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The effectiveness of the national anti-corruption policy of Ukraine

Ефективність державної політики України у сфері протидії корупції

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
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Abstract


An effective national anti-corruption policy is one of the means of improving the legal mechanisms of compliance with the guarantees of human rights and freedoms at the national level. The corruption rate in the public sector reflects the state of development of Ukraine as an economic and legal state and its place in the international arena. The aim of the study was to analyse the state anti-corruption policy of Ukraine and the effectiveness of its implementation mechanisms. Empirical and theoretical methods of scientific knowledge, as well as the method of comparative analysis, were used for a comprehensive study of the issue under research. The system of measures for the implementation of Ukraine's anti-corruption policy has become an effective tool for preventing and countering corruption. Effective anti-corruption measures in Ukraine were: coordinated state anti-corruption strategy; the


Анотація


Одним із засобів удосконалення правових механізмів дотримання гарантій прав і свобод людини на національному рівні є впровадження ефективної державної антикорупційної політики. Рівень корупційної ситуації в державному секторі відображає стан розвитку України як економічно-правової держави та її місця на міжнародній арені. Метою дослідження був аналіз державної антикорупційної політики України та ефективність її механізмів реалізації. Для всебічного дослідження обраної теми використано емпіричний та теоретичний методи наукового пізнання, а також метод компаративного аналізу. Впроваджена система заходів реалізації антикорупційної політики України стали ефективним інструментом із запобігання та протидії корупцією. Ефективними заходами протидії корупції в Україні стали: злагоджена державна

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newly created structure of anti-corruption bodies; virtuous public service; implemented electronic systems for public procurement and property management; regular public reporting; independence of the prosecutor's office and judiciary; monitoring and control of civil society. Further studies may focus on determining and justifying the impact of the anti-corruption policy on the comprehensive development of the state with the purpose of providing practical recommendations for the implementation of anti-corruption measures.

Keywords: corruption, anti-corruption policy, anti-corruption legislation, prevention and counteraction, measures.

Introduction

Ukraine's path of joining the European community contributed to the launch of the mechanism of building anti-corruption policy institutions in Ukraine after the Revolution of Dignity. The implementation of European anti-corruption standards also prompted the introduction of innovative solutions to combat corruption, including electronic systems for the exercise of public state power and public procurement. The Russian aggression has become a kind of test for all spheres of the state machinery, including the system of anti-corruption bodies established after the Maidan Revolution. Despite the restrictions imposed with the introduction of martial law on the territory of Ukraine, the reporting of the practice of the anti-corruption authorities in Ukraine indicates their active work and effectiveness in combating corruption. For example, the activities of the High Anti-Corruption Court (HCC) in 2022 were 125% more effective than in 2021. About what the annual report of VAKS shows. For example, in 2022, the High Anti-Corruption Court considered 49 cases of committing offences of anti-corruption legislation, as a result of which approximately UAH 1.6 million was returned to the State Budget of Ukraine, in 2021 — 39 cases for UAH 940,773, in 2020 — 23 cases for UAH 231,891, and in 2019 — 23 cases without recovery (Higher Anti-Corruption Court, 2022). In 2022, the legislative power also confirms the positive dynamics in the field of prevention and counteraction of corruption and adopted the provisions of the Anti-corruption Strategy for 2021-2025. However, current realities of Ukraine force it not only to win the war with Russia, but also to go through a difficult path to integration with the EU. This is certainly

антикорупційна стратегія; новоутворена структура антикорупційних органів; добросесна публічна служба; впроваджені електронні системи реалізації публічних державних закупівель та управління майна; систематична публічна державна звітність; незалежність органів прокуратури та судової влади; моніторинг й контроль громадського суспільства. Стан ефективності антикорупційної політики на всебічний розвиток держави вбачається в подальшому дослідженні та обґрунтуванні з метою визначення практичних рекомендацій для реалізації антикорупційних заходів.

Ключові слова: корупція, антикорупційна політика, антикорупційне законодавство, запобігання та протидія, заходи.

impossible without effective anti-corruption reforms.

The aim of this study is to investigate the effectiveness of the state policy of Ukraine through the prism of measures to prevent and counter corruption.

The aim involved the fulfilment of the following research objectives:

- outline the corruption situation in Ukraine by determining the place of Ukraine in the global corruption ranking;
- identify and describe the structural elements of the state anti-corruption policy in Ukraine;
- identify the main problems in the practice of the anti-corruption authorities as the main tool in combating corruption and propose ways to solve them.

Literature review

Many researchers studied the effectiveness of the national policy of Ukraine through the prism of anti-corruption principles. Considering the system of anti-corruption bodies and anti-corruption legislation, Gulac et al., (2021: 196-198), Bashkatova (2020: 44) and Cleary (2016: 7-23) identified a number of problems in the functioning of anti-corruption authorities, including lack of clear protocols for their cooperation. Analysing the system of authorized bodies in the field of anti-corruption, Boholiepova & Kovtun (2022: 251) found an urgent need for professional managerial personnel of anti-corruption bodies. According

to Shylo (2022: 86-88) and Yasin (2023: 307-310), the effective anti-corruption measures in the post-war period in Ukraine should be based on the completed introduction of innovative electronic government technologies. Moreover, it should be based on the optimization of distribution and authorization functions of anti-corruption bodies, reduction of the size of the state machinery and elimination of distinctions regarding the maximum amount of wages in state bodies of all branches of government. Besides, it is also necessary to improve professionalism of officials, introduce mandatory polygraph testing of civil servants, as well as develop effective control mechanisms by the public, and transparent reporting by anti-corruption bodies. Kertayeva and Meirkulova (2018: 83-85) support this position, who studied the deontological training of specialists in the field of anti-corruption and came to the conclusion that the training of these specialists is a strategic tool in combating corruption. Their training should include not only a complex of knowledge, skills, experience, and competence, but also personal qualities that provide the necessary aspect in professional activity.

Analysing the system of national anti-corruption authorities in Ukraine, Bondarenko et al., (2021: 219-222) considers a closed branched system of specialized anti-corruption bodies. It complicates the fulfilment of anti-corruption objectives because of duplication of functions of anti-corruption bodies. As a result, it does not promote, but on the contrary, complicates the effectiveness of the national anti-corruption policy. Analysing the anti-corruption policy of Ukraine after the Maidan Revolution, Blatt and Schlauffer (2021: 15-28) and Harasymiw (2019: 288-290) concluded that civil society is an effective tool for combating corruption, which has a strategic impact on the development of the anti-corruption strategy.

Studying the problems of combating corruption in Uzbekistan, Yusubboevich (2021: 1036-1040) emphasizes that corruption is an inhibitory factor in the socio-economic and political life of any country. Wang et al., (2023: 80-83) and Xu et al., (2019) who studied the effectiveness of anti-corruption policy in China, share this opinion. They state that the ineffectiveness of the system of anti-corruption measures is a manifestation of the stagnation of innovative and technological development of each state. Frimpong et al., (2019: 13-14) also established the causal effect of combating corruption on the economic growth of the state by studying the anti-corruption policy

of the Southern African Development Community.

Examining Weber's bureaucratic system of government in Brazil, Cervantes and Radge (2018: 165-168) indicates its shortcoming because it is based on Brazilian political culture and does not adhere to constitutional principles. Studying the anti-corruption policy in Indonesia, Nurhidayat and Kusumasari (2018: 141-150) concluded that effective means of combating corruption should be based on human and ethical culture, policy, anti-corruption legislation, legal protection, organizational structure, as well as legal procedures and processes that include the specifics of Indonesia. Lacatus and Sedelmeier (2020: 1236-1240) analysed national anti-corruption policy of Bulgaria and Romania. They concluded that the effective anti-corruption policy is not possible without constant monitoring and transparent justice.

Studying the anti-corruption situation in Hungary, Pirro and Porta (2020: 435-440) and Snegovaya (2020: 1163-1170) emphasize a number of unfavourable factors in its development. This is especially a phenomenon of anti-corruption activism. Since closed political opportunities help anti-corruption activists to implement contradictory outsider anti-corruption strategies.

Studying the foreign experience of the national anti-corruption policy, Astakhov (2021) analysed the international index Transparency International and determined that the anti-corruption mechanism should cover all spheres of life in which it is possible to commit corrupt acts and include the interdependence of people's psychological behaviour, which is embedded at the instinctive level. Melnyk (2021: 32-33) believes that it is effective to choose one's own national way of combating corruption, taking into account international experience. This way must necessarily take into account the peculiarities of the state system, the system of anti-corruption bodies, national legislation, mentality, traditions, culture, etc.

Despite a fairly wide range of studies on this issue, the issues of the effectiveness of the national anti-corruption policy of Ukraine and the means of countering it remain fragmentarily studied, which determines the relevance of the research topic.

Methods and materials

This research was carried out in three stages. The first stage involved a search and study of academic literature on combating corruption, studies on the prevention and counteraction to corruption in the public sector, the provisions of international anti-corruption standards, the practice of applying legal means of combating corruption, and an analysis of the practice of anti-corruption bodies and judicial bodies of Ukraine on the prevention and counteraction to corruption. The analysis of the mentioned sources gave grounds to determine the topic, aim and objectives of the research.

The second stage provided for a theoretical and experimental study of the issue under research by comparing their results and analysing discrepancies. The theoretical study gave grounds to determine the significance of the phenomenon of corruption at the national level. The content of the concept of anti-corruption policy and anti-corruption strategy was also determined from the perspective of economic and technological development of the state. The analysis of theoretical studies revealed the system of anti-corruption measures in terms of preventing and countering corruption. The elements of the system of anti-corruption measures and the mechanisms for the implementation of these measures were determined. An experimental study based on international standards, norms of national anti-corruption legislation, the legal framework for the implementation of the system of anti-corruption measures, and generalization of their practical application revealed the objectives and the role of the effectiveness of national policy in the field of preventing and countering corruption from the perspective of the development of Ukraine as a law-based and economical state. The doctrinal analysis of studies on problematic issues of the implementation of anti-corruption measures determined the imperfection of the existing legal mechanisms in the field of combating corruption. The practice of anti-corruption bodies in Ukraine made it possible to analyse the state of the anti-corruption strategy and its legal implementation mechanisms.

The third stage involved a final analysis for achieving the aim and computer-based presentation of the results of the conducted research.

The issue under research was studied through the use of empirical and theoretical methods of scientific knowledge. From the perspective of international legal protection against corruption and

the importance of the role of the state anti-corruption programme in the development of Ukraine as a law-based and economic state, empirical knowledge reflects the content of the research object — the effectiveness of national policy in the field of preventing and combating corruption. Academic, legal, statistical and practical information about the components of the anti-corruption system was analysed using the method of comparative analysis. Theoretical knowledge of the legal system of anti-corruption measures reveals the subject of research from the perspective of universal internal, essential connections and regularities, which are covered by the rational empirical data processing. The combination of empirical and theoretical methods was used for an empirical interpretation of the theory and theoretical interpretation of empirical data, as well as determining the legal framework for the implementation of anti-corruption measures.

The sample of the study included such objects of research as:

- the general characteristics of the anti-corruption policy and its system of legal implementation mechanisms;
- the system of anti-corruption measures and its structure;
- analysis of the effectiveness of the legal framework of the anti-corruption strategy in Ukraine;
- analysis of the effectiveness of anti-corruption measures at the national level in Hungary, China, Brazil, Bulgaria and Romania;
- practical recommendations for the interpretation of international anti-corruption standards.

The practice of anti-corruption bodies, judicial bodies and public organizations in monitoring the state of corruption in Ukraine was studied to determine the level of corruption and the effectiveness of the system of legal mechanisms to combat corruption. The study of these objects revealed the problems of combating corruption in the public sector. The research was carried out on the basis of information search and scientometric databases.

The main materials on which the research was based are the norms of national anti-corruption legislation, international legal acts (Council of Europe Criminal Law Convention on Corruption, Council of Europe Civil Convention on Combating Corruption, UN Convention against Corruption), case law of the High Anti-Corruption Court, case law of the National Agency on Corruption Prevention, the National Anti-Corruption Bureau of

Ukraine, the Specialized Anti-Corruption Prosecutor's Office, the National Asset Recovery and Management Agency. The studies on the problems of preventing and countering corruption and reporting by the Ukrainian Centre for European Policy, as well as data from the Corruption Perceptions Index were also used.

Results

Over the years, corruption turns into a mass phenomenon, which is observed in all spheres of

human activity. This is evidenced by the statistics of the Ukrainian Centre for European Policy (Table 1). Based on the above data, almost 95% of government bodies, top officials, local self-government bodies, mass media and organizations that provide public services in Ukraine have committed corrupt actions of a certain scope. Romania has approximately the same corruption rate (90%) in the public and private sectors as Ukraine. The anti-corruption situation is slightly better in Germany (90-75%), and worse in Greece (99%).

Table 1.

Correlation of the manifestation of corruption in Ukraine and some EU countries in 2020

Countries	Not involved	Partially involved	Involved
<i>Government agencies</i>			
Ukraine	1.6%	77%	20.5%
Germany	9.8%	89.2%	1.0%
Romania	2.6%	70.7%	26.7%
Greece	0%	86.1%	14%
<i>Local governments</i>			
Ukraine	4.3%	77%	19.7%
Germany	27.2%	72	0.7%
Romania	4.5%	75.2%	20.2%
Greece	0.7%	87.9%	11.4%
<i>Institutions providing public services (civil servants, military, police, doctors, teachers, etc.)</i>			
Ukraine	3.5%	77%	19.5%
Germany	7.4%	89.4%	3.2%
Romania	9.5%	72.6%	17.9%
Greece	0.4%	77%	22.6%
<i>Top officials and top managers</i>			
Ukraine	2.5%	78.9%	18.6%
Germany	4.6%	94.3%	1.1%
Romania	1.9%	77.1%	20.9%
Greece	1.9%	90.7%	7.5%
<i>Mass media</i>			
Ukraine	5.6%	80.8%	13.6%
Germany	7.4%	89.4%	3.2%
Romania	9.5%	72.6%	17.9%
Greece	0.4%	77%	22.6%

Source: author's own development based on Ukrainian Centre for European Policy (2020).

Regardless of the fact that corruption acts in Ukraine are committed at almost all levels and in all organizations of various forms of government, the world community observes a trend of decreasing corruption rate in Ukraine over the last decade (Figure 1). Over the past ten years, the Corruption Perceptions Index (CPI) of Ukraine has increased by 8 points. A total of 33 points out of a possible 100 that Ukraine received in 2022 raked Ukraine 116th out of 180 countries

in terms of CPI. Ukraine is perceived in such countries as Algeria, Angola, Bosnia and Herzegovina, Gambia, Dominican Republic, Zambia, Indonesia, Kenya, Malawi, Mongolia, Nepal, Nigeria, El Salvador, Sierra Leone, Philippines, Denmark (90 points), New Zealand (87 points) and Finland (87 points) remained world leaders in this ranking. CPI outsiders remained unchanged: Somalia (12 points), South Sudan (13 points) and Syria (13 points).

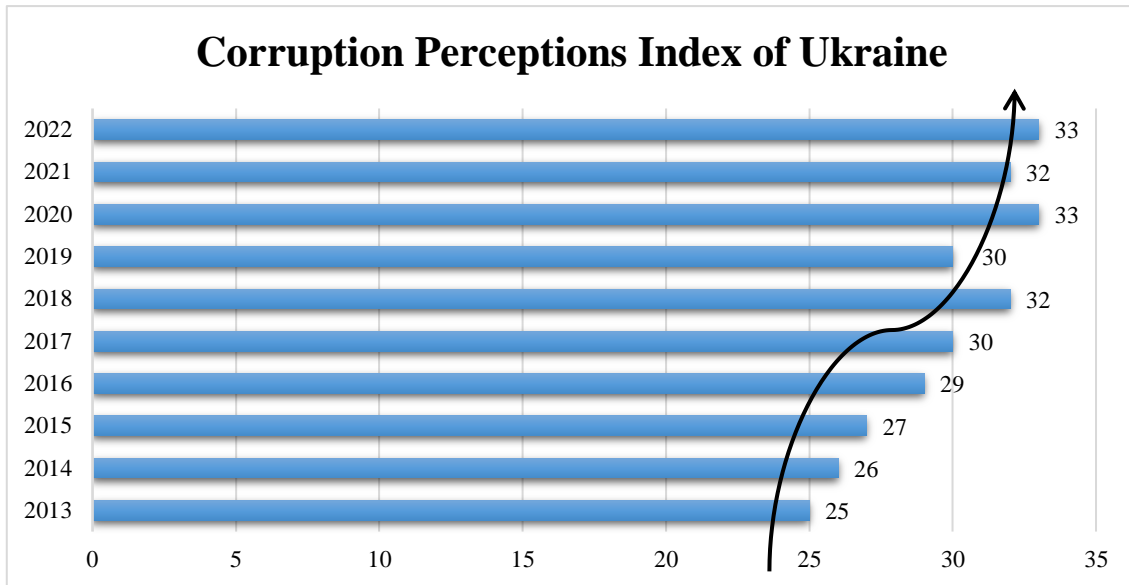


Figure 1. CPI trend of Ukraine

Source: author's own development based on Transparency International Ukraine (2022).

The positive trends of the last decade in Ukraine in the field of prevention and counteraction of corruption are the results of the introduction of the state anti-corruption policy. It is based on the introduced legal mechanism for preventing and combating corruption, the introduced updated system of government agencies for combating corruption, the established legal protection in the

anti-corruption field, and the implementation of international anti-corruption standards.

A three-level structure of anti-corruption bodies was built in order to ensure coordinated activities in the fight against corruption in Ukraine (Figure 2).

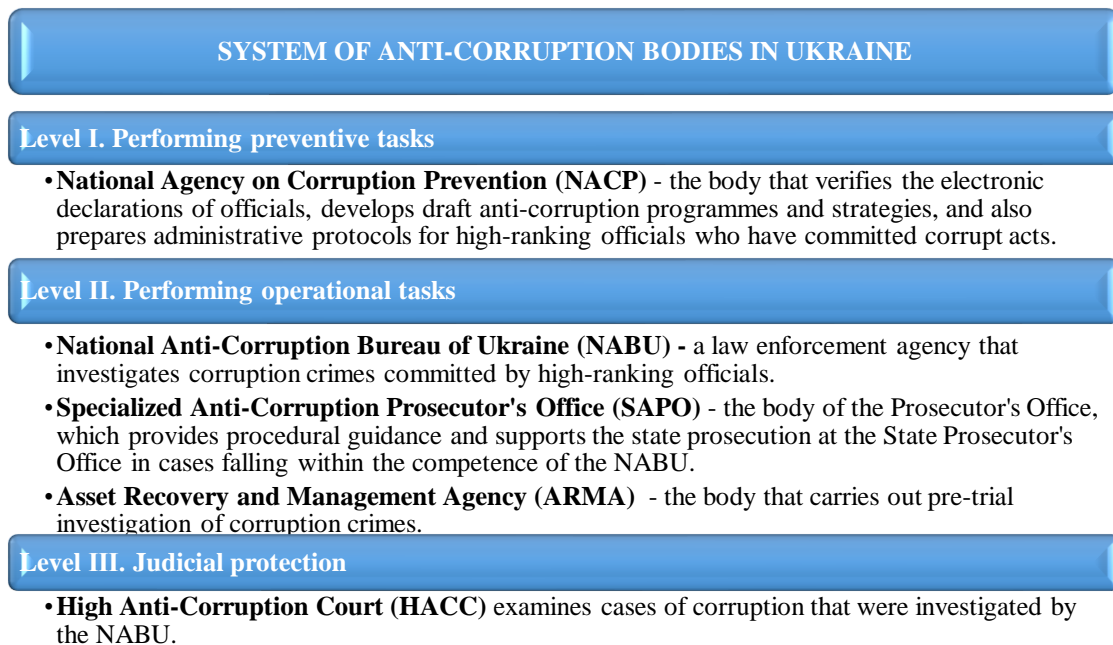


Figure 2. System of anti-corruption authorities

Source: author's own development.

The system of anti-corruption bodies in Ukraine is the newest and most extensive. The practice of anti-corruption bodies testifies to the duplication

of their functions and the absence of agreed cooperation protocols. The NABU, SAPO and ARMA investigate corruption offences and

crimes committed by high-ranking officials, or in cases of large material damage, with the involvement of law enforcement agencies, the competence of which also includes the functions of investigating corruption offences, excluding another special subject of the offense (mostly, these are law enforcement officers or organized groups). Therefore, NABU, SAPO and ARMA are law enforcement agencies that fight against the criminal activities of only one separate group of offenders — officials. In the rest of cases, the National Police of Ukraine, the Security Service of Ukraine and the State Bureau of Investigation are engaged in the investigation of violations of anti-corruption legislation. The National Police of Ukraine investigates corruption crimes that do not fall under the competence of NABU and the State Bureau of Investigation, and also draws up administrative protocols on the commission of offences under anti-corruption legislation). The State Bureau of Investigation performs the functions of investigating individual corruption offences committed mainly by law enforcement officers or organized groups. The Security Service of Ukraine carries out operational and investigative activities in corruption offences, in particular, related to violations of the national interests of the state. The Prosecutor's Office provides procedural guidance and maintenance of prosecution in general courts in cases of the National Police of Ukraine, the State Bureau of Investigation, and the Security Service of Ukraine.

The anti-corruption legislation has also undergone significant changes in recent years. Since 1999, Ukraine joined the Council of Europe Criminal Law Convention on Corruption and the Council of Europe Civil Law Convention on Corruption, and later in 2010, it joined the UN Convention against Corruption. So, Ukraine undertook to develop and implement an effective coordinated state anti-corruption policy. This policy should be based on the principles of transparency and responsibility, honesty and incorruptibility, law and order, as well as due management of state affairs and property. Society should take a leading place in the system of means of combating and preventing corruption through its participation in combating corruption and monitoring the compliance with the anti-corruption legislation.

The current system of measures to prevent and counter corruption in Ukraine includes such elements as:

- Coordinated national anti-corruption policy based on the practice of preventing and

countering corruption and the Anti-Corruption Strategy for 2021-2025 (Law of Ukraine No. 2322-IX, 2022);

- the latest system of anti-corruption bodies (NABU, NACP, SAP), ARMA, HCC), which implements anti-corruption policy;
- transparent public service, which is implemented by conducting open and transparent competitions for positions;
- regular public reporting, which promotes openness in the exercise of public authority by informing the public about corruption risks in the public sector;
- independence of prosecutor's offices and judicial authorities;
- direct participation of society in anti-corruption policy through constant monitoring and control of the corruption situation in the public sector;
- public procurement and property management, which is implemented through electronic systems with clear conditions of participation and effective control mechanisms.

Such electronic systems include: Spending — a single web portal for the use of public funds (2015), an electronic system of e-declaration (2016), Prozorro — an electronic public procurement system (2016), an electronic system of online sales auctions and property leasing Prozorro-sales (2016), E-Health — an electronic health care system (2017). The implemented innovative solutions in the field of preventing and countering corruption have become an effective tool for combating corruption by eliminating the possibility of influencing certain processes during public procurement through corruption. These anti-corruption innovations have become not only an effective tool for combating corruption, but also a positive example for other countries.

Therefore, the establishment of an effective system of anti-corruption measures is an indicator of an effective national anti-corruption policy.

Discussion

The effectiveness of the national anti-corruption policy of Ukraine depends significantly on the coordinated activity of anti-corruption bodies and the implemented effective system of anti-corruption measures. It also depends on the legal mechanisms of national anti-corruption legislation and the state of implementation of international anti-corruption standards. Public control over combating corruption is not only an

effective tool for combating corruption, but also a manifestation of democracy and the establishment of Ukraine as a law-based state.

According to Gulac et al., (2021: 196-198), effective factors of anti-corruption policy in Ukraine are an effective system of anti-corruption bodies and their cooperation among themselves; political will to overcome corruption and observe the principle of inevitability of legal responsibility; elimination of gaps in anti-corruption legislation. As Astakhov (2021) stated, there is an interdependence between countries in which corruption is quite entrenched, including Ukraine, and countries that are perceived as the least corrupt. Bashkatova (2020: 44) claims that the inconsistency of the activities of anti-corruption bodies in combating corruption is currently observed in Ukraine. Boholiepova and Kovtun (2022: 251) and Shylo (2022: 86-88) noted the lack of professional managerial personnel in the authorized anti-corruption bodies. According to Kertayeva and Meirkulova (2018: 83-85), the lack of professional personnel in the field of anti-corruption is a strategic inhibitory factor in the anti-corruption strategy. Bondarenko et al., (2021: 219-222) indicates that an extensive system of specialized anti-corruption bodies complicates the functioning of the system of means to combat corruption. Inconsistency in the actions of anti-corruption bodies leads to conflict. Cochrane (2018: 508-512) suggests establishing anti-corruption boundaries on behaviour, response and clear communication protocols of anti-corruption bodies in order to eliminate conflicts.

Melnyk (2021: 32-33) and Yasin (2023: 307-310) noted that a constant monitoring by the public and various international, public and non-governmental organizations have a significant impact on the effectiveness of the national anti-corruption policy. Gans-Morse et al., (2018: 171-174) shares this opinion who claims that an effective anti-corruption policy should be based on monitoring, including anti-corruption audit and electronic governance. Rama and Lester (2018: 571-580) states that the public trust is the basis for building an effective mechanism of national anti-corruption policy. However, according to Pirro and Porta (2020: 435-440) and Snegovaya (2020: 1163-1170), public control over combating corruption has a negative manifestation. Studying the anti-corruption situation in Hungary, they emphasize a number of unfavourable factors in its development. This is anti-corruption activism, which is

characterized by collective incoherence of actions to combat corruption.

The national anti-corruption policy, as Cervantes and Radge (2018) and Zakharova (2021: 91-110), noted, should be based on the rule of law and compliance with constitutional principles. Huang et al., (2018: 60-63) states that the effectiveness of anti-corruption policy depends on effective instruments of punishment. According to Nurhidayat and Kusumasari (2018: 141-150) and Shostko (2020: 230-232), a transparent mechanism of legal protection and the practice of judicial proceedings in cases of violation of anti-corruption legislation should occupy a key place in the system of anti-corruption means. Wang et al. (2023: 80-83), Xu et al., (2019) and Yusubboevich (2021: 1036-1040) indicate innovative and technological development of the state is inhibited as a result of the ineffective anti-corruption policy.

Topchii et al. (2021: 277-280) claim that the international anti-corruption standards implemented in Ukraine strengthen anti-corruption legislation and anti-corruption measures. In their opinion, public awareness of international anti-corruption standards is an effective tool in the fight against corruption. Public control over corruption is an effective tool for law enforcement agencies in the field of preventing and countering corruption. Analysing the impact of the EU norm on the case of anti-corruption reform in Ukraine, Králiková (2021: 245-250) records the formal nature of the introduction of European anti-corruption standards in Ukraine. In her opinion, the construction of a system of European means of combating corruption was limited because of its consequences for the interests of Ukrainian top officials and the power position of internal subjects. As a result, the implemented anti-corruption norms of the EU in Ukraine did not reflect the specifics of the EU, which led to imitation of the reform and reflected in institutional layering and partial institutional innovations.

The doctrinal analysis of the specified problems of combating corruption at the national level revealed that the researchers consider it appropriate to further study the effectiveness of anti-corruption policy and the system of countermeasures, which generally adjusts the content and directions of development of the anti-corruption strategy in Ukraine.

Conclusion

The effective system of measures to prevent and counter corruption in Ukraine is an indicator of an effective national anti-corruption policy. The following was adopted for its implementation in Ukraine: a coordinated national anti-corruption programme; updated system of anti-corruption bodies; transparent public service; electronic public procurement and property management systems; regular public reporting, independent bodies of the prosecutor's office and the judiciary; public monitoring and control. The implemented anti-corruption policy and its system of measures became an effective tool for preventing and combating corruption.

The prospect for further research is the development of practical recommendations for improving the effectiveness of the national anti-corruption policy by introducing a system of effective measures for its implementation. Therefore, a further prospect is the empirical research and theoretico-methodological substantiation of effective mechanisms for the implementation of international anti-corruption standards at the national level, including a system of legal means of the activity of anti-corruption bodies aimed at preventing and countering corruption.

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