

ANTI-CORRUPTION AS A COMPONENT OF STATE POLICY

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Abstract: The article aims to familiarize with the key provisions of the system for preventing and combating corruption and the requirements for the excellent behavior of persons authorized to perform the functions of the state or local government. The authors consider the general issues of corruption as a social phenomenon, the mechanism of corrupt relations, the dynamics of the development of corruption in Ukraine, and the structure of punishments for corrupt acts are studied. The study highlights the issues of state policy involving various civil society institutions and the general population in the fight against corruption. One of the critical aspects of current state legal policy in Ukraine is the system's reform for preventing and combating corruption. Achieving success in this process is a prerequisite for the formation of public confidence in the authorities, the growth of the state's economic potential, and the improvement of the welfare of Ukrainian citizens.

Keywords: Anti-corruption system, Corruption, Legal regulation, Socio-economic life, State policy.

1 Introduction

Over the last decades of modern history, such a socially dangerous phenomenon as corruption has undergone a qualitative change, turning from the category of individual independent crimes committed by some dishonest officials into a mass social reality that has become a standard component of socio-economic life in modern Ukraine. Moreover, corruption has become a systemic and highly profitable business for most officials at various levels. Corruption has become a social institution, streamlined and acquired stable organizational forms, a complex branched structure [12]. It involves multiple interconnected groups of people holding positions both in power structures at various levels and in numerous business structures. At the same time, corrupt activity has already become the "business style" of our century, familiar to state and municipal employees, entrepreneurs, managers, as well as ordinary people trying to profit from corruption.

The state, which is at the transitional stage of its development, is characterized by the presence of crisis phenomena in almost all sectors: political, economic, social. The post-Soviet countries, including Ukraine, did not escape this either. Recently, organized crime is gaining momentum, new qualities, and successfully functioning in connection with successful "cooperation" with officials. Moreover, not only public relations protected by law are violated, but new negative antisocial relations and ties are also formed. Of particular danger is the expansion of criminal formations, which contain a specific part of public servants for committing any actions favoring these groups.

Today in Ukraine, all branches of state power and administration are affected by corruption to one degree or another. The most corrupt structures are state targeted financing, exports and imports, privatization, licensing customs control and control, and audit activities.

The growing level of corruption, the merging of the criminal element with authorities at various levels, judicial and law enforcement agencies cause a reasonable protest from society

and citizens' distrust in state institutions' ability to ensure the protection of their constitutional rights [7]. At the same time, such sentiments are fertile ground for propaganda slogans and various extremist elements to incite xenophobia, ethnic hatred, etc. Dissatisfaction with the activities of state authorities, indignation at their inaction or arbitrariness, the inability to influence the activities and decisions of state bodies have repeatedly led to rallying citizens into an uncontrollable crowd, outbursts of anger, and riots.

2 Materials and Methods

A fundamentally new anti-corruption system is functioning in Ukraine, which is predominantly preventive and is focused on creating effective mechanisms for preventing corruption in society. Under such conditions, the importance of the requirements for the exemplary behavior of persons authorized to perform the state or local self-government functions, which they must assimilate as the norms of everyday behavior, is enhanced.

The reform of the anti-corruption system began with the President of Ukraine of the National Anti-Corruption Committee and the further adoption of some legislative acts, among which the Law of Ukraine "On the Principles of Preventing and Combating Corruption" is the key one. In practical terms, the main directions of the state anti-corruption policy are enshrined in the National Anti-Corruption Strategy.

Article 3 of the Law of Ukraine, "On the principles of preventing and combating corruption," defines the following basic principles for preventing and combating corruption:

- The rule of law;
- Legality;
- Comprehensive implementation of legal, political, socio-economic, information and other activities;
- Priority of preventive measures;
- Inevitability of liability for committing corruption offenses;
- Openness and transparency of activities of public authorities and local governments;
- Participation of the public in measures to prevent and combat corruption, state protection of persons assisting in the implementation of such measures;
- Ensuring the restoration of violated rights and legitimate interests, compensation for losses, damage caused by a corruption offense [10].

From this list, it follows that it is the prevention of corruption through several mechanisms established by law, including active cooperation with the public, that is a priority approach in the issue of overcoming corruption.

At the same time, an anti-corruption policy can only be effective if there are accurate and effective tools for combating corruption, particularly based on institutions of responsibility and the use of traditional law enforcement methods. It is impossible to overcome corruption without the inevitable onset of responsibility for committing a corruption offense. Simultaneously with the Law of Ukraine "On the Principles of Preventing and Combating Corruption", the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Liability for Corruption Offenses" came into force, which defines the elements of crimes in the field of official activity and professional activity related to the provision of public services, and administrative corruption offenses [59].

The key to the successful fulfillment of minimizing manifestations of corruption is to ensure an adequate level of knowledge of anti-corruption legislation both by representatives of state bodies and local governments and by society as a whole. On the one hand, this contributes to the effective operation of preventive anti-corruption mechanisms established by law. On

the other hand, it increases citizens' legal awareness, which reduces the risk of violation of their fundamental rights and freedoms in everyday life and contributes to the formation of an intolerant attitude towards manifestations of corruption among the population.

2.1 Definition of Basic Terms

To form a clear understanding of national anti-corruption standards, it is necessary to clarify the essence of crucial legislative terms. Such definitions are given in Article 1 of the Law of Ukraine, "On the principles of preventing and combating corruption." However, in other acts of legislation, they are most often used with a direct reference to the primary anti-corruption Law.

These terms include the following:

Corruption. The definition of this concept is possible in different planes. In the general social understanding, corruption includes illegitimate use of the official property for personal purposes. The anti-corruption legislation provides a *legal definition of corruption*, based on which derivative legislative terms are formulated. The Law of Ukraine "On the Principles of Preventing and Combating Corruption" provides for the following definition: *corruption* is the use by a person specified in part one of Article 4 of this Law (in this case, a list of subjects of responsibility for corruption offenses is given), the official powers granted to him and related opportunities to obtain an unlawful benefit or accepting a promise/offer of such benefit for oneself or other persons, or, accordingly, a promise/offer or provision of an illegal benefit to a person specified in the first part of Article 4 of this Law, or at his request to other individuals or legal entities, in order to persuade this person to the unlawful use of the official powers granted to him and related opportunities [9].

A *corruption offense* is defined as an intentional act containing signs of corruption committed by a person specified in the first part of Article 4 of this Law, for which Law establishes criminal, administrative, civil, and disciplinary liability [21].

It should be noted that corruption offenses include several specific offenses that do not have signs of corruption but are a significant violation of the requirements of anti-corruption legislation to prevent corruption [1-4]. We are talking, in particular, about violation of the requirements of financial control, violation of the conditions for notification of a conflict of interest, failure to take measures to combat corruption, the responsibility for which is provided for by Chapter 13-A, "Administrative Corruption Offenses" of the Code of Ukraine on Administrative Offenses.

Illegal benefit. This term is one of the key ones in the anti-corruption legislation in general and in the legislation on liability for corruption offenses. At the same time, this term replaced the concept of a bribe in Ukrainian legislation [12].

Following the said Law, an *illegal benefit* is money or other property, benefits, benefits, services, intangible assets that, without legal grounds, promise, offer, provide or receive free of charge or at a price below the minimum market price.

Other definitions given in the Law are derived or related to the basic concepts. Their definition and ways of interpretation will be considered in the context of particular special topics.

2.2 Subjects of Responsibility for Corruption Offenses

The Law of Ukraine "On the Principles of Preventing and Combating Corruption" provides an exhaustive list of persons recognized as subjects of liability for corruption offenses. Such a list makes it possible to outline the circle of those who may be held liable for the relevant violations and persons obliged to comply with the anti-corruption restrictions and obligations established by Law [11]. Under Article 4 of the said Law, the subjects of liability for corruption offenses are:

1. Persons authorized to perform the functions of the state or local government:

a) President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, his First Deputy and other Deputies, Prime Minister of Ukraine, First Vice Prime Minister of Ukraine, Deputy Prime Ministers of Ukraine, ministers, other heads of central executive bodies that are not members of the Cabinet Ministers of Ukraine and their deputies, Chairman of the Security Service of Ukraine, Prosecutor General of Ukraine, Chairman of the National Bank of Ukraine, Chairman of the Accounts Chamber, Commissioner of the Verkhovna Rada of Ukraine for Human Rights;

b) People's deputies of Ukraine, deputies of local councils;

c) Civil servants, officials of local self-government;

d) Military officials of the Armed Forces of Ukraine and other military formations created by the laws, except for military service members of fixed-term military service;

d) Judges of the Constitutional Court of Ukraine, other professional judges, Chairman, members, disciplinary inspectors of the High Qualifications Commission of Judges of Ukraine, officials of the secretariat of this Commission, Chairman, Deputy Chairman, secretaries of sections of the High Council of Justice, as well as other members of the High Council of Justice, people's assessors and jurors (during the performance of these functions);

e) Persons of the rank and file and commanding staff of the internal affairs bodies, the state penitentiary service, the State Service for Special Communications and Information Protection of Ukraine, tax police, persons of the commanding staff of civil protection bodies and units;

f) Officials and employees of the prosecutor's office, the Security Service of Ukraine, the diplomatic service, the customs service, the state tax service;

g) Members of the Central Electoral Commission;

2. Persons who, for the purposes of this Law, are equated to persons authorized to perform the functions of the state or local self-government [13]:

a) Officials of legal entities of public Law, not specified in clause 1 of part one of this Article;

b) Persons who are not civil servants, officials of local self-government, but provide public services (auditors, notaries, appraisers, as well as experts, arbitration managers, independent intermediaries, members of labor arbitration, arbitrators during the performance of these functions, others persons in cases prescribed by law);

c) Officials of foreign states (persons holding positions in the legislative, executive, or judicial body of a foreign state, including jurors, other persons exercising the functions of the state for a foreign state, in particular for a state body or a state enterprise), as well as foreign arbitrators, persons who are authorized to resolve civil, commercial or labor disputes in foreign countries in an alternative to the judicial procedure;

d) Officials of international organizations (employees of an international organization or any other persons authorized by such an organization to act on its behalf), as well as members of international parliamentary assemblies to which Ukraine is a member, and judges and officials of international courts.

3. Persons who permanently or temporarily occupy positions related to the performance of organizational and administrative or administrative and economic duties, or who are specially authorized to perform such tasks with legal entities of private law, regardless of the executive and legal form, per the Law.

4. Officials and employees of legal entities, if they receive an unlawful benefit, or the persons specified in paragraphs 1 and 2

of part one of this article receive from them, or with the participation of these persons by other persons of an unlawful benefit [59].

5. Natural persons, if the persons specified in paragraphs 1-4 of part one of this article receive from them, or with the participation of these persons by other persons, undue benefits [11].

It is essential for employees who, under their position or following their powers, are connected with the state or municipal sphere to identify themselves with the categories of subjects of responsibility listed in the Law [5, 6]. However, the practice of the first years of application of the new anti-corruption legislation shows the presence of certain difficulties in such identification. For example, it turned out to be difficult to classify certain employees of state or municipal institutions and organizations as entities such as "officials of legal entities of public law," i.e., a group of persons who are equated with persons authorized to perform the functions of the state or local governments. To determine the status of such persons, the following should be taken into account:

A. The main criterion for referring a person to the circle of officials in the presence of organizational and administrative or administrative and economic functions [23].

B. In accordance with the judicial practice that has developed and is reflected in the relevant generalization of the Supreme Court of Ukraine, organizational and administrative responsibilities are obligations to manage the industry, labor collective, work area, production activities of individual workers in enterprises, institutions or organizations, regardless of ownership. Such functions are performed, in particular, by the heads of ministries, other central executive authorities, state, collective or private enterprises, institutions and organizations, their deputies, leaders of structural units (heads of workshops, heads of departments, laboratories, departments), their deputies, persons, supervising work sites (masters, foremen, foremen, etc.). At the same time, administrative and economic duties are understood as duties for the management or disposal of the state, collective or private property (establishing the procedure for its storage, processing, sale, ensuring control over these operations, etc.). Heads of planning and economic, supply, financial departments and services, authorities of warehouses, shops, workshops, ateliers, their deputies, heads of departments of enterprises, departmental auditors and controllers, etc., have such powers to one extent or another [26].

C. Following the third paragraph of the second part of Article 81 of the Civil Code of Ukraine, a legal entity of public Law is created by an administrative act of the President of Ukraine, a public authority, or a local government [45].

3 Results and Discussion

The legislation establishes several provisions, which in terms of content are restrictions and prohibitions on certain types of behavior of officials. In terms of their purpose, these are means of preventing corruption. Therefore, it is necessary to know, understand and observe such provisions in their daily activities. In addition, the legislation establishes requirements and procedures aimed at preventing corruption [25]. All these tools constitute a complex of anti-corruption mechanisms that act as "barriers" to commission corruption offenses.

3.1 Restriction on the Use of Official Position

The use of official positions cannot be contrary to the public interest for personal gain. Article 6 of the Law of Ukraine, "On the Principles of Preventing and Combating Corruption," establishes some restrictions on the use by subjects of responsibility for corruption offenses of their official position.

Such restrictions apply to a circle of persons clearly defined by law:

- 1) Persons authorized to perform the functions of the state or local government;
- 2) Persons who, for the purposes of anti-corruption legislation, are equated with persons authorized to perform the functions of the state or local government;
- 3) Persons who permanently or temporarily occupy positions related to organizational and administrative or administrative and economic duties or are specially authorized to perform such duties with legal entities of private law, regardless of the organizational and legal form, following the law.

3.2 Types of Restrictions and Prohibitions

The legislation contains a general ban on the misuse of one's official position and a list of forms (varieties) of inappropriate behavior. Although this list is not exhaustive, it covers all the main types of situations encountered in practice. These persons are prohibited from using their official powers and related opportunities to obtain illegal benefits or in connection with the acceptance of a promise/offer of such benefits for themselves or other persons, including illegally:

- 1) Assist individuals or legal entities in carrying out their economic activities, obtaining subsidies, subventions, subsidies, loans, benefits, concluding contracts (including for the purchase of goods, works, and services for public funds);
- 2) Promote the appointment of a person;
- 3) To interfere in the activities of public authorities, local self-government bodies, or officials;
- 4) Provide an advantage to individuals or legal entities in connection with the preparation of projects, the issuance of regulatory legal acts and the adoption of decisions, the approval (agreement) of conclusions.

It is important to determine how the concepts of legality and illegality of actions correlate with understanding these provisions [8, 14-19]. Law enforcement practice recognizes the compliance of officials' actions with the requirements of laws or other regulatory legal acts as a single criterion for such an assessment.

That is, the recommended approach is that the concept of "lawful actions" should be understood as the actions of officials that meet the requirements of laws and other regulatory legal acts. In turn, the illegal actions of officials violate the provisions of the law in the performance of their official duties.

The restriction on dual employment and combination applies exclusively to persons authorized to perform the state or local government (paragraph 1 of part one of Article 4 of the Law "On the principles of preventing and combating corruption").

Following paragraph 1 of part one of Article 7 of the Law of Ukraine, "On the principles of preventing and combating corruption," the above persons are prohibited from engaging in other paid (except for teaching, scientific and creative activities, medical practice, instructor and judicial practice in sports) or entrepreneurial activities, if otherwise provided by the Constitution or laws of Ukraine.

In fact, we are talking about two significantly different situations in this case. First, a ban on other paid activities. Under such activity, "other paid activity" should be understood as any activity aimed at generating income and not related to the performance by a person of his official duties to perform the functions of the state or local government.

At the same time, such a ban does not apply to teaching, scientific and creative activities, medical practice, instructor and referee practice in sports.

Special legislation allows for some specification of these provisions. Thus, characterizing the concept of "scientific activity," one should proceed from the fact that Article 1 of the Law of Ukraine "On Scientific and Scientific and Technical

Activities" provides that scientific activity is a creative intellectual activity aimed at obtaining and using new knowledge. Its primary forms are fundamental and applied scientific research [50].

Under Article 4 of this Law, the subjects of scientific, scientific, and technical activities are scientists, scientific workers, scientific and pedagogical workers, scientific institutions, scientific organizations, higher educational institutions of III-IV levels of accreditation, and public organizations in scientific and scientific-technical activities.

Although the legislation does not contain a definition of the term "teaching activity," law enforcement practice proceeds from the fact that the relevant provisions on pedagogical activity can be applied in this case; this term is used in the legislation on education [20, 22]. In particular, under the laws of Ukraine "On Education," "On General Secondary Education," "On Higher Education," "On Scientific and Scientific and Technical Activities" and "On Vocational Education," this term covers the activities of the teaching staff of the relevant educational institutions [52, 53].

Regarding the definition of the term "creative activity," it should be noted that according to subparagraph 21 of Article 1 of the Law of Ukraine "On Culture" and part four of Article 1 of the Law of Ukraine "On Professional Creative Workers and Creative Unions," creative activity is an individual or collective creativity, the result of which is the creation or interpretation of works of cultural value.

In accordance with the State Classifier of Ukraine "Classification of organizational and legal forms of management", approved by order of the State Committee of Ukraine on technical regulation and consumer policy No. 97, creative activity is defined as an individual or collective creativity of professional creative workers, the result of which is work or its interpretation that has cultural and artistic value (subclause 3.7.8.2 of clause 3.7 "Associations of citizens, trade unions, charitable organizations and other similar organizations" of section 3 "Objects of organizational and legal forms of management").

In the legislation on health care, the definition of the term "medical practice" is available only in the Licensing conditions to implement economic activities in medical practice [24, 27-30]. This is a type of economic activity in the field of healthcare, which health care institutions and individuals carry out – entrepreneurs who meet uniform qualification requirements, to provide types of medical care specified by law and medical care. However, it should be considered that this term is explicitly intended for application to economic activities in the relevant area [51]. At the same time, in the context of anti-corruption legislation, we are not talking about financial or entrepreneurial activities for the implementation of medical practice but about the possibility of engaging in it in the state or municipal healthcare institutions.

The legislation does not define the concept of "instructor and referee practice in sports." Therefore, these issues still require separate legislative regulations. An example of establishing more stringent restrictions on concurrent employment with other types of activity compared to those provided for by this Law is the provision of part one of Article 120 of the Constitution of Ukraine, according to which members of the Cabinet of Ministers of Ukraine, heads of central and local executive authorities do not have the right to combine their official activities with other work, except for teaching, scientific and creative work outside of working hours, to be a member of the governing body or supervisory board of an enterprise aimed at making a profit [51].

3.3 Gifts

Anti-corruption legislation clearly outlines the list of persons with special requirements for receiving gifts. These include:

1. Persons authorized to perform the functions of the state or local self-government (paragraph 1 of the first part of Article 4 of the Law of Ukraine "On the principles of preventing and combating corruption").
2. Two categories of persons who are equated to persons authorized to perform the functions of the state or local self-government:
 - Officials of legal entities of public Law, not specified in paragraph 1 of the first part of Article 4 of the said Law;
 - Persons who are not civil servants, officials of local self-government, but provide public services (auditors, notaries, appraisers, as well as experts, arbitration managers, independent intermediaries, members of labor arbitration, arbitrators in the performance of these functions, other persons in cases prescribed by law).

In accordance with the first part of Article 8 of the Law of Ukraine, "On the principles of preventing and combating corruption," these persons are prohibited from:

- Accept gifts (donations) for decisions, actions or omissions in the interests of the donor, which are accepted, are made both directly by such a person and with his assistance by other officials and bodies, i.e., in the form of a so-called "veiled" bribe;
- It is forbidden to accept any gift (donation) from a subordinate person.

The general prohibition has exceptions - "permitted" gifts and donations. These include the following:

1. Gifts that meet generally accepted notions of hospitality and donations, subject to two conditions:

- Such gifts or donations cannot be accepted for decisions made, actions or omissions in the interests of the donor, which are accepted, are made both directly by the person to whom the gift or donation is provided, and with his assistance by other officials and bodies;
- If the value of such gifts (donations) does not exceed 50 percent of the minimum wage established on the day the gift (donation) is accepted, one-time, and the total value of such gifts (donations) received from one source during the year - one minimum wage established on January 1 of the current year [31-36]. The amount of the minimum wage is established in the Law of Ukraine on the State Budget annually.

The Law establishes cases to which the aforementioned rule regarding the number of gifts (donations) does not apply. This applies in particular to gifts that:

2. Gifts presented by loved ones. The Law defines the following categories as close persons:

- Husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, sibling, sister, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, a great-grandson, great-granddaughter, adoptive parent or adoptee, guardian or trustee, a person under guardianship or guardianship;
- Persons who live together are connected by ordinary life and have mutual rights and obligations with the entity specified in the first part of Article 4 of this Law, including persons who live together but are not married.

3. Gifts are obtained as public discounts on goods, services, available winnings, prizes, premiums, bonuses.

Taking into account the requirements of the Law, personal gifts include gifts received from relatives, old friends, and good acquaintances who present gifts on the occasion of, for example, a birthday, anniversary, or generally recognized holiday (New Year, International Women's Day, Defender of the Fatherland Day, etc.), in conditions provided that their gifts will not affect the adoption by persons authorized to perform the state or local

self-government functions, by certain persons equated to them, of unlawful decisions or will not create the impression that this may influence their decisions.

The gifts that these individuals will accept may include both business gifts (souvenirs) and modest hospitality (invitation to coffee or dinner), which are widely used to establish good business relationships and strengthen working relationships [37-40]. However, the conditions for accepting such gifts and hospitality are, again, that such gifts and hospitality will not be permanent, will not influence the decision making of the said persons, or will not give the impression that it may influence their decisions [7].

Performance practice requires the definition and understanding of the rules of conduct in situations of receiving or offering to receive an illegal gift. In such cases, one should be guided by the provisions of Article 16 of the Law of Ukraine "On the Rules of Ethical Conduct", which defines in a complex the rules aimed at preventing the receipt of illegal benefits or gifts (donations).

Situation one: Receiving an offer of an illegal donation or gift.

First of all, it is necessary to clearly define whether a gift (donation) is "illegal." To do this, use the provisions on the acceptability of a gift, which have already been discussed above. In addition, it should be assumed that it is prohibited to accept an unlawful benefit or gift (donation) for later use as evidence. In the event of an offer of an unlawful benefit or a gift (donation), despite personal interests, officials immediately take the following measures:

- Refuse the offer;
- If possible, identify the person who made the offer;
- Involve witnesses, if possible, including from among colleagues at work;
- Inform in writing about the proposal to the immediate supervisor (if any) or the relevant elected or collegial body or one of the specially authorized subjects in the field of combating corruption determined by the Law of Ukraine "On the principles of preventing and combating corruption."

Situation two: Identify a gift or donation (e.g., workplace, etc.).

Suppose a person authorized to perform the state or local self-government functions finds an unlawful benefit or gift (donation) in his office or otherwise transferred. In that case, he is obliged to inform his immediate supervisor immediately, but no later than one working day, about this fact in writing.

An act is drawn upon the identification of an illegal benefit or gift (donation), which is signed by a person authorized to perform the functions of the state or local government, who discovered an illegal benefit or gift (donation), and his immediate supervisor [41-43].

If an unlawful benefit or gift (donation) is discovered by a person authorized to perform the functions of the state or local self-government, who is the head, an act on the identification of an unlawful benefit or gift (donation) is signed by this person and the person holding the position of deputy head of this body. Items of unlawful benefit, gifts (donations) are stored in the authority until they are transferred to the relevant authorities [11].

3.4 Official Gifts

Special rules should be observed with regard to gifts received as gifts to the state, the territorial community, state or municipal institutions or organizations [44, 45]. As a rule, such gifts take place during visits, celebrations, and other official events.

In this case, the person who received the gift is obliged to transfer it to the body, institution, or organization determined by the Cabinet of Ministers of Ukraine. The Procedure for the transfer of gifts received as gifts to the state, the territorial

community, state or municipal institutions or organizations, approved by the Cabinet of Ministers of Ukraine dated November 16, 2011 No. 1195. The specified Procedure, in particular, provides for the creation by the relevant body of a commission to assess a gift, addressing the issue of the possibility of its use, place, and period of storage. Approximate regulation on the commission on the issues of valuation, resolving the issue of the possibility of using, place and period of storage of a gift received by a person as a gift to the state, a territorial community, a state or municipal institution or organization was approved by order of the National Agency of Ukraine for Civil Service Issues dated December 26, 2011 No. 86.

3.5 Restriction on the Work of Relatives

Restrictions on the work of relatives apply to:

- a) Persons authorized to perform the functions of the state or local self-government (paragraph 1 of part one of Article 4 of the Law "On the principles of preventing and combating corruption"), except for people's deputies of Ukraine, and deputies of local councils;
- b) Officials of legal entities of public Law who receive wages from budgetary funds.

Following the first part of Article 9 of the Law of Ukraine, "On the Principles of Preventing and Combating Corruption," these persons cannot have directly subordinate persons close to them or be directly subordinate in connection with the exercise of powers to persons close to them [52].

Direct subordination – relations of direct organizational or legal dependence of a subordinate person on his manager, including by solving (participating in solving) issues of hiring, dismissal from work, applying incentives, disciplinary sanctions, providing instructions, instructions, monitoring their implementation [46-49]. At the same time, the presence of at least one of the listed powers of the head concerning a close person subordinate to him is considered to be a relationship of direct organizational or legal dependence of a subordinate person on his head [51].

The Law defines the following persons as close persons:

- a) Husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, sibling, sister, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, a great-grandson, great-granddaughter, adoptive parent or adoptee, guardian or trustee, a person under guardianship or guardianship;

- b) Persons who live together are connected by common life and have mutual rights and obligations with the entity specified in the first part of Article 4 of this Law, including persons who live together but are not married [53].

This restriction does not apply to:

- a) People's assessors and jurors;
- b) Close persons who are directly subordinate to each other in connection with the stay of each of them in an elective position;
- c) Persons working in rural settlements (except for those that are district centers), as well as mountain settlements;
- d) Persons working in education, science, culture, healthcare, social protection, physical culture, and sports, except for state bodies and local governments.

In accordance with Article 5 of the Law of Ukraine, "On the status of mountainous settlements in Ukraine," the status of a person living and working (studying) in the territory of a settlement, which has been assigned the status of a mountainous one, is granted to citizens who permanently reside, work permanently or study at daytime departments of educational

establishments in this locality, about which citizens are issued a certificate of the established form by the executive body of the relevant local council [54, 56-58]. Suppose an enterprise, institution, or organization is located outside the settlement, which has been granted the status of a mountain. It has branches, representative offices, departments, other separate divisions, and jobs in settlements that have the status of a hill for employees permanently working in them. In that case, the status of a person who lives and works (studies) in the territory of a settlement that has been granted the status of a mountain is extended [21].

It must be borne in mind that the specified restriction essentially consists of two separate prohibitions: to have subordinates of close persons or to be directly subordinate to them. Therefore, for example, a situation where close persons are in a relationship of direct subordination, and at the same time the subordinate person works in the countryside, and the headworks in the city, requires settlement, since there is a violation of the restriction by the person who is the head.

3.6 Measures to Prevent Direct Reporting

First of all, the avoidance of violations of this restriction is facilitated by a clear awareness by officials of its content and possible negative consequences. In addition, unique preventive mechanisms are defined by law.

For example, persons specified in subparagraphs "a," "c" – "g" of paragraph 1 and subparagraph "a" of paragraph 2 of part one of Article 4 of the Law "On the principles of preventing and combating corruption" (except for people's assessors and jurors) are prohibited from taking participation in the work of collegiate bodies when considering issues related to the appointment of persons close to them, and in any other way influence the adoption of such a decision. Similar provisions are contained in separate special laws [25].

In addition, persons applying for the positions specified in the mentioned provisions of Article 4 of the Law are obliged to notify the management of the body in which they are applying for the position of persons close to them working in this body.

3.7 Actions when a Constraint Violation Occurs

The law clearly defines the algorithm of actions in the case when, nevertheless, direct subordination relations have arisen. Such a situation may, for example, take place in the event of the election of one of the close persons to an elected leadership position, while another close person is already working in another non-elected position in the same body and, due to the fact of the election, finds himself in conditions of direct subordination to a close person [55].

In relevant circumstances, close persons are given fifteen days for their independent elimination. Suppose these circumstances are not voluntarily eliminated within the specified period. In that case, the relevant persons or persons close to them, within a month from the moment the circumstances arise, are subject to transfer in the prescribed manner to another position that excludes direct subordination. In case of impossibility of such transfer, the subordinate person shall be subject to dismissal from his position. The corresponding grounds for dismissal are separately provided for in the Labor Code of Ukraine (paragraph 4 of part one of Article 41), as well as individual laws that regulate the activities of bodies or services (for example, paragraph 8 of part two of Article 46 of the Law of Ukraine "On the Prosecutor's Office", paragraph 11 of part second article 12 of the Law of Ukraine "On the State Service for Special Communications and Information Protection of Ukraine").

3.8 Restriction on Persons who Have Resigned from Their Positions or Terminated Activities Related to the Performance of the Functions of the State, Local Self-Government

Article 10 of the Law of Ukraine, "On the Principles of Preventing and Combating Corruption," provides for a restriction

on persons who have resigned from their positions or ceased activities related to the performance of the functions of the state, local self-government.

It should be noted that the introduction of such a restriction is a generally recognized international anti-corruption standard.

Thus, Article 12 of the UN Convention against Corruption, among the instruments aimed at preventing corruption in the private sector, provides for the prevention of conflicts of interest by imposing restrictions, in appropriate cases and for a reasonable period, on the professional activities of former public officials in the private sector after their retirement, or retired, if such activity or work is directly related to the functions that such public officials performed during their tenure or over which they supervised.

The need to introduce such a restriction follows from the Recommendation of the Committee of Ministers of the Council of Europe on codes of conduct for public officials [60, 61]. By its nature, the said preventive mechanism aims to minimize the risks of a conflict of interest when an employee transfers to another job not related to the performance of state functions, to minimize cases when a person illegally creates especially favorable conditions for institutions, enterprises, organizations where he plans to work after leaving the public service or uses in a new position official information or other opportunities of his former position in the service.

The mentioned article of the Law provides for three types of such restrictions, which have specific shared characteristics. First of all, unlike all others, these restrictions do not apply to employees but to persons who have ceased to be in public service.

Another feature that should be noted is the fixed period of validity of such restrictions, namely one year from the date of termination of service [62]. Such a relatively short period is optimal, given the inadmissibility of establishing excessive restrictions for citizens who have resigned from state bodies or local governments. But, on the other hand, such a period is sufficient to eliminate or significantly weaken the ability of a person to use his previous official position in bad faith.

The first type of restrictions is the prohibition to conclude employment contracts (contracts) or to make transactions in the field of entrepreneurial activity with enterprises, institutions, or organizations, regardless of the form of ownership or natural persons – entrepreneurs, if the persons specified in paragraph one of this part, within a year before the date of termination performing the functions of the state or local self-government exercised the authority to control, supervise or prepare or make appropriate decisions regarding the activities of these enterprises, institutions or organizations or individuals – entrepreneurs [52]. The presence of such a restriction in the Law aims to prevent cases when a person holding a position "prepares" a workplace for himself in advance at an enterprise or organization that he controls or otherwise influences their activities. In addition, this restriction prevents bias in the activities of employees.

The second type of restrictions provided for persons who have ceased activities related to the performance of the functions of the state or local self-government is the prohibition to disclose or otherwise use in the information of their interest that became known to them in connection with the performance of their official powers, except in cases established by law.

This restriction prevents a person from using, in bad faith, specific information obtained in the performance of official duties for private interests. After all, cases are not ruled out when, while in the service, a person receives certain official information, which he can later use in the interests of a future employer or the process of direct implementation of one or another private practice.

The third limitation is the prohibition of persons who have ceased service to represent the interests of any person in cases (including those pending before the courts) in which the other party is the body (bodies) in which (which) they worked.

This restriction helps prevent unfair use by a former employee of his connections in the course of his usual activities. This rule, for example, is quite relevant for lawyers, among whom the practice of representing the interests of citizens or legal entities after the termination of public service or work in law enforcement and regulatory structures, including in the process of advocacy, is common.

Another characteristic feature of the Ukrainian model of restrictions for persons who have ceased public service is the absence of separately established liability for their violation.

Thus, violation of the restriction on the conclusion of labor agreements and transactions in the field of entrepreneurial activity may entail legal consequences in the form of recognizing the relevant agreement or transaction as invalid.

As for the violation of the restriction on the representation of the interests of a particular physical, legal entity, in this case, we can talk about certain procedural consequences (if there was a representation of interests in court) or, again, about the invalidity of the agreements reached during such representation (for example, in the case of representation of interests in commercial transactions, etc.).

3.9 Special Check

A special check (verification) of information concerning persons applying for positions related to the performance of state or local government functions was introduced to improve the quality of the selection of candidates for positions related to the performance of state or local government functions and to prevent admission in the service of persons who, if appointed, would have a conflict of interest. This mechanism allows the manager to obtain comprehensive information about the candidate and make an objective decision or refuse the appointment [53].

Persons applying for positions related to the performance of the functions of the state or local self-government are subject to special verification, except for:

- 1) Candidates for the post of the President of Ukraine, candidates for people's deputies of Ukraine, candidates for deputies of the Verkhovna Rada, local councils, and for the positions of the village, settlement, city heads, for whom such verification is determined by the electoral legislation;
- 2) Persons appointed by way of transfer to another position within the same state authority (state body) or local government body, by way of transfer to work from one state authority (state body) or a local government body to another;
- 3) Persons appointed in the order of transfer of a person who worked in a public authority (state body), which is terminated, to work in another state authority (state body), to which the powers and functions of the completed state authority (state body) are transferred.

The last two exceptions do not apply to appointments made by the President of Ukraine or the Cabinet of Ministers of Ukraine.

A candidate for a position, in respect of which a special check has already been carried out, upon appointment, transfer to a position in another state body, the local self-government body notifies the relevant body, which, in the prescribed manner, requests information about its results [10].

In particular, according to the procedure, the body in which the person is applying for a position, no later than the next business day after receiving a notification from the candidate, sends to the last place of his work (service), where a special check was carried out, a request for a copy of a certificate of the results of a

special check, after receipt of which the issue of appointment to the position is being considered [59].

A copy of the certificate of the results of a special inspection is provided by the relevant state authority (state body), a local government within five working days from the date of receipt of the request. At the same time, the request for a certificate of the previous special inspection is carried out regardless of the presence or absence of grounds for conducting a new special inspection. Thus, the issue of appointing a person in the event that a new special audit is being carried out against him is considered based on the results of such an audit and after receiving a copy of the certificate of the previous audit. In the event that a special inspection is not carried out, the issue of appointing a person is considered after receiving a copy of the certificate of the previous special inspection [55].

4 Conclusion

Corruption is a complex phenomenon, a product of society's economic, political, and social state. The origins of this phenomenon go far back into our history. Therefore, the effectiveness of the anti-corruption policy of the state most directly depends on the state of its personnel, which should not only be as accessible as possible from corruption relations but also actively contribute to the implementation of anti-corruption mechanisms. In this regard, the role and importance of anti-corruption education in the process of forming socially responsible personnel, who are distinguished by an active civic position and have a kind of anti-corruption immunity, can hardly be overestimated.

The anti-corruption policy is long-term in nature; it involves the duration of the application of measures, including the development of an anti-corruption program and plans to combat corruption for a certain period, control over the implementation of the anti-corruption program (plans) with the introduction of necessary changes to them. Moreover, the directions of anti-corruption policy should be constantly adjusted, taking into account anti-corruption monitoring. Such a policy must become an integral part of the state policy of Ukraine. Effective economic, political and social reforms are necessary for a successful fight against corruption.

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