Prevention of Corruption" of October 14, 2014 № 1700-VII. Given the negative impact of corruption on society, we can formulate such author's definition of corruption. Corruption is an illegal act in order to obtain an unlawful benefit (personal benefits – previously) that are deliberately committed by officials with authority, which adversely affects the activities of the authorities and exerts a disorganization influence on society.

An exhaustive list of the principles of anti-corruption policy is given in the Principles of Anticorruption Policy (Annex to the Order of the Cabinet of Ministers of Ukraine) of December 8, 2009, № 1688-p. These principles include, in particular: the rule of law and law, the priority of human and civil rights and freedoms; equality of all before the law; openness and transparency of activity of state authorities and local self-government bodies; effective interaction between the legislative, executive and judicial branches of power and the state with the public; the inevitability of liability for the commission of a corruption offense; the only state policy in the field of prevention and counteraction to corruption etc. In our opinion, violation of the principle of the inevitability of liability for the commission of a corruption offense, is the establishment of limitation periods for bringing to criminal liability in Art. 49 of the Criminal Code of Ukraine.

[36] Попова Л.М. Адміністративно-правові засади контролю в сфері підприємницької діяльності : дис.. … докт. юрид. наук : 12.00.07 / Міжрегіон. акад. управл. персоналом. Київ, 2018. С. 390.

On this occasion, the proposal to amend the Art. 49 of the Criminal Code of Ukraine, in order not to set deadlines for corruption crimes.

Specially created bodies of state control of law enforcement agencies that counteract corruption in Ukraine include: Supreme Anti-Corruption Court, Specialized Anti-corruption Prosecutor's Office, National Anti-Corruption Bureau of Ukraine, National Agency on Corruption Prevention, National agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (Asset recovery and management agency), State Bureau of Investigations.

There is a need to develop a Methodology for assessing the effectiveness of anticorruption control over the performance of all created anti-corruption authorities. It is also advisable to define the types of offenses that may be committed by representatives of anti-corruption authorities at the planning and anti-corruption stage and determine the responsibility for such offenses

SUMMARY

The authors investigate the concept of "corruption", tasks and principles of anti-corruption policy in Ukraine, define the legal basis for anticorruption policy in our country (the Constitution of Ukraine, the United Nations Convention against Corruption, Istanbul Action Plan on Combating Corruption etc.). The authors investigate the competence of specially created anti-corruption authorities (Supreme Anti-Corruption Court, Specialized Anti-corruption Prosecutor's Office, National Anti-Corruption Bureau of Ukraine, National Agency on Corruption Prevention, National agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes, State Bureau of Investigations), and explore ways to improve the anticorruption policy of these authorities.

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