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PREVENTION OF CORRUPTION IN PUBLIC ADMINISTRATION (ANTI-CORRUPTION STRATEGY)

This paper examines the issue of the public authorities functioning in Ukraine aimed at prevention, avoidance and fighting corrupt practices. There are determined the substance and reasons of such anti-social phenomenon, the anti-corruption strategy and results of authority and its officials activity on abidance of fundamentals and directions of anticorruption policy in the state. Attention is drawn to the fact that corruption in state authorities is a major social threat because it directly or indirectly affects the social values and fundamentals of the statehood. Consequently, the state where authority is characterized by high level of corruptness cannot be considered either democratic, or legal and social. Within the scientific research were analyzed the core elements of European Union anti-corruption policy which may be used and applied to national anti-corruption strategy of state authorities.

Key words: anti-corruption policy, anti-corruption strategy, corruption in power structures, public authorities.

Problem statement. Democratic transformations currently occurred in Ukrainian state are accompanied by complicated processes of reformation in political, economical and legal relations. One of the most important components of this totally not easy process is prevention and fighting of corruption.

Corruption restrains evolution of legal system, undermines approximation of Ukraine to the leading world indicators of life quality. Absence of effective levers of fight against corruption, spreading of corruption risks almost in all areas of social life, condoning attitude of some part of citizens to the mentioned phenomenon resulted in the situation when corruption at all levels of authority crippled the implementation of the reform defined by the state leaders as development priority.

Urgency of the research. Prevention and fight against corruption practices in the state is a prior activity for all power structures. At establishing and enforcement of statehood the power structures in Ukraine elaborate strategic directions of this shameful phenomenon counteraction; the legislation on anti-corruption politics is improved. At the same time, these issues are investigated by national and foreign scientists whom by their significant contribution adjusted domestic legislation on corruption counteraction to the international standards.

Purpose of the research is to study legislative provision of corruption prevention in public authority.

The key idea of the research. Efficient fight against corruption is impossible without consecutive, planned and coordinated actions united by a single concept, because the systemic phenomena require systemic approach for their counteraction. Since the beginning of 1990 Ukrainian governments took measures on elaboration of anti-corruption strategy in the state, for that reason the corresponding documents as state programs, projects, concepts, etc. were adopted. However the anti-corruption legislation proclaimed the declarative affirmations and prescribed inadequate sanctions for them which could not serve as restraining measure in crime committing by potential bribetakers. As a result such measures, as many nationals and foreign researches have demonstrated, did not influence in any way the status and level of corruption which only increased every year¹.

Corruption in state authority is a great social threat because it impacts directly or indirectly social values and fundamentals of the statehood. Consequently, the state where authority is characterized by high level of corruptness cannot be considered either democratic, or legal and social.

¹ Беззуб, І. *Антикорупційна політика в Україні. Центр досліджень соціальних комунікацій/*
<http://nbuviap.gov.ua/index.php?option=com_content&view=article&id=1260:antikoruptionsijna-politika-v-ukrajini&catid=8&Itemid=350>

The conclusions on possibility of political, economic and social risks in the state are made according to the dimension of corruption spreading, on the basis of which the state position in famous and authoritative international rankings is estimated.

Monitoring of international instruments implementation on corruption reduction in Ukraine may not happen without civil society involvement. The patient could never examine himself. It is necessary to involve the third party which could express an independent opinion. Hence, all international instruments require involvement of civil society as consumer of evaluated services, because anyway the state renders services and society is a consumer. Only the consumer shall evaluate how qualitative these services are. Compulsory participation of society in corruption reduction is determined by the UN Convention against corruption. The provisions of the UN Convention stress that efficient implementation of state anti-corruption policy may be based on complex application of forced, preventive and legal education procedures which may be ensured exclusively under condition of joint participation of power structures and society in this process. The Article 13 of the UN Convention determines the necessity of society participation in fight against corruption which shall be promoted by active involvement of civil society institutions, non-governmental organizations and citizens to corruption prevention and fighting. No one has any doubts that without participation of civil society, civil control over the functioning of authority and law enforcement bodies, the corruption prevention and counteraction are meaningless¹.

According to the researches, exactly the corruption is one of the reasons which led to the massive protests in Ukraine at the end of 2013 beginning of 2014. Following the results of "Global Corruption Barometer" research conducted by international organization the Transparency International in 2013, 36 % of Ukrainians were ready to protest on streets against corruption. At the result of performed by the International foundation of electoral systems (IFES) public opinion survey at the end of 2013 corruption was already included in the list of the biggest problems of the population and it caused especial disturbance of 47 % of citizens. As per data of Corruption Perception Index research carried out by the Transparency International, Ukrainians consider their state to be one of the most corrupted in the world: in 2012 and 2013 the state was at 144 position among 176 countries where the research was held.

Such high indicator of corruption perception by citizens is explained by absence of efficient reforms in the area of fight against corruption and law enforcement bodies inefficiency in identification of corruption violation and bringing of guilty persons to responsibility. The mentioned is proved by unsatisfied implementation of international obligations by Ukraine on introduction of anti-corruption standards: among 25 recommendations of the Group of states against corruption (GRECO) presented at the result of first and second evaluation rounds, only 13 recommendations were implemented despite six years of work and three rounds of progress evaluation, and among 16 recommendations provided at the result of third round only three recommendations were implemented. Only the insufficient part related to criminalization of corruption was implemented from anti-corruption recommendations of the Visa Liberalization Action Plan with European Union. Key recommendations of the Group of states against corruption (GRECO) and European Union on establishment of anti-corruption institutions, reform of prosecution service, state service, creation of control system on conflict interests prevention and fairness of officials assets remained not executed.

According to «Anti-corruption strategy», more specifically, in the part of formation and realization of anti-corruption policy, some institutions are chartered with sole powers concerning formation and realization of anti-corruption policy, among which – National Anti-Corruption Committee, Ministry of Justice of Ukraine, Governmental anti-corruption policy commissioner. But such division of functions of formation and realization of anti-corruption policy between bodies with different legal status and scope of powers does not conform to international standards concerning bodies, empowered on its formation and functions neither by specialization criteria nor independence criteria. Besides, a set of functions in the field of anti-corruption policy is not realized by any of state bodies, more specifically realization on a rolling basis an assessment proceedings with corruption, monitoring of the realization of anti-corruption policy, formation of the non-acceptance corruption world-view.

Also there are not performed requirements of international-legal instruments in Ukraine concerning partnership of authority and civil society in the field of anti-corruption policy – the involvement

¹ Макаревич, О.А. Боротьба з корупцією в органах державної влади. *Головне територіальне управління юстиції у Полтавській області Міністерства юстиції України*. <dykanka.just.gov.ua/2012/borot-ba-z-korupcijeju-v-organah-erzhavnoji-vladi>

of the public to the process of social important decisions adoption in the field of corruption crossing triggers mostly in the form of inoperative advices for formal performance of legislation requirements.

The level and scopes of corruption in the state, the corruption processes crossing effectiveness in a great measure depend on righteousness of officials, political system democratic nature in general and electoral process in particular. The last political campaigns in Ukraine, more specifically local elections of 2010, parliament elections of 2012 and elections on some polling stations of 2013 show that gross violations of willingness democratic principles (state interference in the electoral process, tampering of electors, illegal judicial decisions) led to that the mostly elected personalities, who do not perform standards of righteousness, get elected positions.

Hereinafter the process of the elected officials' activity also is accompanied by corruption behavior, most widespread instance of which is: conflict of interest in the activity of elected personalities, in the first place combining a deputy work, political activity with entrepreneurial activity and work in bodies of executive power that is forbidden by law; tampering of elected personalities, implementation of pressure on them or their business to which the deputies have relation with a purpose of adoption of sole decisions or transition to another deputy fraction(group); illegal lobbying interests of individuals or business structures.

The main reasons of such cases condition are that still weak institutes of democracy are in Ukraine, corrupted electoral legislation, imperfect legislation concerning financing of electoral campaigns and political parties, absence of necessary legal regulation concerning prevention of conflicts of interests in the activity of elected personalities and clear principles of lobbying. It's obvious that to solve a problem of political corruption is possible only gradually, by the formation of new legislation, elevating of control over the activity of elected officials and representative state bodies for and behalf of state bodies, institutes of civil society, in particular, mass media, increasing of political responsibility of citizens for their choice and MPs for their activity. However, series of actions of legislative character must be realized during the short term.

One of the key elements of creating of righteousness system of public service is legislation reforming on state service and service in local self-government bodies. The adoption of redrafted Act of Ukraine «On state service» from the November 17 of 2011 should assist the solution of this problem. But pointed Act, in European and Ukrainian experts' opinion, does not perform the international standards and best world practice, more specifically, on such issues as receipt on state service and passing the state service, classification of positions (division of positions into groups and sub-groups, division of political and administrative positions, appointment of assistants (advisors) of political personalities), termination of state service, payment of work (components of wage, clearness and motivation of work payment of state servants), discipline responsibility.

Except making series of actions aimed at providing of righteousness in civil service, preventing of corruption in bodies of executive power, the reforming procedure of such bodies' activity needs to take place. Including that the most of pointed actions must be carried out within the framework of administrative reform (decreasing of discretion powers, openness and clearness of administrative decisions, abilities limitation for contacts between public person and clients, regulation of order of giving administrative services, etc.), this Strategy defines only those actions, which have strictly anti-corruption character.

One of the main problems connected with a high level of corruption in the bodies of executive power activity, is the absence of effectively existed departmental anti-corruption programs. Existed in bodies of executive power annuals on issues of preventing corruption are mostly formal and reproduce provisions of the relevant acts of the higher level. Identification of the facts of corruption actually drains, as there is no system for detecting and analyze of risks of corruption procedures and also there is no mechanisms of announcement of suspicions of corruption and protection of persons who report about them. Subdivisions (persons) responsible for development and implementation of the authorities' actions of finding out and preventing corruption do not have a necessary specialization and level of independence, most of these powers entrusted to the staff units.

There is also no body that would be exercised the coordination, monitoring and methodological support of executive power bodies during developing their anti-corruption program. Similar problem exists in state, municipal enterprises and economic companies in which state or municipal part of corporate stocks (parts, stocks) exceed 50 percent (hereinafter – state enterprises)¹.

¹ Закон про запобігання корупції 2014 (Верховна Рада України). *Відомості Верховної Ради (ВВР)*, № 49, ст. 2056.

In conscience clause of the Act of Ukraine «On corruption prevention» stated that principles of anti-corruption policy (Anti-corruption strategy) are defined by the Verkhovna Rada of Ukraine. The Verkhovna Rada of Ukraine no later than the 1st of June should carry out the Parliamentary hearings on issue situation concerning corruption, approves and announces annual national report concerning principles of anti-corruption policy realization. It is also pointed that anti-corruption strategy is developed by National Agency on the basis of the situation analysis regarding corruption and also results of executing of previous anti-corruption strategy. Anti-corruption strategy is realized by implementing state program, which develops by National Agency and approves by the Cabinet of Ministers of Ukraine. The Heads of state bodies incur personal responsibility for ensuring realization of the state program on the implementation of Anti-corruption strategy. The state program on the implementation of Anti-corruption strategy comes under annual reconsideration including results of realization of the pointed actions, conclusions and recommendations of parliamentary hearings on the situation regarding corruption.

It is foreseen in Act that anti-corruption programs are accepted in: President of Ukraine Administration, the Apparatus of the Verkhovna Rada of Ukraine, Secretariat of the Cabinet of Ministers of Ukraine, and the Secretariat of the Ukrainian Parliament Commissioner for Human Rights, the Prosecutor General of Ukraine, Security Service of Ukraine, ministries, other central executive power bodies, other state bodies, which jurisdiction is spread on the whole territory of Ukraine, regional, Kyiv and Sevastopol city state administrations, state target funds – by approval their heads; the National Security and Defense Council of Ukraine – by approval of the Secretary of the National Security and Defense Council of Ukraine, National Bank of Ukraine – by approval of the Management Administration of the bank; the Counting Chamber, The Chamber Central Election Commission, the High Council of Justice, Verkhovna Rada of Autonomous Republic of Crimea, regional councils, Kyiv and Sevastopol city councils, the Council of Ministers of the Autonomous Republic of Crimea – by approval of their decisions. The anti-corruption programs come under to approval of the National Agency¹.

The ineffectiveness of anti-corruption efforts is in that all the society is involved in corruption. In the existence of negative moral and psychological atmosphere in society – is double moral standard. In the same time the weakness of political authority, contradictions and timeout of legislative decisions are primary reasons of corruption nowadays.

In order of corruption crossing is necessary realization of next key decisions:

- Political will and political decision both at the national and regional levels;
- Improving of legislation, its detail and amendment strengthens penalties for violations of corruption;
- Making more independent controlling body on state and regional levels;
- Improving the system of social security services creation of decent wages of state (municipal) servers and officials taking into account their position and availability of appropriate qualification;
- Building of hard and administered personnel selection on taken positions with checking of the conformity of a candidate's declaration of incomes and existing property, including the appropriate test of his family members and comparing of received profit with actual costs;
- Introduction of formalized and clear system of complex regulation of the officials' activity with unity of demands and limitations, connected with implementation of official powers and performance of their duties;
- Increasing level of population legal consciousness, development of the institutions of public control and also strengthen in society the thought on negative attitude to any kind of corruption;
- Strengthening of citizens' trust in government and increasing the prestige of the state service².

In the basis of anti-corruption policy of European Union – are such components:

- 1) political will; 2) compliance of international conventions; 3) expanding the area of application;
- 4) anti-corruption legislation; 5) mechanism of its realization; 6) effective activity of all establishments, responsible for adherence of anti-corruption norms; 7) an advanced system of accessing to the civil service;
- 8) an adequate wage; 9) clearness and answerability of authority activity; 10) tolerance; 11) clear rules

¹ Закон про засади державної антикорупційної політики в Україні (Антикорупційна стратегія) на 2014-2017 роки 2014 (Верховна Рада України). Відомості Верховної Ради (ВВР), № 46, ст. 2047.

² Лазаренко, С.Ж., Бабенко, К.А. Політико-правові та соціальні передумови корупції в органах державної влади. Офіційний веб-сайт Київського апеляційного адміністративного суду. <<http://kaas.gov.ua/law-library/articles/b/298-politiko-pravovi-ta-sotsialni-peredumovi-koruptsiji-v-organakh-derzhavnoji-vladi.html>>.

of financial control; 12) the register of corrupt officials; 13) confiscation of property. The instruments of success milestone are: summing-up of current situation; identification of tendencies and ways of influence; balanced personnel policy¹.

Thus, anti-corruption measures, executed by public authority bodies and their officials aimed at preventing and crossing corruption can be considered insufficient and not always effective. In our opinion, there should be legislation improvement in the field of anti-corruption policy and responsibility of officials for these shameful traits.

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