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Criminological dimension of counteracting corruption crime in Ukraine

Кримінологічний вимір протидії корупційній злочинності в Україні

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Abstract

The purpose of the article is to analyze the content and essence of combating corruption crime in Ukraine through the lens of criminology. Research results. It is proven that corruption crime both in Ukraine and in the world in general is an extremely destructive factor. This phenomenon tries to penetrate all spheres of social life and make democratic and legal procedures, which are a guarantee of a high level and quality of life, impossible. Practical meaning. Attention is drawn to the fact that the existing indicators of corruption crime in Ukraine, the improvement of its qualitative characteristics, as well as the possibility of rapid growth under martial law require an appropriate response from scientists, legal researchers, legislator and law enforcement officers. Value/originality. The perspective of further research is the need to analyze the mechanisms of combating corruption crime in the top democracies of the world, which will allow to generalize such practice and form a wide range of proposals and recommendations to optimize the functioning of the relevant mechanism in our country.

Анотація

Метою статті є аналіз змісту і сутності протидії корупційній злочинності в Україні крізь призму науки кримінології. Результати дослідження. Доводиться, що корупційна злочинність як в Україні так і світі загалом є надзвичайно деструктивним фактором. Це явище намагається пронизати всі сфери суспільного буття та унеможливити функціонування демократичних і правових процедур, котрі є гарантією високого рівня та якості життя. Практичне значення. Звертається увага на те, що наявні показники злочинності в Україні, підвищення її якісних характеристик, а також уможливлення стрімкого зростання під час дії воєнного стану потребують відповідної реакції з боку науковців, дослідників-правників, законодавця та правоохоронців. Цінність/оригінальність. Перспектива подальшого дослідження полягає в необхідності аналізу механізмів протидії корупційній злочинності в топ-демократіях світу, що дозволить узагальнити таку практику та сформулювати широке коло пропозицій і рекомендацій щодо оптимізації

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Key words: corruption, criminology, crime, counteraction, prevention, Ukraine.

функціонування відповідного механізму в нашій державі.

Ключові слова: корупція, кримінологія, правопорушення, протидія, запобігання, Україна.

Introduction

Corruption in Ukraine and the world is one of the most dangerous social factors. It negatively affects the formation of modern democracies, complicates the process of guaranteeing the rights and freedoms of a person and a citizen, and does not allow any state of law to form such a level of State policy regarding the provision of all benefits to its own citizens, which will allow them not only to possess, but also to realize all rights and freedoms.

The fight against corruption in Ukraine is one of the main tasks of law enforcement agencies (Shcherbakovskyi et al., 2020, p. 117). At the same time, it should be noted that under modern conditions, a significant share of legal relations and the possible successful provision of human and civil rights and liberties in a certain sector of socio-legal relations can be realized only through criminological measures and means. Criminology as a science studying crime trends in general and corruption in particular, allows forming an essential idea about such a social phenomenon and ensuring the establishment of effective policy to prevent its further development and entrenchment in the legal tradition of the respective society.

It is these interconnected factors, given the active hostilities on the territory of Ukraine and considering European integration intentions of our country, that necessitate effective and in-depth scientific study of relevant problematic issues with the need for further elaboration of proposals and recommendations to address them.

Thus, the purpose of our study is to analyze the fight against corruption in Ukraine through the prism of criminology.

Literature Review

It should be noted that the relevant topic has been repeatedly explored by many authoritative researchers. In science even formed a number of scientific schools, the profile of which is the analysis of problematic issues related to the fight against corruption and its manifestations. This is what creates the circumstances under which the

respective positions and views must be taken into account in this work.

The first scientist, whose was devoted to the problem of political corruption, is Ford (1904), who, comparing the situation in the USA and Great Britain raised the issue of political corruption, which is most evident when new elites face practices unacceptable to them.

Later, Brooks considered the issue of bribery of officials in the US government in the scientific publications "The Nature of Political Corruption" (1909), and then in monograph "Corruption in American politics and life" (1910), which were favorably received by the scientific community.

The issue of combating corruption in further scientific developments has been considered through the lens of political science, state and municipal law for a long time, until Nye in his publication "Corruption and political development – analysis of costs and benefits" did not justify their economic aspect (1967). In turn, the publication of the work "Crime and punishment: an economic approach" by Gary Stanley Becker (1968) marked the formation of a new direction of neo-institutionalism of the crime economy, as well as significant interest of the scientific community in the researched issues.

Heidenheimer (1988) states that corruption is deviant behavior combined with private motivation and means that private (individual, group) goals are achieved at public expense.

Clearly, when formulating the definition of corruption, it is necessary to take into account that criminology is primarily a complex science of crime, its content and forms of manifestation, determinants, state, structure and dynamics, the identity of the perpetrator and victim, as well as means of combating crime. As Shakun (2019, p. 352) notes, "criminology investigates the issue of legal, socio-economic, and managerial provision of crime prevention, develops criteria and indicators of the effectiveness of precautionary activities".

Based on this statement, Melnyk (2004, p. 137) believes that criminological study of corruption should focus on corruption itself, as "a relatively massive socio-legal phenomenon including the entire set of corruption crimes and the persons who committed them".

Besides, corruption crime cannot be considered separately from corruption as a phenomenon and separately from other legal branches of science that study it. Therefore, when investigating corruption crime, it is impossible not to dwell on corruption in all its manifestations, which are not part of the subject matter of criminology, but complement and enrich criminological investigations in this direction (Busol, 2014, p. 31).

Corruption crime prevention, according to Shevchenko (2011, p. 126), is related as a whole and a part, and therefore the latter is understood as a separate direction of anti-corruption to eliminate and neutralize the determinants of corruption crime with the help of a complex of special means of influencing social relations with the aim of bringing them into line with the current legislation.

The researchers have repeatedly pointed out that, taking into account the rapid progress of society and new spheres of relations, which are the main object for corruption, the legislative framework establishing the basis for prevention and countering this phenomenon should be analyzed and improved every year, as well as new methods assisting in revealing the facts of corruption in various spheres of society should be created (Romanov, 2020, p. 217). This, in particular, necessitates additional elaboration of the main legal provisions establishing the institution of combating corruption crime in Ukraine.

Besides, the researchers state that the content of corruption determines its crisis nature, which means the existence of crisis conditions for its occurrence: 1) crisis of socio-economic development of the state (the GDP level is insufficient for economic development, and therefore, the relatively low level of wages and social guarantees in the system of public service) and 2) crisis manifestations in the management of public affairs (situational nature of organizational transformations, failure to take into account the professional and personal abilities of an employee, deficiencies in personnel work, etc.) (Masliy 2013, p. 360).

The complexity of corruption research is also caused by the fact that it is a phenomenon that

does not have an unambiguous solution. It does not depend on the form of government or the democratic or undemocratic nature of the political regime. Therefore, in some cases, scientists' attempts to avoid over-criminalization of research on corruption in order to increase the effectiveness of their scientific work seem justified. However, on the other hand, there are cases of transformation of research into free philosophizing, usually based on subjective assessments and emotional impressions of surrounding events. As it is known, criminology is a complex science by its nature, it covers legal, sociological, and psychological theoretical positions. But the sociological and empirical material is described and analyzed from the standpoint of law. By transferring sociological and psychological knowledge to the field of law, criminology expands its opportunities in the field of studying the crime system and the problems of its prevention.

Methodology

Monographic method was applied in the examination of scientific works by foreign and domestic scholars, who studied the phenomenon of corruption in general and through the prism of criminology in particular.

With the help of the phenomenological method, the phenomenon of corruption, the reasons for its growth, rooting and maintenance at a high level of prevalence and social danger were investigated.

System and structural method helped to identify key features of corruption crime in criminological aspect.

Statistical method was used in identifying the areas of social life in Ukraine, in which corruption is most widespread.

The method of abstraction and generalization made it possible to analyze corruption as a systemic phenomenon, its evolution and impact on society, as well as the connections and dependencies between corruptionogenic factors. These methods also helped to conclude that prevention is the strategic direction of the fight against corruption.

Analyzes method was applied in the determination of the main anti-corruption measures in Ukraine.

Application of modelling method enabled to draw the conclusions related to the research.

Results and Discussion

In the criminological aspect, corruption crimes are characterized by a number of key features:

Deliberate use of authority and related facilities in the public and private spheres of public administration, local self-government, individuals and legal entities;

with the special purpose of obtaining an undue benefit in form of money or other property, advantages, benefits, services, intangible assets, any other benefits, whether non-material or not; acceptance or acceptance of a promise/offer to obtain an unlawful benefit for oneself or other persons;

promise/offer or providing undue benefit to the person, authorized to perform the functions of the State or local self-government and who is a subject of corruption;

promise/offer or provision of an unlawful benefit at the request of the person authorized to perform the functions of the State or local self-government to other natural or legal persons with a view to inducing that person to misuse the service provided to him or the opportunities related to them;

the subject, which is only persons authorized to perform the functions of the state or local self-government, as well as persons who are equated with them (National Academy of Internal Affairs, (n.d)).

Accordingly, this characterization of corruption, through the prism of the opinions of researchers, as well as the norms of Ukrainian legislation, indicates not only its high social danger, but also the need for a polyvariate and large-scale response to such manifestations, the development of state strategies and concepts aimed at meeting social needs in the specified area.

The problems of corruption crimes and fighting them are important in the field of combating crime in general, since this process involves a comprehensive study of this legal phenomenon not only from the perspective of criminal law, but also criminology. Anti-corruption is a complex concept including not only bodies authorized to fight corruption, but also the interaction of such agencies in achieving a common task, constant improvement of their qualifications and the existence of public control. Thus, the concept of criminological characteristics of corruption crime from the standpoint of an integrated approach includes quantitative and qualitative indicators of the state of crime, information on the identity of the offender and the circumstances

relevant to organizing of preventive work (Mezentseva, 2014, p. 110). That is, considering this phenomenon as a destructive social factor in the criminological dimension, attention should be paid not only to its qualitative indicators, but also to the effectiveness of the work of the relevant bodies in the indicated direction; it is necessary to realize (contribute to) the potential of the State in this segment of political, legal and social administration.

Thus, according to the results of one of the sociological studies conducted by the Ilko Kucheriv «Democratic Initiatives» foundation (2017), corruption is most common in the such bodies of State power and certain areas: medicine; police; judiciary; State power as a whole; the political sphere in general – more than 80%; higher education; prosecutor's office; tax authorities; political parties; customs service; local self-government as a whole; economic sphere, enterprise activity – about 70%; secondary education; Armed Forces of Ukraine; professional unions – about 50%. The presented statistical indicators have a direct impact on the formation of the scientific foundations of understanding the criminological dimension of countering corruption crime, since it is the understanding of the subject of corruption and its sphere that allows us to provide an effective response to relevant manifestations, as well as to plan further measures to counter and prevent it.

In addition, it should be noted that criminological science, by summarizing the set of quantitative and qualitative indicators regarding a certain type of crime (in this case - corruption), provides the possibility of deepening and expanding the scientific understanding of individual features of the corresponding phenomenon, depending on the sphere of its existence, as well as the stage of detection (or actual appearance).

Accordingly, corruption activities require not only broad public condemnation from a social point of view, but also a proper response of state institutions in the method of determining a clear list of lawful and unlawful acts.

According to Harashchuk & Mukhataiev (2010, p. 128), although preventive measures are important because of objective and subjective circumstances, they do not always achieve their goal. Therefore, the problem of optimizing ways of detecting and investigating specific facts of crimes in the area of official activity and bringing to justice those responsible provided for by law remains particularly acute, that, through the lens of the science of criminology, clearly

demonstrates the need to standardize a number of effective legislative steps to counter and prevent corruption crimes in Ukraine, which is possible only by using criminological tools.

Busol (2014, p. 4) repeatedly drew attention to the fact that the strategic direction of the fight against corruption is its prevention. Integrated precautions are a way that can reduce the volume of corruption manifestations and their negative impact on society. The main anti-corruption measures in Ukraine are: 1) determination of the strategy of socio-economic development and implementation of administrative reform. Building the rule of law and civil society is the basis for corruption prevention. Cosmetic changes in public administration, even if they are externally attractive, cannot improve the situation in the fight against this negative phenomenon. Prevention this crime requires the study of the conditions, in which the anti-corruption strategy is formed and implemented in Ukraine in the modern period, the evaluation of the State policy in this direction, as well as the identification of criminologically significant problems in the application of specific prevention mechanisms. The key to the development of strategic approaches to the corruption prevention is the establishment of a circle of subjects who should play a leading role in this process – specialized anti-corruption bodies, law enforcement agencies, and other institutions of civil society or individual citizens.

The given factors, through the prism of the science of criminology, make it possible to form a range of requirements that, under the conditions of their effective implementation and constructive, sometimes global and sometimes situational influences processes of corruption counteraction and prevention, will allow achieving high results.

So, for example, a number of official websites of the State authorities of Ukraine claim that the most corrupt spheres of activity are the following: public procurement; extrabudgetary accounts established for legitimate purposes (pension, travel funds, etc.), the income of which accumulates in the pockets of officials; tax relations (tax benefits, etc.); sale of raw materials at below-market prices; unification of territories (zoning) and decentralization, as they affect the value of land; extraction of natural resources; sale of state assets, especially privatization of state enterprises; land relations (organization of the land market with its subsequent sale); granting monopoly access to a certain type of commercial (especially export-import) activity;

control over the shadow economy and illegal business (extortion, protection against persecution, destruction of competitors, etc.); appointment to positions of responsibility in government; licensing and registration of business (including banking) activities; issuance of permits for the placement of securities and conducting banking operations with budget funds; obtaining loans (including government loans); customs clearance of imported goods; obtaining export quotas; construction and repair at the expense of budget funds; initiation and termination of criminal proceedings (Southern interregional administration of the State Labor Service, (n.d)).

Such qualitative indicators allow to conclude that depending on the specific type of crime in the field of corruption, as well as the segment of legal relations to which it belongs, the perspective of risk assessment and the development of appropriate response plans becomes possible on the specified destructive factors. Compared to Western democracies, a separate problematic issue of clarifying the essence of the criminological dimension of combating corruption crime is the possibility of measuring the damage caused by the influence of corruption on all legal relations arising in risky spheres.

For example, the USA, Great Britain and other countries have been conducting research on determining the "price" of crime for the past few decades. In addition, the amount of human and material losses, which were avoided thanks to the effective activity of all law enforcement, including anti-corruption, agencies, is being studied. Only in this case it is possible to draw a conclusion about the ratio of material resources spent on maintaining the law enforcement system of Ukraine and the funds saved as a result of taking measures of criminological prevention and cessation of crimes, including corruption. If crime prevention savings are larger than the amount of public finances spent by criminal justice bodies, then it is possible to talk about the effectiveness of law enforcement agencies, the professionalism of their management, and the feasibility of continuing the chosen law enforcement strategy (Marshuba, 2016, p. 126).

In our opinion, the specified approach, reflecting international experience in developing an attitude to anti-corruption, should be applied in Ukraine, since this destructive phenomenon affects not only the course of social relations, but also causes some damage to the standards of resource management protected by the State, which has a specific the intended use is social security, the

medical industry, as well as others. Accordingly, if the countermeasures and the actual fight against it do not compensate the caused harm and mostly exceed the costs incurred – this is the main criterion for revision of the relevant forms and methods of this activity.

Conclusions

The article analyzes the content and essence of combating corruption crime in Ukraine through the prism of the science of criminology, which in turn, should contribute to the highest possible quality and fundamental provision of human and citizen rights and freedoms in the State.

It is proved that corruption crime both in Ukraine and in the world in general is an extremely destructive factor, which should be balanced by appropriate countermeasures and prevention measures. Corruption tries to penetrate all spheres of social life and make democratic and legal procedures, which are a guarantee of a high level and quality of life, impossible.

Attention is drawn to the fact that combating crime in general, and corruption crime in particular, is one of the most important priorities of the State apparatus, because it is the relevant entity, as the main socio-legal regulator, that is responsible for ensuring law and order and observing the rights and freedoms of man and citizen both on the territory of Ukraine and abroad.

It is stressed that the existing indicators of crime in Ukraine, improving its quality and potential for rapid growth in the number of committed criminal offenses of a certain type in connection with Russia's armed aggression against the territorial sovereignty and independence of Ukraine require an appropriate response from scientists, legal researchers, legislator and law enforcement officers. And because, through the lens of criminology, action must be taken long before the actual intent to commit a crime, strategic and operational planning should play a significant role.

The perspective of further research lies in the need to analyze the mechanisms of combating corruption crime in the top democracies of the world, which will allow, by summarizing such practice, to form a wide range of proposals and recommendations to optimize the functioning of the relevant mechanism in our country.

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