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The content and essence of the anti-corruption strategy as a tool to combat corruption in Ukraine

Зміст і сутність антикорупційної стратегії як інструменту протидії корупційній злочинності в Україні

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Abstract

The purpose of the article is to analyze the content and essence of the anti-corruption strategy as a tool for countering corruption crime in Ukraine. Research results. It was established that anti-corruption strategy should include a number of basic measures to counter crime in the field of anti-corruption activities. In addition, the position that the preparation and authorization of the corresponding document is carried out on the basis of quantitative and qualitative indicators, which should be collected in advance, according to defined criteria and taking into account a certain period of time, is substantiated. Practical implementation. According to the authors, considerable attention should be paid to the practical method of determining the main priorities in the anti-corruption policy of Ukraine and the use of strategic planning as the main tool. Value/originality. It is argued that strategic planning in the state anti-corruption policy and the specific form of its manifestation – adoption of the State anti-corruption strategies – has a

Анотація

Метою статті є аналіз змісту і сутності антикорупційної стратегії як інструменту протидії корупційній злочинності в Україні. Результати дослідження. Установлено, що антикорупційна стратегія має передбачати низку основних заходів щодо протидії злочинності в сфері антикорупційної діяльності. Додатково обґрунтовано позицію про те, що підготовка й санкціонування відповідного документа здійснюється на підставі кількісно-якісних показників, що належить зібрати попередньо, за визначеними критеріями та враховуючи певний проміжок часу. Практичне значення. На думку авторів, найбільшу увагу слід приділити саме практичній методиці визначення основних пріоритетів у антикорупційній політиці України та використанню стратегічного планування як основного інструменту. Цінність/оригінальність. Обґрунтовано, що стратегічне планування в державній антикорупційній політиці та конкретна форма

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significant positive effect on the provision of human and citizen rights and freedoms, effectively and efficiently contributes to the functioning of all public authorities and the development of democracy and the rule of law in Ukraine.

Keywords: counteraction, corruption, crime, prevention, strategy.

Introduction

Corruption in Ukraine and the world is one of the most dangerous social factors. (Odnolko et al., 2023, p. 249). Being a destructive phenomenon it negatively affects all spheres of social life, makes it impossible to establish legal statehood and the normal flow of democratic processes, which accordingly requires a response from the relevant state institutions with responsibilities to counter and directly respond to such manifestations.

The ongoing large-scale armed aggression of Russia against Ukrainian independence necessitates an effective response to all illegal phenomena that can have a destructive effect on the stability of social legal relations in Ukraine, and in addition, Ukraine's recent accession to European Union candidate status places a high responsibility on politicians in general and legislators in particular, to ensure effective counteraction to corruption manifestations in all spheres of social life.

It actualizes the need to research the processes of ensuring anti-corruption policy and, in particular, anti-corruption planning at the strategic level, as well as transient social relations in this segment, since only the dynamism and content of all political and legal reflections on any manifestations of corruption can protect society from this phenomenon. Proper quality strategic planning of anti-corruption policy and, in particular, measures minimizing any possible factors that lead to it, also ensure effective prevention and countermeasures against this illegal phenomenon.

Accordingly, in our opinion, a proper scientific study of the essence and content of the anti-corruption strategy as a tool for countering corruption crime in Ukraine will allow to optimize a number of socio-legal processes in the specified segment and bring to a qualitatively new level of functioning the mechanism of

його прояву – затвердження державних антикорупційних стратегій – значною мірою позитивно впливає на забезпечення прав і свобод людини і громадянина, результативно й ефективно сприяє функціонуванню всіх органів державної влади та становленню й розвитку демократії та правової державності в Україні.

Ключові слова: протидія, корупція, правопорушення, запобігання, євроінтеграція, стратегія.

protection of human and citizen rights and freedoms.

Therefore, the purpose of the article is to analyze the content and essence of the anti-corruption strategy as a tool for countering corruption crime in Ukraine.

Literature Review

As world experience has shown, corruption is to some extent common to all States without exception. Even States that effectively combat it are not safe from its manifestations at different levels of government, in particular the highest ones (Yemelyanov & Plekhanov, 2019, p. 66). It is even bigger threat to those countries that aim to develop (Lisitsyna et al., 2022, p. 42).

Anti-corruption policy is designed to prevent and counter corruption. Its priority direction should be identification and elimination of conditions that contribute to, or may contribute to the emergence of corruption, and the prevention of attempts to create these conditions (Maletov, 2021, p. 58).

According to Kovbasiuk (2011, p. 325) anti-corruption policy is a set of legal, economic, educational, organizational and other measures aimed at creating the system of preventing and countering corruption and eliminating the causes of its occurrence. Understanding the mission of the anti-corruption policy of the State can be explained as a combination of three components: maximum reduction of the level of corruption; protection of society from its threats, influence and consequences; identifying and eliminating its causes and conditions. The purpose of the anti-corruption policy is to protect the interests of the state budget; strengthen economic and political positions of Ukraine in the world community; improve countermeasures against corruption; create a comprehensive system of public control

over the implementation of anti-corruption legislation; activation of Ukraine's participation in the development of international cooperation in the field of anti-corruption; bringing the legislation of Ukraine into compliance with international legal acts ensuring the rights and freedoms of citizens, completing the formation of civil society.

Having analyzed the work by Buiadzhy (2018), we came to the conclusion that, in practice, only the National Agency for Corruption Prevention and the authorized units (persons) for the detection and prevention of corruption have real functions for prevention this phenomenon.

In this regard Haman (2018) states that the most important and still relevant components of the anti-corruption strategy are the following:

- real and effective provision of transparency and publicity of all branches and levels of government by domestic political leaders;
- systematic and complex personnel moral and ethical education. Creation of a socially oriented environment, norms and organizational practices and a morally mature and psychologically comfortable atmosphere of public service;
- providing employees with high social protection, which would contribute to their professional competition and high work motivation;
- increasing the responsibility of employees for corrupt or corruption-related actions. Active use of anti-corruption examination of normative legal acts and their projects;
- clear legal requirements regarding the performance of official duties and provision of social control.

Methodology

The methodological basis for the research are modern general and special methods of scientific knowledge, the systematic application of which ensured the solution of the formulated problems and the achievement of the goal of the work.

The main general scientific method in the work is the dialectical one, with the help of which the genesis of scientific view on the formulation and definition of the features of such categories as “state anti-corruption policy”, “anti-corruption strategy”, “combating corruption”, “corruption manifestations” were investigated.

Historical and legal method was used to reveal the genesis of anti-corruption strategy as a legal

category, its tasks, goals, priority directions and guarantees of its provision.

Logical and legal method was applied to formulate the basic definitions of the Article such as corruption, countering crime, anti-corruption strategy.

The method of system analysis made it possible to determine the features of the anti-corruption policy, its tasks, priority directions, principles, guarantees.

With the help of comparative and legal method, the provisions of previous and current anti-corruption strategies were compared.

Modeling, analysis, and synthesis methods helped to develop promising directions for further improvement of the State anti-corruption policy in Ukraine.

Results and Discussion

Attention should be paid to the fact that issues related to the formation and implementation of anti-corruption strategies are quite multifaceted, since, first of all, they are characterized by a variety of terminology that needs to be clarified before studying the main content of strategic planning in anti-corruption activities.

Researchers have repeatedly pointed out that, taking into account the rapid progress of society and emergence of new spheres of relations, which are the main object for corruption, with each year the legislative framework establishing the basis for prevention and counteraction, needs to be analyzed and improved, new methods that help reveal facts of corruption in various spheres of society should be created (Romanov, 2020). That is why the questions raised in the scientific article remain relevant, which allows us to gradually improve and work on them in the future.

Nikitin (2009, p. 3) notes that today's development of Ukraine, along with positive ideas and the influence of the implemented democratic reforms, is characterized by negative and rather long-term consequences of the systemic economic and political crisis, which affects the processes of economic restructuring, sharp social polarization of society, in rather complex relations between branches power and (most negatively) widespread criminalization of various aspects of social life, which consists in increasing manifestations of organized crime, drug addiction, corruption, and extremism on an

interethnic basis. All this is a list of processes that constitute internal sources of threats and dangers for stability, and therefore internal security of society. In this regard, in the internal political aspect, the following priority tasks are outlined for the state: 1) maintenance of peace as a universal human value; 2) preserving the integrity of the state; 3) guaranteeing the realization of human rights and freedoms; 4) combating crime as a systematic and purposeful activity of law enforcement agencies.

In the context of corruption manifestations, as one of the most dangerous destructive factors of society, in our opinion, strategic planning in the fight against crime in general and corruption crime in particular come into a new light, which allows us to characterize them using not only the views of scientists, but also current legal acts.

Mishchenko (2011, p. 10) notes that combating crime is law enforcement activity by its nature, which is considered as a multi-functional and multifaceted concept that covers almost all spheres of State activity. It is implemented at the social and specialized levels. General social countermeasures against crime are the basis for special countermeasures. Special countermeasures are carried out through legal response to the commission of a crime and special criminological prevention of new crimes. Accordingly, this position should be described in two respects: establishing the State anti-corruption policy is a form of general social counteraction to crime, while implementing a number of rules establishing clear liability for acts of corruption committed in the Criminal Code of Ukraine and the Code of Ukraine on Administrative Offenses, are direct forms of influence on already existing criminal behaviour in this system of legal relations. At the same time, researchers have repeatedly characterized these phenomena from different perspectives, since even today there is a certain terminological uncertainty in the issues of "counteraction" and "prevention" of crime in general and corruption crime in particular.

According to Kuts (2009), countering crime is a complex socio-legal phenomenon and its concept reflects the theory and practice of specific social-management activities and public and private initiatives, as well as criminal justice efforts to prevent the commission of criminal offences and response to their commission. Combating criminal manifestations takes place at various levels of society, which correlates with the previously outlined views on this issue. At the same time, the issue of corruption crime is

currently not sufficiently highlighted in the research of scientists, although the list of such acts is clearly contained in the legislation of Ukraine.

Concerning international legislation, it should be noted that the Civil Law Convention on Corruption (Council of Europe 1999), interprets corruption as directly or indirectly demanding, offering, giving or receiving a bribe or any other unlawful benefit or the possibility of receiving it, which violate the proper performance of any duty by a person who receives a bribe, an improper benefit or the opportunity to obtain such a benefit, or the behavior of such a person⁷. Such an interpretation of corruption undoubtedly influenced the formation of national consciousness and attitude to such a phenomenon, and accordingly increased its social danger in the eyes of society.

For example, corruption is also considered as: 1) bribery and corruption of public or other employees (according to this approach, corruption is equated with bribery); 2) abuse of power or functions for profit; 3) abuse of authority or official position committed out of any personal interest; 4) use of official powers, status, as well as its authority and related capabilities to satisfy personal or group interests; 5) element (sign) or type of organized crime; 6) the concept, the definition of which is limited only to general characteristics, the absence of clear formulations that would allow to highlight the essential features of this legal category. All these forms and manifestations of corruption phenomena, first of all, require the further development of state programs and systems of response to them, with the aim of preventing and making it impossible to commit them, since such actions directly affect the security of the rights and freedoms of a person and a citizen.

Thus, the establishment of public policy and formulation of their main goals in strategic documents is a constant practice both in the European space and in all other civilized societies, which in turn also confirms the democratic efforts of Ukraine.

Zubkova (2019) notes that creation of an effective system for preventing and countering corruption, identifying and overcoming its social prerequisites and consequences, exposing corrupt acts, compulsory prosecution of perpetrators are the main goals of the state anti-corruption policy. Successful combating corruption is possible with proper anti-corruption legislation, its effective application by relevant

State authorities and coordination, public awareness on the implementation of measures to prevent and combat this phenomenon, interaction of civil society institutions with public authorities in the field of formation and implementation of State anti-corruption policy, support of anti-corruption measures by civil society. Therefore, the effectiveness of the implementation of measures to prevent corruption crimes cannot be achieved through isolated and non-systematic actions at different levels, but requires long-term socio-economic, political and legal transformations. This activity should be based on a combination of a number of prophylactic and repressive measures. Thus, anti-corruption strategy, as a tool for ensuring the performance of the state anti-corruption policy, is the main and most progressive way to achieve the corresponding goals in a legal way, which, accordingly, is what a modern democratic, legal society needs.

According to Hrechaniuk (2019), the anti-corruption strategy is a normatively determined reference point, which is specified by a certain period of time, identified problem and predicted result. However, this document is a declarative act without negative consequences for non-compliance, which leads to its ignoring or improper execution. Therefore, we believe that in the process of forming the Anti-corruption Strategy, it is necessary to provide for guarantees of its proper implementation, including measures of responsibility, as well as to determine the mechanisms of relevant control in this area.

Analyzing the provisions of one of the anti-corruption strategies already in force in Ukraine (Decree No. 1001/2011, 2011), attention should be paid to the main terminological burden in its content. The tasks of the National Anti-corruption Strategy were as follows:

outlining the range of causes and conditions that lead to corruption, determining ways to minimize the factors that determine its occurrence and negative consequences;
determining the main directions of state policy in the field of corruption prevention and counteraction this phenomenon;
increasing the degree of trust in State authorities and local self-government bodies;
implementation of the system for monitoring the effectiveness of anti-corruption legislation and ensuring its implementation.

This strategy has already become history and allows to establish its complete non-compliance. The reasons were the objective circumstances of

the transition of the State to legal anarchy, ignoring the principles of the rule of law by representatives of the authorities, law enforcement agencies, and courts. The events of the Revolution of Dignity and subsequent revolutionary and military events demonstrated the absolute failure of the State's anti-corruption policy and strategy, as well as the unification of power institutions with criminal ones, which became the basis for the impossibility of democratic development of Ukraine. The revolution that took place in Ukrainian society and the state significantly changed the moods, desires of people, as well as the tools of state and public anti-corruption activities.

Later, the principles of the state anti-corruption policy in Ukraine (Anti-corruption Strategies) have begun to be approved by a special law of Ukraine. According to the results of their expert analysis, these documents are of high quality, but do not fully cover the prevention and counteraction of corruption in some specific areas. In addition, there are some inconsistencies between the measures of the Anti-corruption Strategy and the tasks of the State Program regarding its implementation. Individual blocks of measures were left out of the attention of the State Program. Analyzing the state of realization of the State Program, it was found that quantitative indicators are the clearest illustration of the scope of its implementation: out of 210 identified tasks, 82 are completed, 66 are partially completed or are in the process of being implemented. Thus, it can be noted that the implementation of the tasks is taking place, although not always fully and on time. A significant number of unfulfilled and partially completed tasks indicate that not all assignments are carried out efficiently and conscientiously. A considerable quantity of tasks performed were essentially legislative changes or the adoption of by-laws – and these are the objectives that have been largely accomplished. At the same time, measures for their practical realization and proper implementation of legislation are still problematic (Marchuk & Nesterenko, 2017, p. 64).

Thus, previous Anti-corruption Strategy (Law of Ukraine No. 1699-VII, 2014) focused on priorities related to the creation of a system of modern anti-corruption tools (legal institutions) and the development of a system of anti-corruption bodies that were supposed to ensure the effective implementation of these tools. At the same time, thanks to the adoption of other program documents by the Government,

opportunities for corruption in certain sectors were narrowed.

It was not possible to realize its full potential primarily because of the long process of creating anti-corruption institutions that took place during 2014 –2019. As these policy documents have never been revised or updated, their provisions have gradually lost relevance since 2016. At the end of 2017, the anti-corruption strategy period for 2014-2017 ended and any new document was adopted, which led to unbalanced and ineffective anti-corruption activities of public institutions.

The purpose of current Anti-corruption Strategy (Law of Ukraine No. 2322-IX, 2022) is to achieve significant progress in preventing and countering corruption, as well as ensuring coherence and systematic anti-corruption activities of all state authorities and local self-government. The anti-corruption strategy addresses corruption as a key obstacle to stable economic growth and building of effective and inclusive democratic institutions.

The results of the analysis of the state of corruption in Ukraine, the effectiveness of the anti-corruption policy of previous periods, international standards and the best global practices in the field of prevention and countering corruption made it possible to formulate the following basic principles of the anti-corruption policy for 2021 – 2025:

- 1) optimizing the functions of the State and local self-government, the realization of which primarily involves: elimination of duplication of powers by various bodies; suspension of ineffective powers, accompanied by a high level of corruption until the introduction of appropriate procedures that will minimize the corresponding corruption risks; elimination of the exercise of the same authority, the combination of which creates additional corruption risks;
- 2) digital transformation of the exercise of powers by public authorities and local self-government agencies, transparency and data disclosure as the basis for minimizing corruption risks in their activities;
- 3) creation, in contrast to existing corrupt practices, of more convenient and legal ways of meeting the needs of individuals and legal entities;
- 4) ensuring the inevitability of legal responsibility for corruption and corruption-related offenses, which creates an additional deterrent effect for all legal entities;

- 5) formation of social intolerance to corruption, affirmation of the culture of integrity and respect for the rule of law.

Accordingly, the above substantiates the position that strategic planning in the state anti-corruption policy and the specific form of its manifestation – the approval of state anti-corruption strategies positively affects the provision of human and citizen rights and freedoms, effectively and efficiently contributes to the functioning of all state authorities and the establishment and development democracy and rule of law in Ukraine.

Conclusions

The article analyzes the content and essence of the anti-corruption strategy as a tool for countering corruption crime in Ukraine and outlines possible ways to optimize the functioning of the relevant institution.

It has been established that the anti-corruption strategy, as a comprehensive founding document, which is regulated by the entities specially authorized to ensure anti-corruption policy and law enforcement in the specified field, should provide for a number of basic measures to combat crime in the field of anti-corruption activities.

In addition, the view that preparation and authorization of the relevant document is carried out on the basis of quantitative and qualitative indicators, which should be collected in advance, according to defined criteria and taking into account a certain period of time, has been substantiated. This approach will make it possible to clearly and effectively define implementation priorities, establish the sequence of realization of certain initiatives laid down in the basis of the relevant document.

It has been also stated that the importance of adopting and standardizing anti-corruption initiatives at the legislative level is due to the rapid European integration efforts of Ukraine. At the same time, taking into account a number of requirements of the European Union regarding the further integration of Ukraine, special attention, in our opinion, should be paid to the practical methodology of determining the main priorities in the anti-corruption policy of Ukraine and the use of strategic planning as the main tool.

The perspective of further research lies in the need to analyze the anti-corruption strategies of other countries (or related regulatory documents

that provide for the planning of measures to counter anti-corruption manifestations in the country), as well as the regulatory basis that currently exists in Ukraine.

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