Global Experiences in Preventing and Counteracting Corruption: Towards the Issue on Integration of the Legislation of Ukraine into EU Law

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Global experiences in preventing and counteracting corruption in order to implement the primary directions for improving the legal frameworks in Ukraine are examined. On the basis of the analysis of the principal regulatory legal acts of international and national law and the experiences of European states, the provisions on the priority methods for improving current legislation in the spheres of prevention and the fight against corruption in our country are reasoned. It is concluded that global experiences in the application of anti–corruption legislation are aimed at using a whole range of legal means to fight corruption, and those which are preventive are of the highest priority.
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At the end of the 20th century, the world community acknowledged that corruption is a global problem for every country, so this problem must be combated. This has resulted in the adoption of a set of international legal acts (having mandatory or advisory nature) elaborated and enacted by the United Nations Organization, the Organization for Economic Cooperation and Development, the Organization of American States, the Council of Europe, the European Union, and the African Union. The international legal instruments differed in spheres of application; however all of them are aimed at establishing general standards for fighting corruption by implementing anti-corruption laws at the national level.

Ukraine has adopted a comprehensive legal basis for fighting corruption, i.e. the Law of Ukraine 'On Principles of Preventing and Counteracting Corruption'. This was amended in 2012 in order to ensure the establishment of a National Anti-Corruption Committee. According to the Law, state employees are to declare their income. In addition, the anti-corruption legislation settles conflicts of interests concerning public officials and foresees their criminal responsibility for unduly expensive gifts, hospitality, etc. However, the rules for fighting corruption had a minimal influence on deceptive practices within political quarters due to the absence of the supremacy of the Law and its adequate application. Ukraine requires new and stricter changes to the anti-corruption legislation in order to accelerate its joining the European Union. The situation in the country requires the maximum efforts of representatives of all branches of power and local self-government institutions, as well as the implementation of necessary nationwide measures aimed at the improvement of anti-corruption legislation.

There is a necessity for the all-round study of the acquis communautaire (acquis); conducting of new, wider scientific researches to argue Ukraine's course for European integration in the political and economic spheres which is aimed at the development of mutually beneficial cooperation at the state level. Such cooperation is necessary within the framework of both multilateral and bilateral international contractual regulations which is required for the removal of various integration obstacles (in particular, by creating a transparent state administration which is one of the highest-priority tasks). That is why, there is an urgent necessity for developing an efficient mechanism to prevent and counteract corruption in our country.

The results of harmonization should promote a stabilization of the situation in this field, whereas in recent years the level of corruption in Ukraine has significantly increased, and has become one of the most severe problems nowadays. This negative phenomenon poses a real threat to the security, constitutional order, and democratic development of the state and society.

In our opinion, at the modern stage of the development of our state, the scientific researches concerning prevention of and countermeasures against corruption are of particular significance. We can analyse the level of examination of this problem in legal science on the basis of modern researches. Theoretical issues on terminological definitions and the correlation between concerned notions, are the subjects of researches made by G. Atamanchuk, V. Barys, S. Seriogin. Scientists I. Griniova and V. Gromovyi propose a general examination of corrupt activities in the education sphere. I. Vityk studies the outlined problem through the prism of the reformation of law

enforcement authorities; I. Vedernikova analyzes such activities within the top echelons of power.

We state that the political dialogue between the European Union and Ukraine started on 14 June 1994 upon signing of the Partnership and Cooperation Agreement (PCA) [*Meteliova*, 2009: 3]. Among other issues, the integration process foresees the harmonization of the legislation of Ukraine with EU standards existing in the sphere of preventing and counteracting corruption. The necessity of such harmonization has been established by a system of Ukrainian regulatory legal acts, in particular, by the Law of Ukraine 'On the All State Programme of Adaptation of Ukrainian Legislation to the Legislation of the European Union' of 18 March 2004, the Instruction of the Cabinet of Ministers of Ukraine 'On Approval of Action Plan for Execution of 'the All State Programme of Adaptation of Ukrainian Legislation to the Legislation of the European Union' in 2012' of 28 March 2012, etc.

International legal instruments contain different approaches to the consideration of corruption. Based on this research, we found out that such a concept was initially formulated in its generally accepted understanding during the 34th Session of the UN General Assembly in 1979. Experts of this organization defined corruption as "the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted" [*Nevmerzhyc'ky*j, 2008: 115].

We shall indicate that the most important event in the history of international legal relations in the sphere of preventing and counteracting corruption was the signing of the United Nations Convention against Corruption by the international community that took place on 9 December 2003 in the city of Merida (Mexico). Experts on corruption consider this international treaty to be the most substantial legal act aimed at the prevention and fight against corruption both nationally and world-wide. That is why, the UN commemorates International Anti-Corruption Day on 9 December every year [1]. Simultaneously, it is worth noticing the operation of the Council of Europe's Group of States against Corruption (GRECO) having the status of being one of the most competent international organizations in the sphere of development and monitoring of observance of anti-corruption standards (the Group includes almost all states of the European continent, and the USA).

It is necessary to analyse the regulations of the abovementioned Convention. First of all, we believe that this document should be considered as the basis for the adaptation of the Member States legislation, i.e. the harmonization of national legislation with generally recognized methods and measures for preventing and counteracting corruption. The key principles of its realization are the theoretical provisions on corruption prevention and the fight against its manifestations. The Convention contains provisions that define the main principles of the Member States policy concerning the sphere of preventing and counteracting corruption. In particular, they envisage the establishment of a body or bodies for preventing and counteracting corruption (Article 6); optimization of public and private sectors operations (articles 7 and 12); implementation of codes or standards of conduct for public officials (Article 8); ensuring that the public has effective access to anti-corruption processes (Article 13), etc. [2].

The provisions of international anti-corruption legislation are reflected in the national legislation of the leading countries of the world, since they determine the list of actions considered corruptive; the number of people being subjects to the anti-corruption legal acts (the UN Convention was ratified by 167 countries). Some countries have adopted a set of norm-setting and organizational measures for bringing national legislations in line with the anti-corruption requirements of the UN Convention against Corruption.

For example, in Singapore there is a special structural subdivision which is named the Corrupt Practices Investigation Bureau. Such a body is authorized to carry out investigative activities and is obliged to envisage a number of preventive measures [*Chepeliuk*]. The structure of the Ministry of the Interior of the Slovak Republic includes an Anti-Corruption Committee authorized to take preventive measures and investigate the facts of corruption among Ministry officials and police structures across the country.

The experience of monarchic Japan is interesting to be taken into account in the Ukrainian realias in order to provide severe financial restrictions during election campaigns, for some parties and other political organizations, as well as for non-governmental institutions. It is important that the provisions of the Japanese law have established a regulated procedure for donations in favour of election candidates, the organization and operation of the political funds, and provide a severe system of financial reporting [*Chubenko*, 2003: 9].

In legal science, proper state policy concerning anti-corruption measures and processes for overcoming corruption in the state, is generally referred to as 'a culture of transparency'. There is corresponding data that since 1999 the OPEN Programme has been carried out in North Korea. This is a system of control over the consideration of the applications of citizens by local administration officials and some interventions into this process [*Chepeliuk*].

Experts in this sphere have indicated that a clear-cut and efficient system of fighting against corruption grounded on an effective normative and legal base and public support, functions nowadays in Finland. The international non-governmental organization dedicated to fighting corruption 'Transparency International' defines it as one of the least corrupted countries of the world. According to the provisions of the Criminal Code of Finland, performance of actions that could be qualified as corruptive results in penal measures which may be equal to a fine or confinement lasting up to four years dependant on the level of a crime's social danger [*Chemerys*, 2009: 14].

In the Federal Republic of Germany, the task of eliminating the material, primarily financial basis of criminal groups is the foundation of fighting corruption. This is executed by means of confiscation of property and the establishment of an appropriate legal basis for rendering impossible 'money laundering' and other illegal actions. The main task of the German Government in the sphere of preventing corruption is the disabling of office abuses by state officials as a result of legislative, organization, staff, and other measures [*Chubenko*, 2003: 8].

Without regard to the reality of this issue, until recently there was no relevant legal act in the sphere of fighting corruption in Poland. For a long time, legal practitioners considered the judicial norms stipulated in the Criminal Code of the country as being sufficient. However, at the end of 2002 the Government of Poland approved a State Programme for Fighting Corruption named as the 'Anti-Corruption Strategy'. For the purposes of this Programme, the Extraordinary Codification Commission of the Sejm of the Republic of Poland was established, and it now operates by elaborating amendments to the Criminal, Criminal Procedure and Criminal Executive codes of the country [*Chubata*, 2010: 341].

The USA legislation determines the notion of officials' corruption in a broad sense. This concept is understood as

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a set of illegal actions generally stipulated in four chapters of Title 18 of the US Code: 'Bribery, graft, and conflicts of interests'; 'Public officers and employees'; 'Extortion and threats'; 'Elections and political activities'. Not only bribe-takers, but also those giving bribes are subjects to criminal prosecution in the USA. It is important that subjects to punishment for bribery are present, former and future officials [*Chubata*, 2010: 341].

Thus, one can note that in order to fight corruption a number of countries have taken organizational measures such as the foundation of special institutions and organizations aimed at developing relevant strategies and tactics, and elaborating rule-making and functional preventive mechanisms. However, considering the urgency of the issue, it is also necessary to review a set of organizational and legal, as well as other national anti-corruption measures, to the realization of their improvement and intensification of a nation's activities in international organizations.

Thus, taking into consideration the scaled corruption, every state should, first of all, take measures to eliminate its prerequisites, and only after that start fighting its certain manifestations. For that reason, the legal instruments of some developed countries do not contain the notion of 'fight' but include a lot of principles for the prevention of violations, as these judicial acts (often codified) form the legal frameworks of these states.

We believe that one of the main constituents for the formation and development of an effective system of fighting corruption is accurate interactions between states, first of all, between their law enforcement authorities; common participation in actions initiated by the United Nations Organization, the Council of Europe, INTERPOL, the International Monetary Fund, the World Bank, and other international institutions.

The working practices of the law enforcement authorities of foreign countries in this direction have proven that the efficiency of a regulatory basis to counteract and the presence of an effective system to fight corruption at national and international levels are some of the main conditions for the successful elimination of the above-mentioned problems.

The practical experiences of world legal states in the sphere of fighting corruption crimes gives an opportunity to establish notions on the foundation of a leading national anti-corruption strategy whose development is absolutely necessary for Ukraine nowadays. Accordingly, today the national authorities are:

– to develop a single state policy in the sphere of fighting corruption containing a set of measures of state, political, economic, social, and legal nature;

– to establish a special anti-corruption service, independent from all branches of power which ensures control of the activities of state authorities at various levels;

– to ensure the independent functioning of judicial authorities based on the models of law enforcement systems used in Italy, the USA, Great Britain and France.

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