

Mechanisms of Combating Corruption in the System of Business-Government-Civil Society Relations

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The article examines the problems of anti-corruption activity of public organizations in EU countries as well. The prerequisites for the formation and main components of the anti-corruption policy are analyzed. As a methodological basis for the analysis of the participation of civil society in anti-corruption activity, the concepts of collective action as an analytical construct that explains the functioning of civil society, as well as the model of universalism-particularism, which are relevant for the analysis of corruption and anti-corruption policy, are proposed in EU countries. The interaction of government, business and civil society structures is analyzed. The concept of "collective action" is related to the psychological concept of "collective action". Analyzed practices and main problems of participation in the fight against corruption.

Keywords: corruption, anti-corruption activity, anti-corruption policy, civil society, collective actions, non-governmental organizations, conflict of interests, public participation, countering corruption, anti-corruption strategies

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Introduction

A comprehensive overview of the phenomenon of corruption gives grounds for including it among the cross-cutting social problems: existing in society, it permeates various spheres of life, deforms human relations and social values, and is a background for criminal offenses. The general negative effect of the influence of corruption is sometimes defined as the corrosion of power, which destroys the state apparatus and erodes the moral foundations of society. Just as for a metal, corrosion fatigue means a decrease in its endurance limit, for a society, fatigue from corruption means a decrease in its resistance. In addition, corruption is able to stimulate the emergence of a purely political phenomenon of erosion of power – a phenomenon that occurs in conditions of loss of effectiveness and a decrease in the rationality of political decisions.

With the adoption of a number of anti-corruption laws in October 2014, the most extensive and systematic reform of anti-corruption legislation was carried out in Ukraine.

The lack of political will regarding the implementation of the possibilities of anti-corruption legislation leads to the fact that the reboot of the corruption prevention system took place only at the legislative level, that is, on paper. As a result, changes expected from the anti-corruption reform regarding the reduction of corruption manifestations, the establishment of standards of virtuous behavior in the activities of representatives of government structures and business, the minimization of corruption risks in their activities, and the increase of transparency and accountability as authorities as a whole, as well as individual officials in front of the society the in vast majority does not find its real embodiment. A general analysis of the system of prevention of corruption in Ukraine allows us to come to the conclusion that currently, the authorities do not demonstrate a determination to build a sustainable and effective system of prevention of corruption. Many reforms have been initiated that have not been brought to their logical conclusion. There is no clear sequence and prioritization of both the legislative changes themselves and their implementation.

Literature review

The scientific and theoretical basis of the research is the works of Yu. Baskakov, V. Gavrilyuk, K. Tarasenko, etc.

Research methodology. The theory of collective actions is a collection of concepts on the border of political economy, sociology, and political science. In political science, according to M. Olson's concept, the political nature of public movements, electoral behavior, and participation in interest groups are explained. Collective actions are the actions of subjects to ensure public goods.

The components of the theory are political influence on decisions, the use of power resources for the formation of electoral incentives, political decisions regarding communication, collective actions in network structures, socialization and participation in collective actions, and centralized organization of collective actions (Heyneman, 2015).

The component is the theory of revolutionary changes using the theory of rational choice, and the role of electoral incentives in making decisions about participation. These are aspects of the theory of collective actions through the mobilization of movement resources and social solidarity.

Public participation is the participation of civil society structures in the preparation, adoption and control of the implementation of official decisions. For implementation, the level of culture of the participants is necessary: readiness of the authorities (knowledge of the possibilities of civil

society structures, of intersectoral interaction and social partnership); readiness of civil society structures (trust in authorities, reports on social partnership, level of project culture) (Olken & Pande, 2012).

Systemic efforts are needed to fight corruption, that is, concerted actions of all layers of society, all 3 sectors: government, business and public organizations (NGOs). Because corruption is an international problem, coordination and agreement at the international level is possible. These agreed, coordinated measures should be aimed primarily at eliminating the causes and conditions of corruption and, in addition, at mitigating its consequences (Political Corruption, 2014).

The legal basis of the research is the Constitution of Ukraine, the Criminal Code of Ukraine, the Criminal Procedural Code of Ukraine, the Law of Ukraine “On Prevention of Corruption”, the Law of Ukraine “On Public Service”, the Law of Ukraine “On the Basics of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014-2017”, the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine”, the Decree of the President of Ukraine “On the National Anti-Corruption Strategy for 2011-2015”, the Decree of the President of Ukraine “On the National Council on Anti-Corruption Policy” and other legal acts.¹

Analytical data and reports of NABU, GRECO, Transparency International, and the Ministry of Justice of Ukraine make up the empirical base of the research.²

The issue of combating corruption has become particularly relevant for our country. The results of numerous studies indicate that almost all social management systems in our country are affected by corruption to a greater or lesser extent (often, unfortunately, to a greater extent). The extent of the threat posed to the development of society by this array of offenses determines the level of attention to this problem on the part of state authorities, as well as the general public. Without its resolution, it is impossible to talk about approaching the declared in Art. 1 of the Constitution of Ukraine of the social ideal – the legal state. Currently, the most important aspects of the strategy and tactics of the fight against corruption are being widely discussed. Legislative acts are being adopted, the norms of which are designed to improve the situation, work on the creation of specialized anti-corruption bodies, etc., has finally begun. For today’s Ukraine, this acquires a special, truly fateful significance, since in the conditions of an undeclared war, which is being waged against our state; our defense capability depends to a decisive extent on the help from the world and European community, friendly countries. The nature and scope of this assistance will depend on the consistent implementation of reforms and the effectiveness of the national anti-corruption policy.

Researchers analyze the anti-corruption activities of civil society. The activities of NGOs and other structures of civil society within the framework of anti-corruption strategies and directions aim at preventing corruption (eliminating its causes). With regard to civil society, these reasons are formulated as the underdevelopment of civil society institutions, the weakness of democratic traditions, and the prevailing subject type of political culture.

Civil society structures, primarily NGOs, are developing quite quickly; the number of projects they implement is increasing. The time has come when it is necessary to move from separate projects carried out by individual NGOs to an agreed coordinated program of joint actions of NGOs. At the same time, it is necessary to form a body that would coordinate the actions of NGOs for the implementation of the program, for example, a network of NGOs and a coordinating council of such a network. It is also necessary to provide such a body with a tool that would make it possible to coordinate the actions of public organizations. An information

¹ <http://portal.council.gov.ua/print/8004.html>.

² <http://www.coe.int/>

resource in the form of an Internet site, which will be used to exchange information, coordinate interests, and coordinate activities, naturally acts as such a tool.

Researchers determine anti-corruption strategies (directions of NGO activity): the rule of law: public legislative expertise and monitoring of legislation; legal assistance and protection; introduction of new institutions: regional ombudsman; secondly, awareness strategy: analysis of the situation and development of recommendations to authorities and civil society structures related to anti-corruption policy; creation of new institutions: centers of civic opinion, centers of public policy; building anti-corruption networks and NGO coalitions; control over access to information; support of independent mass media; third, prevention strategy: pressure on the government to ensure its transparency (transparent budget, transparent election process, transparent procedures); participation of NGOs in the process of preparation, adoption and control of the implementation of official decisions; implementation of codes of corporate ethics for NGOs, businessmen and authorities (Shveda & Park, 2016).

Researchers distinguish types of corruption acts (there are corresponding articles in the criminal law): abuse of power or official position, excess of power or official authority, committed to satisfy selfish interests; theft of property (regardless of the form) using a position; illegal receipt of benefits, benefits and advantages and their use; bribery; illegal interference with the use of official position in the activities of bodies, individuals and legal entities with the aim of preventing them from fulfilling their powers or demanding the adoption of an illegal decision; use of information obtained by using the official position for selfish interests, unjustified refusal or untimely or unreliable provision of such information; providing unjustified advantages to individuals or legal entities through the preparation and adoption of normative legal acts or management decisions; patronage for selfish interests in the appointment of a person who has no advantages over other candidates in terms of professional qualities.

Corruption acts for which there are no corresponding articles in the criminal law are distinguished: providing benefits for one's corrupt group with the diversion of public resources for these purposes; the use by officials and civil servants of proxy persons and relatives in commercial structures; bureaucratic racketeering, expressed in the extortion of funds from commercial structures for their "transfer" to other business organizations, political parties; lobbying for the adoption of normative acts in the interests of interested persons (groups); abuse of official position (not criminally punishable in the process of privatization, leasing, licensing or quotas).

Corruption acts: "state capture" – proactive attempts by entrepreneurs to influence the decisions of authorities at various levels and in various industries; "capture of business" – establishment of illegal control over business by officials; conflict of interest – public officials or their closest relatives have a financial interest in the cases on which decisions are made by these officials or in the information they receive in the course of performing official duties.

With the adoption of a number of anti-corruption laws in October 2014, the most extensive and systematic reform of anti-corruption legislation was carried out in Ukraine.

Changes in the legislative field related to the regulation of key sectors of anti-corruption activity in the state: formation and monitoring of the state anti-corruption policy; preventive anti-corruption activity; prosecution for corruption.

In April 2015, the Government approved the "State program for the implementation of the principles of state anti-corruption policy in Ukraine" (Anti-corruption strategy) for 2015-2017. The legislation eliminates a certain dualism of state bodies responsible for anti-corruption policy that existed in 2014.

Among other things, the position of the Government Commissioner for Anti-corruption Policy is abolished and the activities of two independent anti-corruption institutions responsible for various aspects of the formation and implementation of state anti-corruption policy are launched: the National Agency for the Prevention of Corruption (NACP) is central of the executive power body with a special status that provides formation and implementation of state anti-corruption policy; The National Anti-Corruption Bureau of Ukraine (NABU) is a state law enforcement agency, which is entrusted with combating criminal corruption and other offenses, including those committed by high – ranking officials authorized to perform the functions of the state or local self – government, and pose a threat to national security.

Also, the activity of a consultative and advisory body under the President of Ukraine begins: the National Council on Anti-corruption Policy (National Council) – implementation of systematic monitoring of the state of prevention and countermeasures of corruption in Ukraine, the effectiveness and implementation of the anti-corruption strategy, measures taken to prevent and combat corruption, and the President's proposals for improvement coordination by the same entities that implement measures in the spheres of prevention and combating corruption. The composition of the Council, as recommended by GRECO, should be formed on the basis of parity between the authorities and non-governmental organizations.

The following institutions participate in the formation and implementation of state policy: The Verkhovna Rada of Ukraine – by approving and adjusting the anti-corruption strategy, holding annual parliamentary hearings on anti-corruption policy, approving the annual report on the state of affairs with corruption; The Cabinet of Ministers of Ukraine – through the approval of the state program for the implementation of the anti-corruption strategy, its adjustment based on the results of the parliamentary hearings on the state of affairs with corruption, approval of the project of the national report on the state of affairs with corruption.

Thus, sufficient legislative prerequisites have been created in Ukraine for the development of an effective state mechanism for preventing and combating corruption.

Measures of anti-corruption policy are determination at the legislative level of the principles of organization and activities of a specially authorized body for the prevention of corruption, which is responsible, in particular, for a set of measures for the formation and implementation of anti-corruption policy.

The specified body must have guarantees of independent activity with the provision of broad participation in it by representatives of civil society, and it must be entrusted with, in particular, the following functions: preparing an annual report on the state of implementation of the Anti-corruption Strategy and a draft report on the implementation of the principles of anti-corruption policy; analysis of the state of corruption cases, preparation of proposals for regulatory, organizational, personnel measures; monitoring and coordination of anti-corruption program implementation; control over compliance with the legislation on conflict of interests and declaration of property, income, expenses and obligations of a financial nature; involvement of the public in the formation, implementation and monitoring of anti-corruption policy; disseminating information about corruption, carrying out measures to form a world view of the rejection of corruption;

Researchers identify forms of community participation (more than 20), for example, public legislative examination (independent examination by members of the public of adopted and normative acts, proposals for changes, adoption of normative acts), public hearings (discussion by members of the public of current problems with the invitation of representatives of authorities, discussion of draft laws).

The authorities need political will to fight corruption, legislative support for this fight and strict implementation of the adopted legislative acts, in addition to this, the authorities need to be transparent to society, allow for the possibility of public participation and interact with NGOs and business as partners.

Civil society structures (NGOs and entrepreneurs) is to implement public participation in the process of preparation, discussion, adoption and control of the implementation of government decisions.

Civil society should participate in the fight; actions should be integrated into long-term programs with clearly defined goals in terms of changing legislation and turning these changes into reality; the result should be placed above political declarations dictated by the situation (for example, a visit by a delegation of a large potential donor or lender).

Government transparency is its openness, comprehensibility and the possibility of influencing it. Openness means access (first of all, to information about the activities of the government, about the procedures for making and implementing government decisions, to the decisions themselves; and access to the premises where the authorities are located). Clarity is what is accessible (procedures, solutions) and can be understood. The possibility of influence is the possibility of using and changing what is accessible and what has become clear (authority procedures, information, decisions).

Researchers single out theories of corruption. As studies have shown, in most cases, abuse of an official position is connected with the exercise of the right to make a decision in a situation where there are several options (alternatives) for solving a problem. For example, several people apply for one vacant seat, one deputy mandate; several enterprises apply for one state order, the right to lease one natural object (forest fund plot) or property.

The elements of the corruption process in the theory of corruption are the interaction of the main elements (public resources, rules for the distribution of public resources, candidates for public resources, NGOs) when corruption occurs and countering.

Researchers single out legislative measures. Limitation of the conditions that contributed to the penetration of criminal elements into the legislative power, influence on the adoption of laws (the strategy of termination – the rule of law): it is planned to introduce changes in the electoral legislation, to adopt a law on lobbying, to introduce changes in the legislation on the status of deputies and in the regulations.

Creation of conditions to ensure the structure, transparency, and control of executive authorities (prevention strategy-effective management): it is envisaged by law to ensure informational transparency of the decision-making process of executive authorities, to introduce mechanisms of public influence on the activities of departments, to adopt a law on executive authorities.

Limitation of conditions for the arbitrary activity of bodies and officials of the executive power (prevention strategy): amendments to the Administrative Code concerning the procedures for preparation and adoption of administrative decisions are envisaged; establishing a legislative framework for narrowing the scope of application of the permission principle; elimination of opportunities for officials to choose between several sanctions provided for the same offense; prohibition of direct imposition of measures of administrative responsibility by controlling authorities (in particular, fire authorities); restrictions on the issuance of bylaws.

The researchers propose a change in the principles of public service (prevention strategy – effective management): it is supposed to clearly define the procedure for solving “conflict of interests”; to introduce mechanisms that guarantee the transparency of the dynamics of the property situation of civil servants; establish social guarantees for each category of civil servants.

Creation of conditions for effective control over the allocation and expenditure of budget funds (prevention strategy – effective management): implementation of the maximum differentiated budget classification is envisaged.

Streamlining the system of “checks and balances” (prevention strategy) it is planned to introduce the Institute of Parliamentary Investigations (Alemann, 2004).

Strengthening of judicial power. Ensuring accessible and effective justice (rule of law strategy). Adoption of the law on responsibility for the legalization of criminal proceeds (stopping strategy rule of law). Legislative regulation of control over the dynamics of the property status of deputies and officials: introducing changes in the legislation that oblige deputies and officials to declare their income and property. Researchers single out organizational and political measures. Decommmercialization of state and municipal activities. Elimination of sectoral and inter-sectoral departments of the apparatus of government, which duplicate functions, reduce transparency (prevention strategy). Measures to streamline the public finance system (prevention strategy): it is proposed to adopt real budgets; reduce cash turnover, introduce electronic means of payments; to observe the principle of open tenders for state contracts and purchases; and deploy the treasury system of budget execution. Demarcation of controlling state, municipal bodies and service bodies. Improvement of the law enforcement system: it is proposed to eliminate duplication of functions and powers of various special services; strengthen the specialization of law enforcement agencies; increase the salary of their employees (prevention strategy). Creation of a permanent independent body for the prevention of corruption (the strategy of termination is the rule of law): The intended functions of this body are coordination and control over the implementation of state policy; development of draft laws and examination of normative legal acts to minimize the possibility of corruption (Alemann, 2004).

Development of departmental anti-corruption programs with mandatory presentation of them for public discussion (awareness strategy).

Involvement of civil society institutions in anti-corruption activities, ensuring transparency in public administration (prevention-effective management strategy): the creation of a supervisory board is expected; development of a dialogue between the government, business, and NGOs to discuss anti-corruption activities; supporting the practice of social participation; inclusion of NGOs in the process of creating local departmental “islands of incorruptibility”.

Promotion of examples of successful anti-corruption programs in other countries. Formation of the anti-corruption worldview of citizens: it is planned to carry out an agitation campaign, a campaign for public participation; and ensure maximum transparency in the implementation of anti-corruption policy. State support in the creation of a network of NGOs, which are involved in anti-corruption activities. Involvement of the mass media in the formation of an anti-corruption worldview and popularization of anti-corruption activities (awareness strategy).

Involvement of the private sector (through associations of small and medium-sized businesses, sectoral unions of entrepreneurs) to participate in separate anti-corruption programs in the anti-corruption state policy (prevention strategy): implementation of business ethics codes is envisaged.

Using the Internet to inform about the activities of authorities, ensure access to information, involve citizens in the process of discussing draft decisions and monitoring their implementation (awareness strategy).

Government transparency is a condition for participation. There is no public participation without transparency. However, the presence of transparency only guarantees the possibility of

public participation, but does not guarantee its existence. It is also necessary that the structures of civil society are interested in it. That is, motivation is necessary. However, the motivation of civil society structures is weak. The reason for this behavior lies in the weakness of civil society institutions, the absence of democratic traditions and, most importantly, the subject type of political culture, when people rely not on themselves, but on a good ruler, when there is no initiative and responsibility. To change the situation, it is necessary to change the type of political culture through the development of civil society structures, the involvement of citizens in the activities of public organizations that carry out anti-corruption activities.

The fight against corruption in Ukraine is becoming the subject of closer attention in the West. Corruption has long been the “Achilles heel” of Ukraine, while at the same time, the country has made little progress, slowly rising according to Transparency’s Corruption Perception Index International from 142nd place in the world in 2014 to 122nd in 2021. Despite this, critics say some investigations have not targeted truly corrupt individuals, but instead focused on businessmen who joined the government to help revive Ukraine’s economy after the 2014 revolution. At stake is the question of what kind of economy Ukraine will become after the war – and whether talented people will risk working for the state again,” the authors of the article emphasize.

At the same time, it is emphasized critics of anti-corruption bodies recognize that some businessmen walk a fine line between taking the initiative and abusing their official position.³

Knowledge of the processes of development of state policy is extremely necessary for building effective relations with the government, because the possession of knowledge allows, firstly, to identify key subjects (persons, institutions) in the processes of formation and implementation of a political course on an issue of interest, and, secondly, to choose the most adequate forms and methods of lobbying subjects to achieve their goals.

The formation and implementation of an effective state anti-corruption policy require taking into account a significant number of well-known factors: historical, mental, cultural, economic, and behavioral. Researchers of anti-corruption policy offer a variety of anti-corruption effectiveness and state measures aimed at reducing corruption. These include bringing the regulatory framework (including election legislation) into line with the best anti-corruption practices in the world; involvement of the general public (including institutions and civil society) in anti-corruption measures; and reforming the civil service system to increase the level of integrity and efficiency. Attempts to justify miscalculations in politics and the fight against corruption by referring to an unfavorable political regime or the ineffectiveness of legislation are often groundless, because one can find many examples when states with similar results. In the current conditions, they fight against corruption with varying degrees of success.

The National Anti-Corruption Bureau of Ukraine was created on the basis of the adoption of the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” on October 14, 2014. During its passage in the Verkhovna Rada of Ukraine as a draft law, it was called the Draft Law of Ukraine “On the System of Specially Authorized Subjects in the Fields of Combating Corruption”. This Law entered into force on June 25, 2015.

The next step in the institutionalization and analysis of the anti-corruption mechanism and effective actions was the creation of the National Agency for the Prevention of Corruption (NAZK), the central body of the executive power of Ukraine with a special status that ensures the formation and implementation of the state anti-corruption policy.

³ The Guardian, 19, 2023. *Ukraine open for business.*

In accordance with the Law of Ukraine “On Amendments to Certain Legislative Acts in Ukraine on Ensuring the Activities of the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption” “No. 198- VIII dated February 12, 2015, amended the Law of Ukraine “On the Prosecutor’s Office”, which enters into force on April 26, 2015. In accordance with the above-mentioned Law, a Specialized Anti-Corruption Prosecutor’s Office is established in the General Prosecutor’s Office of Ukraine (with the rights of a structural subdivision).

According to Transparency International’s Corruption Perception Index (CPI) measurement results in 2015, Ukraine’s CPI index is 27 points out of a possible 100, which is only 1 point more than last year. In the world ranking, Ukraine occupies 130th place out of 168 positions. Last year, the country was in 142nd place out of 175 positions. Business representatives who faced corruption during the last year and a half identified the following state bodies as the most corrupt: the tax service (25%); Land Resources Agency (7.1%); State Automobile Inspection (5.1%); customs (4%); city executive committees (1.4%) (Annual Report, 2012).

Despite significant progress in reforming anti-corruption legislation, no other significant reforms in the field of anti-corruption policy have taken place. One of the main reasons for the failure of the authorities in the fight against corruption is the lack of real political will of the key players to initiate deep transformations, primarily in areas related to political, economic and other interests of close people. Successes in the adoption of new anti-corruption legislation are the result not of the political will of the authorities, but of the birth of a new, no less influential subject of political will – civil society. The key bearers of political will – the President of Ukraine, factions of political forces in the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine must convincingly prove the presence of political will for reforms in anti-corruption and other areas.

Based on the above, it can be concluded that anti-corruption changes in Ukraine require: ensure the principle of independence in the work of anti-corruption bodies and make their political dependence on the ruling elite impossible; to establish the effective work of the National Agency for the Prevention of Corruption, the National Anti-Corruption Bureau and the Specialized Anti-Corruption Prosecutor’s Office with mandatory public information on the results of their activities; implement the system of electronic declaration and public procurement; to carry out the reform of the judicial system, to form an honest and incorruptible judiciary that will act in accordance with the principle of the rule of law; legislate the need to conduct a polygraphic examination when competing for key positions in the civil service, when being promoted, etc., which will make it impossible for a person who has committed or has a tendency to commit illegal acts to occupy a responsible position; creation of information products, educational programs that tell about the negative consequences of corrupt acts, their introduction into the information space at different levels; creation of conditions for the involvement of non-governmental organizations in the monitoring of the activities of state administration bodies, training of personnel, development of methodology and development of skills for the prevention of corruption.

Conclusions

It has been proven that the fight against corruption is an important challenge for Ukrainian society. The new anti-corruption regulatory framework and our country’s cooperation in this direction with international bodies and organizations actualize the improvement of the quality

and scientific support of the announced anti-corruption policy. The scientific-theoretical foundations of anti-corruption in Ukraine, which as a whole are a complex result of research into the specified problem in the areas of social and, in particular, legal science, are not fully Both worlds respond to the needs of the moment and, therefore, need further qualitative and quantitative improvement.

It is substantiated that one of the central problems facing political science, both general theoretical and sectoral, is the formation of a conceptual and categorical apparatus. The analysis of the literature indicates the existence of a unified understanding of the concept and definition of the content of corruption, which is evidenced by the fact that researchers use quite a few of them essentially categorical “binding”, is also a growing awareness of additional definitions of the concept of corruption.

It was determined that one of the ways to improve the content of the concept of corruption is the use of different conceptual approaches to its understanding. At the same time, the basis of the formation of the methodology is the analysis of the essence of the indicated phenomenon in the political, socio-economic, and legal spheres. Accordingly, we determine the existence of a political, socio-economic, and legal approach to understanding the phenomenon of corruption, as well as its so-called broad and narrow vision. Define certain positions of the scientific perception of the phenomenon: as a form of official abuse; as a type of organized crime; through the prism of constituent elements of a corrupt act, through the prism of the target setting of the subject.

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