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Foreign Experience of Public Involvement in the Prevention of Corruption Crimes

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Abstract

The purpose of this study is to examine the most common practices of involving the public in the prevention of corruption crimes in foreign countries and the prospects for implementing such experience in Ukraine. The methodological tools were selected in accordance with the set goal, the specific features of the object and the subject of research. The comparative legal method is used in the analysis of current legislation and international regulations. General scientific and special methods are used to achieve this goal, which are tools of scientific search. This refers to structural-functional and systemic, formal-logical, hermeneutical, anthropological, and other methods that provided an opportunity to examine the foreign experience of public involvement in the prevention of corruption crimes. A special research method used in the study is system analysis. The scientific originality of the study lies in the fact that the experience of involving the public in the prevention of corruption crimes in foreign countries is considered. It was established that in the leading countries of the world, the practice of public involvement in anti-corruption events is quite common. These measures provide for revealing activities of ordinary citizens, public discussions, public control, etc. Consideration of the current foreign practice of public involvement in the prevention of corruption crime gives grounds for possible borrowing of its individual components to improve the existing forms of interaction between the public and state bodies in Ukraine, and the development of a new strategy for preventing corruption crime. The anti-corruption experience of the countries under consideration is a certain guideline that every country, including Ukraine, should strive for. Their main advantage lies in proper governance, because public authorities, exercising their powers, realise the importance of their own actions for the well-being of society, evaluate management activities as prestigious and value their own reputation. A systematic solution to a number of problems will help build a way to increase the role and capabilities of civil society in preventing corruption in Ukraine

Keywords:

crime prevention; corruption; public; foreign experience

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Introduction

Corruption in Ukraine is recognised as a threat to national interests, sustainable development, and European integration. Despite the substantial efforts made by the state and international institutions to overcome corruption in the main fields of public life, its level still remains high.

The substantial potential of the anti-corruption function of civil society is a generally recognised fact. Comprehensive state support and proper legislative support for public involvement in the field of corruption prevention is an important international standard for anti-corruption activities [1].

The purpose and objectives of this study are to examine the most common practices of involving the public in the prevention of corruption crimes in foreign countries and the prospects for implementing such experience in Ukraine.

Results and Discussion

All countries, without exception, are concerned about the existence and spread of such a destructive phenomenon as corruption, which harms the activities of public authorities, hinders the development of the economy, and distorts the consciousness of society. In this regard, each of the countries introduces its own anti-corruption programme, strategy or implements the corresponding policy.

In Ukraine, among the difficulties that hinder the effective activities of the public in the field of anti-corruption, it is necessary to note the following: lack of support from the authorities, imperfection of legislative consolidation of the rights and obligations of the public. A substantial role is played by the desire of activists to cash in on their activities, and the implementation of personal and political tasks by the public. Scandals about “grant-eating” in the media do not subside to this day. From time to time, there are informational studies about corruption cases among public organisations [2].

One of the most substantial achievements of the international community in preventing corruption crimes was the UN Convention Against Corruption of October 31, 2003 (ratified by the Law of Ukraine No. 251-V of October 18, 2006). Art. 13 of the Convention provides for public involvement in the prevention of corruption crimes. Each state party shall take appropriate measures to ensure that the relevant authorities for the prevention of corruption offences referred to in this convention are known to the public and shall ensure access to such authorities to provide them with reports, in particular anonymously, of any cases that may be considered an offence under this Convention [3].

In addition, each state party is obliged to promote the active involvement of individuals and groups outside the public sector, in particular, such as civil

society, non-governmental organisations and community-based organisations, in preventing and combating corruption, namely: increasing transparency and promoting public involvement in decision-making processes; ensuring effective access to information for the population; taking public awareness measures that contribute to creating an environment of non-acceptance of corruption, and implementing public education programmes, in particular, educational programmes in schools and universities: respecting, promoting, and protecting the freedom to seek, receive, publish, and disseminate information about corruption. They may impose certain restrictions on this freedom, but only provided for by law and which are necessary: a) to respect the rights or reputation of others; b) to protect national security, or public order, or to protect the health or morals of the population [4].

The main trends in the field of preventing corruption in democratic countries are, firstly, a clear correlation and relationship between the level of democratisation of society and corruption (the higher the level of democracy in the country, the fewer corruption manifestations); secondly, civil society is considered as the main subject of influence on the government, and therefore as the primary subject of anti-corruption [5].

Non-governmental organisations, whose main task is to expose corruption, have powerful opportunities in this area. Researchers of public involvement in the prevention of corruption crimes in foreign countries identify a number of non-governmental organisations with international status. These are: Transparency International, International Anti-corruption Resource Center, Corruption Watch, Transparency, etc. [6]. The world has not only proper legal regulation of public involvement in the anti-corruption process but also organisations that are ready to provide material support for such activities.

The analysis of the activities of these and other non-governmental organisations gives grounds for the conclusion that their anti-corruption influence is implemented through the following measures: development and implementation of anti-corruption policies; assessment of anti-corruption mechanisms used by governments; collection and processing of information on cases of corruption; identification of corruption risks; provision of legal assistance; development and implementation of educational programmes; development of an anti-corruption worldview of citizens [7].

An important area of activity of public organisations is interaction with the population in the field of corruption prevention. Therefore, relevant organisations should establish close Information relations with citizens to promote their activities. Informing the public on corruption prevention issues is conducted: through the organisation's website by

holding informational events (round tables, press conferences, etc.), through external campaigning. Public organisations successfully implement their anti-corruption campaigns aimed at increasing awareness of the negative consequences of corruption, which is confirmed by the level of perception and attitude to corruption [6].

In Ukraine, among the forms of involvement of citizens and their associations or authorised representatives concerning the prevention, detection, and counteraction to corruption offences proposed to identify such: to report the findings of committing corruption or corruption-related offences, real, potential conflict of interest specially authorised subjects in the field of combating corruption, the national agency, management, or other representatives of the authority, enterprises, institutions, or organisations that were committed these offences or employees which there is a conflict of interests, and the public; to request and receive from state bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies in order provided by law, information on the activities of anti-corruption; to hold a public anti-corruption expertise of normative regulations and drafts of normative regulations, to present the results of examination of the proposal to the relevant authorities, to obtain from the relevant authorities information about the context of the proposals; take part in parliamentary hearings and other events on the prevention of corruption; to make suggestions to the subjects of legislative initiative to improve the legislative regulation of relations arising in the field of prevention of corruption; to conduct, have conducted research, particularly in scientific, sociological, etc., on the prevention of corruption; hold events to educate the public on the prevention of corruption; to exercise public control over the implementation of laws in the field of prevention of corruption using such forms of control that are not contrary to law; to conduct other legal measures for the prevention of corruption [8].

Among the countries that have created an effective anti-corruption mechanism are: Finland, Denmark, New Zealand, Iceland, Singapore, Sweden, Canada, the Netherlands, Luxembourg, Norway, Australia, Switzerland, the United Kingdom, Austria, Israel, the United States, Japan, China, Ireland, Germany, etc.

In these countries, there is almost no corruption at the grassroots level. This is due to the fact that in the public consciousness, the image of an official is identified as a person who performs important functions – implements national policy and serves the population. Corruption is perceived by the governments of these countries as a serious national security problem, as it is an internal and external threat. Efforts to limit corruption in these countries are institutionalised and impressive in scale [9].

We propose to consider the experience of involving the public in anti-corruption activities in such countries as Sweden, Finland, the United States, Austria, the Netherlands, the United Kingdom, and Denmark.

Sweden ranks first among the countries least affected by corruption. In this country, there is effective public control over the activities of both the public and private sectors, the leading role in the implementation of which is played by the media, the church, and public opinion. Moreover, the latter can create a negative image for businessmen or officials, as a result of which some will be forced to resign, while others will lose trust among business partners. In addition, public control over the activities of government agencies, and the cultivation of intolerance to any manifestations of corruption in society, are inherent in Switzerland, The Netherlands, the United States, France, Poland, etc. [7].

In particular, in Sweden, independent monitoring of the level of corruption in certain areas of society is conducted by the public organisation “Democratic audit”, established in 1994, which unites leading Swedish politologists, economists, and researchers. In addition to monitoring the state of development of democratic freedoms in Swedish society, this organisation also investigates other issues related, in particular, to the fight against corruption. Independent monitoring of the level of corruption in various fields of society is conducted by the Swedish public organisation “Swedish Anti-Corruption Institute”, founded in 1923. Receiving funding from business organisations and the Stockholm Chamber of Commerce, in recent years the Institute has increasingly focused on explaining in detail to citizens the subtleties of anti-corruption legislation [10].

The experience of Finland, which is characterised by social control by civil society, due to the small population and the openness and real legitimacy of legal relations between municipalities and citizens, may be relevant for Ukraine [11].

Finland's anti-corruption policy is integrated into the overall national policy, as corruption is considered a complex phenomenon: as part of criminal legislation, as part of legislation on mismanagement. Ukraine now has a different trend-filling the legislative framework with acts on the involvement of civil society in the processes of preventing corruption [1]. Indeed, expanding the capabilities of civil society institutions and creating protection guarantees for participants in anti-corruption activities is a positive development, but increasing the number of regulatory regulations does not guarantee minimising or overcoming corruption.

In the United States, the Institute for public anti-corruption surveillance is regulated by the Freedom of Information Act of 1966, according to which

all federal agencies must provide citizens with free access to available declassified information. Due to the operation of this law, exposing corruption has become more real. Such activities are provided by a number of non-governmental organisations in the United States: Judicial Watch, Project on Government Oversight, Government Accountability Project, etc. For example, in Seoul in 1999, the Anti-Corruption programme "OPEN" was developed, which provided citizens with the opportunity to monitor the work of officials, in particular, at any time to monitor the process of reviewing documents for applications for permits for a particular case, especially when the probability of corruption is high. Canada has no special anti-corruption agencies, and its anti-corruption system is based on active public involvement through the media, professional associations, and organisations [7].

The high standards of civic conduct in the UK are the result of political and legislative measures, moral change and more effective social control over civil servants. This country has the oldest traditions of fighting corruption. A distinctive feature of Great Britain, which has determined the relatively low level of corruption in this country, is the tradition of observing high ethical standards of behaviour in the state sector, in which personal interest should give way to public interests [12]. These standards were expressed primarily in the form of unwritten rules and regulations [13]. Therewith, the system of anti-corruption mechanisms is also regulated at the legislative level.

The second feature is the extremely high role of public opinion, which tracks the dynamics of negative phenomena in society. For the most part, public debates relate to issues connected to lobbying and buying political influence, problems created by changing the boundaries of private and state property, and the moral climate, bribery, abuse of employees of local authorities, police, customs service, etc. [17].

It should also be noted that in the United Kingdom and the United States, society is extremely negative about even minor manifestations of informal ties, clannishness, and nepotism. Fair competition and equal rights are the basic values of these communities, which date back to the English Charter of Liberties and the American Bill of Rights. That is why citizens are so active in demanding a report from officials on their income and react with great indignation even to minor abuses. This is how comprehensive regulation of the activities of civil servants in the United States and the creation of the Independent Parliamentary Standards Authority, and numerous other ethics commissions in the United Kingdom, are ensured [13].

In Austria, with the involvement of representatives of public organisations, an informal approach to anti-corruption education in educational institutions

is used as a basis for fostering zero tolerance for corruption. The Austrian education system is known for covering many courses aimed at fostering an independent worldview and social responsibility among schoolchildren and students. Young citizens are prepared to take part in the economic and cultural life of the country, Europe, and the world. Understanding the phenomenon of corruption, legal and ethical aspects of anti-corruption is conveyed to the audience in such a way that they are not perceived abstractly, but are used during the entry of young citizens into adult active life. That is, to ensure the effectiveness of anti-corruption education, a comprehensive approach is used, covering various methods [9].

Effective methods of combating corruption offences have also been developed in the Netherlands. The system of combating corruption in the state covers the following procedural and institutionalised measures: constant reporting and publicity in matters of detecting corruption and discussing the consequences – punishments for corruption activities; development of a system of public monitoring of possible points of occurrence of corruption actions in state organisations and strict control over the activities of persons located in these points through public involvement; all materials related to corruption actions, if they do not affect the national security system, are necessarily made available to the public [15]. Mass media that cover corruption cases and subjects of independent investigations into corruption crime in the state have become important in the fight against corruption.

Another example of the effective involvement of civil society institutions in combating corruption is Denmark. The anti-corruption system provides, in particular, the following main procedural and institutional measures: a system of comprehensive monitoring of possible areas of corruption actions in state and public organisations, and strict control over the activities of persons involved in these areas; a system of punishments for corruption actions, the main measure is a ban on working in state organisations and the loss of all social benefits provided to it by the state service; a system of encouraging positive actions of officials aimed at ensuring that officials were profitable not only in material but also in moral aspects to behave honestly and effectively; a system of state security for combating corruption – special police, endowed with a substantial amount of authority to identify corruption manifestations [16].

In addition, public and private anti-corruption initiatives are important in preventing corruption offences. For example, some private sector organisations have adopted a zero-tolerance policy, which is that the provisions of the anti-corruption legislation include in all government agreements on Denmark's development assistance, contracts with companies

involved in this activity [17], that is, companies must sign a declaration prohibiting bribery as a manifestation of corruption, and in case of violation of this provision, one party initiates the termination of the contract and refuses further partnership.

Thus, the role of the public in preventing corruption in foreign countries is substantial, has a practical focus, which consists in:

- supervision, that is, the public closely monitors legislative and institutional changes, transparency in the development and functioning of the government, and processes in corruption cases (from the disclosure of information to investigation, prosecution and trial);
- development of viable alternatives based on experience and knowledge through the development of draft laws, concepts of institutional reforms, and educational campaigns;
- influence as one of the most important tools that can be used to exert public pressure on the government and officials when making specific decisions;
- actions, namely the provision of services in the social field, disclosure of information about cases of corruption, and raising the level of awareness of a wide range of citizens in the analysed area [7].

Thus, the main forms of interaction between non-governmental organisations and state authorities in overcoming corruption in Ukraine should be:

- conducting monitoring and analysis of public opinion on the causes and ways to overcome corruption by state authorities and non-governmental organisations;
- development of consultative and advisory expert bodies under state authorities with the involvement of public experts and activists on a voluntary basis, the main task of which would be the implementation of analytical, research, and information projects, in particular, the search for scientifically based ways to overcome the problem of corruption in Ukraine [18];
- organisation of educational events among various groups of the population to form an intolerant attitude to corruption as a phenomenon;
- informing the public about real measures and results of anti-corruption policy in Ukraine;
- joint provision of information openness in society about the state of corruption and the effectiveness of anti-corruption measures, identification of specific cases of corruption actions. It is necessary to introduce simpler procedures for submitting requests for information, define the duty of public authorities to assist the public in obtaining information for a short period, and consider the possibility of creating an independent special (out-of-court) mechanism for reviewing decisions on the refusal of access to official information to properly implement this form of interaction [18];
- establishment by state authorities and non-governmental organisations of effective channels for

submitting complaints and suggestions from citizens related to the prevention and counteraction of corruption. This will create a favourable information field and increase the level of public confidence in their own ability to protect their rights and freedoms.;

- implementation by non-governmental organisations of public control over the activities of state authorities in the field of combating corruption in the form of public monitoring of the preparation and implementation of decisions, examination of their effectiveness, submission of expert proposals to public authorities. The main purpose of monitoring should be to ensure the accountability of public authorities to citizens. The object of monitoring can be a wide range of subjects: executive power structures, political parties, parliament, judicial and law enforcement agencies. Therewith, public authorities should not interfere with such monitoring, but rather fully promote its independent conduct [18];

- cooperation of state authorities and non-governmental organisations in the development of a policy of training and retraining of public administration personnel, joint training of officials and representatives of public organisations in the skills of effective interaction, familiarisation of the general population with the forms of their involvement in preventing and combating corruption [18].

The study outlined the key problems of public involvement in the prevention of corruption crimes in Ukraine. The study clarified the specific features of effective forms of interaction between citizens and public authorities in preventing corruption in such countries as Sweden, Finland, the United States, Austria, The Netherlands, the United Kingdom, and Denmark. The main forms of interaction between non-governmental organisations and state authorities in overcoming corruption in Ukraine were identified.

Conclusions

One of the defining problems of the implementation of anti-corruption international standards for public involvement is the unwillingness of the authorities to contribute to the implementation of these norms in practice, that is, in the country, there is a practice when the norms regarding public involvement in the prevention of corruption crimes are only declarative in nature, and the state authorities do not really want to cooperate with anti-corruption public organisations. The public should focus its efforts on creating mechanisms for "forcing" state authorities to work together. One of them may be the influence of both governmental and non-governmental international organisations.

The foundations of a successful national anti-corruption policy in Ukraine can be highlighted by the following provisions: strong political will of the top leadership of the state to fight corruption and formed on its basis a unified national policy towards

combating corruption, which would cover a set of measures of a state, political, economic, social, and legal nature; organised social control by civil society on the system of public administration in general (an indispensable condition for this is the creation of an environment of transparency), provided for

the possibility of violating criminal prosecution of offenders within these limits; strict accountability of persons with power to a truly independent body that monitors transparency it is also empowered to hold officials accountable, regardless of their place in the hierarchical structure of power.

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Зарубіжний досвід участі громадськості в запобіганні корупційним злочинам

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Анотація

Метою цієї статті є дослідження найпоширеніших практик залучення громадськості до запобігання корупційним злочинам у зарубіжних країнах і перспективи впровадження такого досвіду в Україні. Методологія. Методологічний інструментарій обрано відповідно до поставленої мети, специфіки об'єкта та предмета дослідження. Порівняльно-правовий метод застосовано під час аналізу чинного законодавства й міжнародних нормативних актів. Для досягнення поставленої мети використано загальнонаукові й спеціальні методи, які є інструментами наукового пошуку. Ідеться про структурно-функціональний і системний, формально-логічний, герменевтичний, антропологічний та інші методи, що надали можливість вивчити зарубіжний досвід участі громадськості в запобіганні корупційним злочинам. Спеціальним методом дослідження, використаним у статті, є метод системного аналізу. Наукова новизна публікації полягає в тому, що розглянуто досвід залучення громадськості до запобігання корупційним злочинам у зарубіжних країнах. З'ясовано, що в провідних країнах світу практика участі громадськості в антикорупційних заходах є достатньо поширеною. Ці заходи передбачають викривальну діяльність пересічних громадян, громадські обговорення, громадський контроль тощо. Висновки. Розгляд сучасної зарубіжної практики участі громадськості в запобіганні корупційній злочинності дає підстави для можливого запозичення її окремих складових з метою вдосконалення наявних форм взаємодії між громадськістю та державними органами в Україні, а також формування новітньої стратегії запобігання корупційній злочинності. Антикорупційний досвід розглядуваних країн є певним орієнтиром, до якого має прагнути кожна країна, зокрема й Україна. Основна їх перевага полягає в належному урядуванні, адже органи публічної влади, здійснюючи свої повноваження, усвідомлюють важливість власних дій для добробуту суспільства, оцінюють діяльність у сфері управління як престижну та цінують власну репутацію. Системне розв'язання низки проблем допоможе побудувати шлях до підвищення ролі та спроможностей громадянського суспільства у сфері запобігання корупції в Україні

Ключові слова:

запобігання злочинності; корупція; громадськість; зарубіжний досвід