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Presentation of legal norms of the anti-corruption policy in order to form the professional competence of higher education students

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Larysa Shchekhovska *
Yuriy Gavrylechko **
Vasyl Vakuliuk ***
Viktor Bardachov ****
Nataliia Husarina *****

Abstract

Using the scientific method, the main objective of the study was to identify key legal norms and aspects of anti-corruption policy in order to form the legal and professional competence of students of higher education institutions. One of the most pressing issues is corruption in public authorities and administration, which to a greater or lesser extent affects almost the entire system of public administration. A small number of criminal cases of bribery indicates a high level of latency of these crimes. The spread of this negative phenomenon is facilitated by the imperfection of legislation, in particular, economic legislation. A large number of laws, departmental instructions, orders, etc., which often contradict each other and thus create significant difficulties for the officials themselves and deprive them of any opportunity to understand the legislation regulating the matter. It is concluded that, many laws contain ambiguous language in the text, which allows officials to interpret their content in their favor.

Keywords: legal norms; anti-corruption policy; education; corruption; anti-corruption laws.

* Open International University of Human Development "Ukraine", Kyiv, Ukraine. ORCID ID: https://orcid.org/0000-0002-6119-166X

** Open International University of Human Development "Ukraine", Kyiv, Ukraine. ORCID ID: https://orcid.org/0000-0003-1930-7638

*** National University of Civil Defense of Ukraine, Kharkiv, Ukraine. ORCID ID: https://orcid.org/0000-0003-0701-0263

**** Specialist of faculty No. 1, Kryvyi Rih - educational scientific institute of the Donetsk State University of Internal Affairs, Kryvyi Rih, Ukraine. ORCID ID: https://orcid.org/0000-0002-1834-5483

***** Odessa Polytechnic National University, Odessa, Ukraine. ORCID ID: https://orcid.org/0000-0003-3418-9422

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Presentación especial de normas jurídicas y aspectos de la política anticorrupción del Estado para formar la competencia profesional de estudiantes de instituciones de educación superior

Resumen

Mediante el uso del método científico, el objetivo principal del estudio fue identificar normas y aspectos legales clave de la política anticorrupción para formar la competencia legal y profesional de los estudiantes de instituciones de educación superior. Uno de los temas más apremiantes es el de la corrupción en los poderes públicos y la administración, que en mayor o menor medida afecta a casi todo el sistema de la administración pública. Un pequeño número de casos penales de cohecho indica un alto nivel de latencia de estos delitos. La propagación de este fenómeno negativo se ve facilitada por la imperfección de la legislación, en particular, la legislación económica. Una gran cantidad de leyes, instrucciones departamentales, órdenes, etc., que a menudo se contradicen entre sí y crean, por lo tanto, dificultades significativas para los propios funcionarios y los privan de cualquier oportunidad de comprender la legislación que regula la materia. Se concluye que, muchas leyes contienen lenguaje ambiguo en el texto, lo que permite a los funcionarios interpretar su contenido a su favor.

Palabras clave: normas legales; política anticorrupción; educación; corrupción; leyes anticorrupción.

Introduction

Among the main processes of modern social development, most scientists distinguish globalization. However, government officials, politicians and scientists need to be aware of the many obstacles that inevitably accompany phenomena so important to society. And perhaps the most dangerous threat to the development of society is corruption. Today there is not a single country where corruption has been completely eradicated.

None of the socio-political and economic systems had, does not have and cannot have complete immunity to corruption. Corruption can exist for a long time even in developed democracies and open market economies. The difference lies not in the presence or absence of corruption as such, but in its scale, the nature of corruption manifestations, the impact on economic, social, political, legal and other processes (Kryshtanovych *et al.,* 2022).

On the one hand, corruption characterizes the main social relations carried out in the state and society, and on the other hand, it affects the

economy, politics, law, ideology, social psychology, etc. Corruption manifests the inefficiency of power, the imperfection of more important state and public institutions (Hutchinson *et al.*, 2018).

Thus, taking into account the analysis of the situation, we will determine the main problems that give rise to a high level of corruption in the world (Sylkin *et al.*, 2021):

1. Consistency, functionality of corruption and tolerance for it in society. The spread of corrupt methods of solving political, economic and social issues and legal disputes allows us to conclude that corruption is systematic and functional in all spheres of state and public life, even about the formation of such a phenomenon as a "corruption culture".
2. Legal nihilism and ineffectiveness of the principles of the rule of law. Corruption at the level of the formation of public authorities, the development and implementation of managerial decisions ceases to be a type of deviant behavior, acquiring the character of a social norm and turning into a kind of instrument of public administration. This undermines the legitimacy of government institutions, provokes the further spread of corruption at lower levels of government, and contributes to the establishment of legal nihilism and disbelief in the effectiveness of the principle of the rule of law in society.
3. Lack of significant results of anti-corruption policy. The rate of spread of corruption in the country indicates that the efforts of the state in this area do not provide tangible results, and individual targeted measures do not give grounds for deducing the adequacy of the fight against this social threat. The effectiveness of anti-corruption decisions made at the highest state level is reduced due to their deliberate blocking or ignoring.
4. Passivity of civil society institutions. The absence of powerful anti-corruption public organizations at the national level, which would effectively deal with the problems of preventing and combating corruption and would be influential partners of state authorities, reduces the effectiveness of the anti-corruption fight. This situation is exacerbated by the factor of "corrupt loyalty" of civil society institutions. A significant part of the population considers corrupt behavior quite justified. Citizens who have experienced corruption usually do not try to defend their own rights in a legal way because they are sure that such attempts will be in vain.

Despite the increased attention of the authorities to issues related to the prevention and counteraction to acts of corruption, their possible manifestations and conflicts of interest that may arise in the professional activities of a civil servant. The theoretical and legislative aspect of the

coverage of this problem is so perfect and polished that there are doubts about the presence of corruption offenses. However, the practical plane of the issue indicates the opposite - there are facts of corruption, although they contain many features, depending on personal connections, work contacts, scope, level of social significance, etc.

1. Materials and methods

For a more detailed study of the legal norms and aspects of the anti-corruption policy of the state, the following methods were used: induction and deduction, comparison and systematization; synthesis and analysis; abstract-logical - for theoretical generalizations and conclusions of the study.

To more accurately reflect the main norms and aspects of the anti-corruption policy of the state, we used the IDEF0 functional modeling method.

2. Literature review

Based on the results of the theoretical analysis, corruption as a basic concept of scientific knowledge belongs to the theoretical constructions of the highest level. Its theoretical (abstract) essence explains the inevitability of deploying its content in a system of subordinate concepts. To date, the conceptual apparatus on the problems of corruption has already been sufficiently developed and adapted to modern conditions (Gaitonde *et al.*, 2016). This was facilitated by the fact that the scale of the spread of corruption in the modern world makes it possible to classify it as one of the most dangerous phenomena for public administration and public life.

Studies of the problem of corruption in public authorities have now been updated and cover various areas - institutional and legal (sufficiency of legislative and regulatory means and methods of combating corruption), organizational and managerial (functionality in the distribution of power and control over their use by officials), an axiologist of the orientation of public employees), ethical and cultural (the moral state of the socio-professional environment of the public service), etc (Fisman and Gatti, 2002).

Based on the analysis of the literature, it is possible to identify a certain matrix model of counteracting dynamic and gravitating towards a certain universality of corruption, regardless of the type of legal family, the form of the state, the existing (previous) model of anti-corruption policy in the state for a certain time (Ivashova *et al.*, 2022). At the same time, the fundamental

basis of such a model is the institutional approach, according to which the determination of the expediency of creating a specialized body (structure) to combat corruption dominates. In general, the presence of specialized anti-corruption bodies is not in itself a guarantee of reducing corruption.

In general, the theoretical and methodological problem of the formation of a national anti-corruption policy in modern conditions is characterized by a combination of institutional, organizational, legal and administrative aspects of public administration. In the modern science of public administration there is no single approach to the formation of the concept of national anti-corruption policy (Navickas *et al.*, 2016).

After all, the need to form a conceptual framework for public administration (in this case, in the field of anti-corruption policy) is characteristic only of complex, dynamic systems, the internal characteristic of which is the presence of legal acts that characterize the content of anti-corruption policy, determine the subjects of corruption prevention and establish standards for management activities.

3. Research Results and Discussions

The current state of society, its socio-economic and political system, the presence of various forms of ownership, many social movements and political parties necessitate a revision of the basic legal concepts related to the sphere of service relations, which are understood as purely state, or are interpreted in a broad sense. It is clear that representatives of various related branches of scientific knowledge and social technologies can interpret its concepts in different ways.

Sociologists, for example, might argue that corruption is the abandonment of expected standards of behavior by government officials for illicit personal gain. According to the definitions offered by a certain part of specialists in the field of public administration, corruption is an unsanctioned, as a rule, condemned act with the aim of obtaining some significant personal gain (Sommersguter-Reichmann *et al.*, 2018).

Textbooks on criminal law have the following definition: in a broad sense, corruption is a social phenomenon that has struck the public administration apparatus, expressed in the decomposition of power, the deliberate use by state and municipal employees, other persons authorized to perform public functions, of their official position, status and authority of the position held for mercenary purposes for personal enrichment or in group interests (Kryshtanovych *et al.*, 2022).

In almost any case, we are talking about the interaction of the legal apparatus and society in the person of its citizens, groups or organizations.

It is also important that today many researchers realize that corruption is not only a subject of criminal law or criminological analysis, but a full-scale object of social phenomenology, a significant social phenomenon (Huss *et al.*, 2010).

Among the most common motivations for corruption are (Wierzynska *et al.*, 2020):

- feeling of instability and social insecurity;
- wages that do not correspond to the qualifications and nature of the service;
- career injustices;
- incompetence of the management and a negative example of the top bosses.

Systemic corruption leads to many negative consequences. Ultimately, all of them have serious political consequences - democracy becomes ineffective, trust in government decreases, the country's prestige in the international arena falls, and real political competition is distorted. To eliminate the causes and conditions conducive to the spread of corruption in public authorities and administration, it is necessary to take the following measures (Sylkin *et al.*, 2021):

- review laws and by-laws. Reduce their number to the necessary minimum, eliminate the existing contradictions, ambiguous wording, and provide for specific liability for non-compliance in the law itself.
- to create the necessary conditions for the population to get acquainted with the most important regulations. Oblige ministries and departments to publish by-laws in the media that affect the interests of the general population.
- to ensure observance of the principle of collegiality in all cases of making decisions vital for the population, to provide for the possibility of appealing these decisions to higher authorities and the court.
- to revise upwards the remuneration of employees of the apparatus of representative and executive power.
- the selection of candidates for public authorities and administration is carried out on a competitive basis with a thorough study of not only professional, but also personal qualities of the applicant.
- limit the immunity from justice of representatives of the legislative and executive authorities.

- to strengthen the work of law enforcement agencies in the fight against corruption, having previously created the necessary conditions for this, in particular, by providing in the new legislation the possibility of using the necessary additional means and the most difficult to detect methods of proving this category of crimes.

The guiding principle of all anti-corruption policy should be the constant increase in risks, cost of losses and levels of instability for government officials, business representatives and citizens involved in corruption (Kordík and Kurilovská, 2017). Otherwise, corruption will be perceived in society as a low-risk and highly profitable activity, in the sense that it is corruption relations that make it possible to solve problems reliably and quickly. Countering corruption by prohibiting relevant actions or large fines for their commission, including changing legal norms, is and will be ineffective due to the possibility of circumventing prohibitions, non-compliance with these legal norms or their use for personal or corporate interests, that is, for corrupt purposes (Mouselli *et al.*, 2016).

This guiding principle can be implemented in three main blocks of anti-corruption activities that could help reduce corruption in general and in some areas.

To do this, using the methodology of functional modeling, we have formed a contextual model for improving the legal aspects of anti-corruption activities at the country level. In Fig.1. the basic model for achieving the A0 goal is depicted - effective legal support for anti-corruption activities at the country level. This model demonstrates all the processes and resources necessary to achieve the ultimate goal A0.

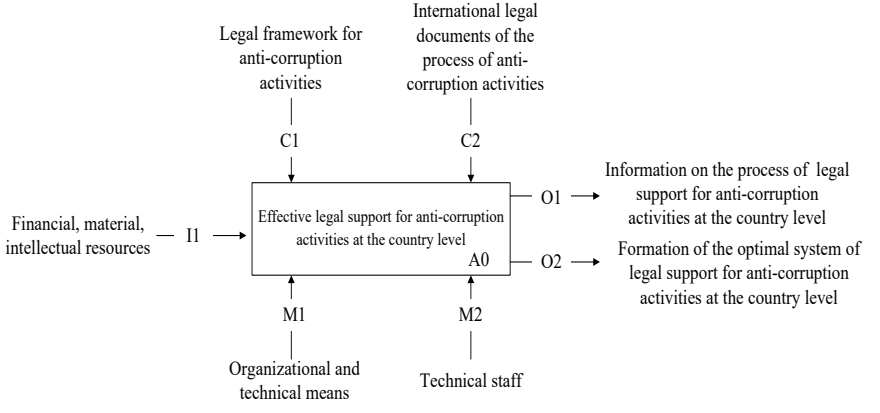

Fig.1. Basic model for achieving the A0 goal is depicted - effective legal support for anti-corruption activities at the country level. Source: prepared by the authors.

Having formed the basic model for achieving the A0 goal, the next step will be the formation of a contextual model for improving the legal aspects of anti-corruption activities at the country level (Fig. 2).

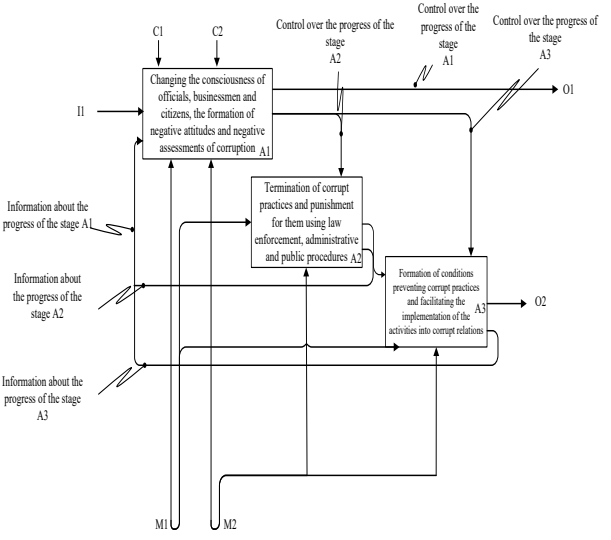

Fig.2. Contextual model for improving the legal aspects of anti-corruption activities at the country level. Source: prepared by the authors.

In addition, when determining the anti-corruption policy strategy, it is advisable to take into account the following fundamental principles (Kryshtanovych *et al.,* 2022): 1) the direction of the anti-corruption policy and the coordination of the activities of the authorities for its implementation; 2) systematic analysis of corruption risks; 3) conducting anti-corruption expertise of projects and existing regulatory legal acts; 4) a combination of efforts and ensuring effective interaction at the central and regional levels between executive authorities, their territorial divisions, other state authorities, local governments, enterprises, institutions and organizations, associations of citizens to implement the state anti-corruption policy.

Conclusions

Thus, the problems in the area under study require an integrated approach to their solution - a combination of theory and practice, because the level of corruption can be considered as a powerful de catalyst of reforms in any area.

The main goal of the anti-corruption policy should be the dismantling of the still quite powerful corruption system that has developed in the country through the implementation of effective legal norms and mechanisms. Next, there should be a change in the general priorities of state policy: the general interests of the majority of citizens should not be put in the first place. Anti-corruption activity of the state can be effective only if it is systematic. That is why we talk about anti-corruption policy as a system of interrelated priorities and anti-corruption measures that include political, organizational, economic, ideological and legal components.

Success in the implementation of anti-corruption policy and the formation of appropriate regulatory and legal norms should be the opening of opportunities for the growth of the national economy, improving the quality of life of the population and ensuring the fairness of public policy. It is these problems that should be the subject of further scientific research.

Bibliographic References

FISMAN, Rick; GATTI, Rui. 2002. "Decentralization and corruption: Evidence across countries" In: Journal of Public Economics. Vol. 83, pp. 325-345. Available online. In: https://doi.org/10.1016/S00472727(00)00158-4. Consultation date: 22/11/2022.

GAITONDE, R; OXMAN, Ad; OKEBUKOLA, Po; RADA, G. 2016. "Interventions to reduce corruption in the health sector" In: Cochrane Database Syst Rev. Vol. 16, No. 8. Available online. In: https://doi.org/10.1002/14651858. Consultation date: 27/11/2022.

HUSS, Robert; GREEN, Anna; SUDARSHAN, Henry; KARPAGAM, Steve; RAMANI, Kami; TOMSON, George. 2010. "Good governance and corruption in the health sector: lessons from the Karnataka experience" In: Health Policy and Planning. Vol. 26, No. 6, pp. 471–484. Available online. In: https://doi.org/10.1093/heapol/czq080. Consultation date: 22/11/2022.

HUTCHINSON, Eleanor; NAHER, Nahitun; ROY, Pallavi; MCKEE, Martin; MAYHEW, Sussanah; AHMED, Sued; BALABANOVA, Dina. 2018. "Targeting anticorruption interventions at the front line: developmental governance in health systems" In: BMJ Glob Health. Vol. 5, No. 12. Available online. In: https://doi.org/10.1136/bmjgh-2020-003092. Consultation date: 25/11/2022.

IVASHOVA, Ludmyla; LARIN, Stanislav; SHEVCHENKO, Natalina; ANTONOVA, Liudmyla; YURCHENKO, Serhii; KRYSHTANOVYCH, Myroslav. 2022. "Introduction of Smart Management into the System

of Public Management of Regional Development in the Context of Strengthening National Security of Ukraine" In: IJCSNS. International Journal of Computer Science and Network Security. Vol. 22, No. 9, pp. 369-375. Available online. In: https://doi.org/10.22937/IJCSNS.2022.22.9.49. Consultation date: 22/11/2022.

KORDÍK, Mark; KURILOVSKÁ, Larysa. 2017. "Protection of the national financial system from the money laundering and terrorism financing" In: Entrepreneurship and Sustainability. Vol. 5, No. 2, pp. 243- 262. Available online. In: https://doi.org/10.9770/jesi.2017.5.2(7). Consultation date: 22/11/2022.

KRYSHTANOVYCH, Myroslav; GORBAN, Iryna; KORNAT, Lesia; DYKYI, Anatolii; MARUSHKO, Nadiia. 2022. "Investment Support for the Digitalization of Socio-Economic Systems in the Context of Ensuring Security" In: IJCSNS. International Journal of Computer Science and Network Security. Vol. 22, No. 6, pp. 733-738. Available online. In: https://doi.org/10.22937/IJCSNS.2022.22.6.92. Consultation date: 23/11/2022.

KRYSHTANOVYCH, Myroslav; KRYSHTANOVYCH, Svitlana; CHUBINSKA, Nataliia; KHROMOVA, Yuliia; SYLKIN, Oleksandr. 2022. "The System of Public Administration in Educational Institutions in Rural Regions in the Context of the Development of Educational Culture" In: Revista Br asileira De Educação Do Campo. Vol. 07, e14140. Available online. In: https://doi.org/10.20873/uft.rbec.e14140. Consultation date: 22/11/2022.

KRYSHTANOVYCH, Svitlana; PROSOVYCH, Olha; PANAS, Yuliia; TRUSHKINA, Nataliia; OMELCHENKO, Victoria. 2022. "Features of the Socio-Economic Development of the Countries of the World under the influence of the Digital Economy and COVID-19" In: International Journal of Computer Science and Network Security. Vol. 22, No. 02, pp. 9-14. Available online. In: https://doi.org/10.22937/IJCSNS.2022.22.2.13. Consultation date: 22/11/2022.

MOUSELLI, Sam; ALJAZAERLI, Metti; SIROP, Rick. 2016. "Corruption and stock market development: new evidence from GCC countries" In: Business: Theory and Practice. Vol. 17, No. 02, pp. 117- 127. Available online. In: https://doi.org/10.3846/btp.2016.555. Consultation date: 22/11/2022.

NAVICKAS, Valentinas; NAVICKAS, Mykolas; KORDOŠ, Marcel. 2016. "Corruption effect on foreign direct investments in European Union countries" In: Business: Theory and Practice. Vol. 17, No. 4, pp. 299-306. Available online. In: https://doi.org/10.3846/btp.17.10863. Consultation date: 22/11/2022.

SOMMERSGUTER-REICHMANN, Mayk; WILD, Cevil; STEPAN, Aneta. 2018. "Individual and institutional corruption in European and US healthcare: overview and link of various corruption typologies" In: Appl Health Econ Health Policy. No. 16, pp. 1–24.

SYLKIN, Oleksandr; BOSAK, Iryna; HOMOLSKA, Victoria; OKHRIMENKO, Ivan; ANDRUSHKIV, Roman. 2021. "Intensification of Management of Economic Security of the Enterprise in the Post-Pandemic Space" In: Postmodern Openings. Vol. 12 (1Sup1), pp. 302-312. Available online. In: https://doi.org/10.18662/po/12.1Sup1/286. Consultation date: 27/11/2022.

SYLKIN, Oleksandr; BUHEL, Yuliia; DOMBROVSKA, Natalia; MARTUSENKO, Iryna; KARAIM, Myroslava. 2021. "The Impact of the Crisis on the Socio-Economic System in a Post-Pandemic Society" In: Postmodern Openings. Vol. 12, No. 01, pp. 368-379. Available online. In: https://doi.org/10.18662/po/12.1/266. Consultation date: 27/11/2022.

WIERZYNSKA, Aneta; STEINGRÜBER, Sarah; OROXOM, Roxanne; BAUHOFF, Sebastian. 2020. "Recalibrating the anti-corruption, transparency, and accountability formula to advance public health" In: Glob Health Action. Available online. In: https://doi.org/10.1080/16549716.2019.1701327. Consultation date: 27/11/2022.

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