IMPLEMENTATION OF PREVENTIVE MECHANISMS TO PREVENT CORRUPTION IN STATE AUTHORITIES OF UKRAINE

INTRODUCTION

Corruption in Ukraine continues to be a major threat to national security and political stability, and to the rule of law. The analytical note, based on the analysis of international experience and domestic developments, considers the mechanisms of public involvement in anti-corruption measures in Ukraine.

Over the last year, Ukraine’s indicators in the Corruption Perceptions Index (CPI) have grown by 3 points. With 33 points out of 100 possible, we received 117th place out of 180 countries in the SRI list. Next to us in the ranking are Egypt, Africa’s Eswatini (Swaziland), Nepal, Sierra Leone and Zambia - all of these countries also scored 33 points in CPI-2020.

LITERATURE REVIEW

Many foreign scholars have focused on the study of problems in public administration, including mechanisms to prevent corruption in government, namely: Abidina, Suryanto, Utami (2020); Al Agha, S. (2021); Andrushchenko (2016); Didkivska, Kovalenko, Fialka (2020); Gamgani, Tonnac (2020); Karafofo, Marhasova, Lazarenko (2021); Gluzman (2015); Hamzah (2020); Karas (2003); Kychko, Tulchynska, Popelo, Derhaliuk, Ishchejkin (2021); Kychko, Tulchynska, Zhigalkeych, Treitiak (2021); Mozgovyi (2008); Najih, Wirya (2020); Novella-Garcia, Cloquell-Lozano (2021); Popelo (2017); Prabowo (2020); Samiilenko, Khudolei, Mashnenkov, Derkachenko (2021); Shinalsky, Nevmerzhitsky (2008); Vovk, Saloid, Kostiunik (2021); Wewer (1994); Wickberg (2020); Yakubovsky, Butyrska (2020) et al.

In the article (NOVELLA-GARCIA et al., 2021), the authors argue that in recent decades, corruption has become one of the main problems perceived by Spanish society. As a result, the country’s citizens experience a high level of frustration with politics and a general loss of confidence in the functioning of public institutions. The article by scientists (AL AGHA, 2021) is aimed at investigating the crime of illicit enrichment by civil servants.

The article argues (WICKBERG, 2020) that, despite the discourse on differentiation - anti-corruption policy, which is presented as a response to failures and omissions, the latter is a continuation of the former, using the same ideational structure inspired by the theory of public choice and promotion of such management tools to achieve new goals. Researchers (GAMGANI et al., 2020) have investigated that anti-corruption mechanisms have evolved significantly because of a wide variety of internal and external factors, such as the development of international standards and the escalation of political and financial scandals.

The aim of the article (DIDKIVSKA et al., 2020) is to compare the legal and anti-corruption measures in the field of health care in Ukraine, using the experience of Georgia and the European Union. The author of the article (PRABOWO, 2020) aimed to explore the potential of software for qualitative data analysis using a computer to support the qualitative evaluation of anti-corruption initiatives, especially those that focus on behavioral change.

The study (NAJIH et al., 2020) focuses on the legal basis of anti-corruption measures in Indonesia and Malaysia and addresses security aspects. The authors believe (ABIDIN et al., 2020) that the impact of Muamal’s social education on the use of digital payments to prevent corruption or digitally fight corruption is likely to minimize corrupt practices in the public services sector.

The purpose of the study is to determine the social impact of the process of studying the agreements and norms of civil law on the procurement of goods and services during the Covid-19 pandemic, its consequences for preventing corruption in Indonesia.
RESULTS AND DISCUSSION
Among the neighbors, the closest to Ukraine is Moldova - 34 points and 115th place (+2 points). The European autocracies Belarus (47 points, 63rd place) and Russia (30 points, 129th place) also improved their performance compared to last year. The latter remains the only country that is ahead of Ukraine among its neighbors. Hungary and Romania did not change their indicators for the year - both countries scored 44 points each and occupy 69th place. At the same time, last year’s leaders of the SRI among their neighbors lost their points: Slovakia - 1 point, Poland - 2 points (Transparency International Ukraine, 2021).

The results of many independent studies, including Transparency International, show that the countries that are perceived as the most corrupt are the ones that suffer the most from protracted conflicts aimed at destroying public infrastructure. Ukrainian society is already experiencing painful symptoms of corruption. These are: the huge scale of embezzlement of public funds, rising unemployment and poverty, the actual inability of the state to combat dangerous diseases, which in turn leads to the gradual extinction of the Ukrainian nation. It should also be borne in mind that, according to experts, a decrease in the Corruption Perceptions Index by only one point leads to an outflow of capital from the country equal to 0.5% of gross domestic product, as well as a general decrease in income of at least 4%. For Ukraine, these figures mean a loss of at least 20 billion hryvnias annually. A special feature of the traditionally high level of corruption in various spheres of Ukrainian society is that the population perceives corruption as a natural phenomenon. Given the latter, the priority of the state anti-corruption policy should be to create an atmosphere of civil rejection of corruption.

Ratified by the Verkhovna Rada of Ukraine in October 2006, the UN Convention against Corruption, among other key principles of the implementation of anti-corruption policies by member states, determines the provision of public access to anti-corruption processes.

For Art. Article 13 of this Convention, each State Party should take appropriate measures to promote the active participation of civil society in preventing and combating corruption and in enhancing public understanding of the existence, causes and dangers of corruption.

The national legislation of Ukraine, in turn, provides for the participation of civil society institutions in the implementation of state anti-corruption policy. In general, we can talk about the evolution of state approaches to the anti-corruption political process: at the legislative level there was a shift of emphasis from mainly the fight against corruption (Law of Ukraine “On Combating Corruption” as amended in 1995) to preventing corruption as a phenomenon and minimizing the impact of corruption (Law of Ukraine “On Principles of Prevention and Counteraction to Corruption” of June 11, 2009). In particular, the Law of Ukraine “On Principles of Prevention and Counteraction to Corruption” adopted by the Verkhovna Rada of Ukraine on June 11, 2009, in Section III (Articles 15-17) regulates public participation in measures to prevent and combat corruption.

Article 15 of the Law of Ukraine provides for forms of participation of citizens and their associations or authorized representatives in preventing, detecting and combating corruption offenses.

For Art. 17 of the Law of Ukraine, persons who provide assistance in preventing and combating corruption are under state protection. One of the steps to implement the project and implement the recommendations of the Council of Europe Group of States against Corruption (GRECO) was to establish the institution of the Government Commissioner for Anti-Corruption Policy and implement mechanisms to involve the public in measures to prevent and combat corruption. (Cabinet of Ministers of Ukraine, 2009). In November 2009, the Public Council under the Government Commissioner was established. The decision of the Government Commissioner to establish a Public Council is an important step for Ukrainian authorities to involve the public in the fight against corruption. Given the necessary level of independence of the Council, “the decision will certainly serve as an example for many other countries, where the involvement of civil society in the fight against corruption is still at the level of the idea.” (KOS, 2021). But the real participation of civil society in anti-corruption measures in accordance with regulations is not fully realized today. There are more than 40 public organizations registered in Ukraine, which in one way or another have declared their intentions to fight corruption (Department of Justice, 2021). Back in February 2007, a number of such NGOs created the Anti-Corruption Front of Ukraine (MOZGOVYI, 2008). Among its tasks are...
declared: public control over decision-making by the authorities, influence on personnel policy, monitoring of revenues and expenditures of officials, the formation of public opinion and an environment intolerant of corruption (SHINALSKY et al., 2008). The emergence of the Front provided for the establishment of a working commission to coordinate the activities of public organizations in the field of anti-corruption. However, this point of this coalition remained unfulfilled. According to the Organization for Economic Co-operation and Development's Anti-Corruption Network in Ukraine, the problem is the lack of a strong non-governmental organization to deal with anti-corruption, focus on other NGOs and serve as an influential partner of public authorities. It should be noted that the Front did not become such an organization.

In February 2010, the National Anti-Corruption Committee of Ukraine was established, an advisory body to the President of Ukraine. The Committee included representatives of public authorities, profile committees of the Verkhovna Rada of Ukraine, leading scientists, as well as a representative of the Creative Association "TORO", which is the contact group of Transparency International in Ukraine. Involving a representative of civil society in the work of the body that will develop anti-corruption measures and perform other functions provided for by Decree 275 is a significant step. Thus, the public received another lever of influence on the implementation of anti-corruption policy of the state. The only drawback is the insufficient number of its representatives among the members of the Committee. In June 2006, the Ministry of Justice of Ukraine started cooperation with the Council of Europe in the field of anti-corruption in the framework of a joint project of the European Commission and the Council of Europe "Support to Good Governance: Anti-Corruption Project in Ukraine" (UPAC). (Department of Justice, 2021).

That is why civil society, by the nature of its evolution, is a requirement for the formation of a socially oriented rule of law. In essence, civil society is an uncompromising rival only to despotic, authoritarian and totalitarian powers, but it is not an antagonist of government. On the contrary, the existence of a developed civil society presupposes the formation of a democratically defined state power, which has historically been exercised in the form of national republics. Historical experience shows that modern processes of integration of civil societies within the European Union have become possible on the basis of the achievement by peoples of a sufficient level of republican sovereignty: subordinates do not integrate voluntarily with the rulers - and this should not be neglected. Also, no country in the world increases the welfare of the population when it comes to deep mistrust between society and government (KARAS, 2003).

That is why civil society should be seen as the main subject of influence on the government - and, accordingly, as the primary subject of anti-corruption, because, as noted by the influential international public anti-corruption organization "Stepup.press" - "Factors of successful anti-corruption These are, first of all, the openness of government, transparency and clarity of state decision-making procedures, effective mechanisms for monitoring the activities of state bodies by civil society, freedom of speech, freedom and independence of the media. " (Anti-corruption portal "Stepup.press", 2021). The role of civil society in combating corruption should not be underestimated. Thus, according to a study conducted by the Kyiv International Institute of Sociology from 2007 to 2015, compared to previous years, the number of people willing to take certain actions if a government official grossly violates their rights has increased significantly. In particular, from 26.7% to 34.6% increased the share of those who in such situations are at least willing to require the official to perform his duties, from 22.9% to 30.7% increased the share of those willing to complain about the official the share of those who are ready to turn to law enforcement agencies or courts in such situations has increased from 17.6% to 22.2%, and from 6.6% to 10.4% - those who are ready to seek protection from non-governmental organizations. The share of those who are not going to do anything in a situation of oppression of their rights decreased from 32.9% to 19.2%. Also, from 7.1% to 4.1% decreased those who are willing to "negotiate with the official", ie to initiate corruption in such cases. Thus, citizens, compared to previous years, declare a higher level of conscious need to protect their rights and combat corruption on the part of officials. The main reason for inaction in the face of corruption remains the lack of confidence that such actions can be successful,
Implementation of preventive mechanisms to prevent corruption in state authorities of Ukraine

although compared to previous years, such sentiments have weakened somewhat. According to 2015 data, this opinion is shared by about half (50.3%) of those who are not ready to take any action to protect their rights, while in 2011 there were 67.2%. On the other hand, the share of those who are not ready to take any action increased from 6.4% to 14.3% due to the fact that it will require additional material costs (for transport, telephone or mail), and from 6.6% to 9.1%. Of those who do not want to spend their time on it. Other reasons have not changed compared to 2011: about 8% are not ready to defend their rights because they find it unpleasant or humiliating, 6% do not know where to go, 5% are afraid of punishment or blacklisting. O. Yakubovsky and T. Butyrska emphasize that “in the context of interaction between state power and civil society there is a feedback mechanism - it is primarily a mechanism for setting public problems before the government, and only secondly - the assessment of its activities. In the case of such a formulation of a social problem, the authorities have the opportunity to solve it jointly with civil society, thereby consolidating society and increasing the efficiency of public administration. " (YAKUBOVSKY et al., 2004). According to V.V. Karlova, the state and civil society institutions are in a complex inversion and complement each other.

For example, on February 1, 2016, anti-corruption NGOs announced the creation of a coalition to verify declarations and signed a memorandum of cooperation. In addition, a public register of declarations was discussed, which has already collected more than 18,000 declarations of top officials of the country, they have been digitized and published (this information is used in analytics, investigations and leads to the resignation of corrupt officials).

Also, the Executive Director of Transparency International Ukraine O. Khmara explained that the data of the public register of declarations can be easily used, compared with already open databases and registers, and most importantly - to compare them with each other, because this database of declarations is cumulative (it is important that these declarations are compared with open registers - a real estate register, car register, business registers, etc. (UKMC Press Center, 2021).

There is public influence in the fight against corruption at the local level. In particular, an example of an effective platform of experts, activists and activists in various fields, united for the implementation of systematic anti-corruption control of public authorities, local governments and officials of Kyiv, as well as bringing their activities in line with law and public interest, is a public organization. “Conscious”, whose activities involve (NGO “Conscious”, 2021):

- systematic analysis and verification of draft decisions of the Kyiv City Council, its commissions and officials for the presence of a corruption component and compliance with the interests of the community, as well as control of the procedures for making these decisions;
- detection and disclosure of facts of corruption or violation of the law by public authorities, local governments or officials of the city of Kyiv;
- development of draft decisions that meet the interests of the community, support their consideration and take all necessary measures for their adoption by the authorities;
- control of the activities of persons in power and assistance in bringing them to justice in case of violation of the law;
- monitoring of public procurement in the city of Kyiv and checking the legality of their procedures.

The adoption of the Law of Ukraine ”On Prevention of Corruption” in October 2014, which established the main directions of combating this extremely negative phenomenon, was a fundamental regulatory shift towards strengthening the role of civil society. This step has become perhaps the most important in the implementation of the Istanbul Action Plan to Combat Corruption, signed by Ukraine in 2003. Indicative in the context of our study is Article 21 of this law - "Public participation in anti-corruption measures", which provides that public associations, their members or authorized representatives, as well as individual citizens in anti-corruption activities have the right to:
• report the facts of corruption or corruption-related offenses, real, potential conflicts of interest to specially authorized entities in the field of anti-corruption, the National Agency, management or other representatives of the body, enterprise, institution or organization in which these were committed offenses or whose employees have a conflict of interest, as well as the public;
• request and receive from state bodies, local governments in the manner prescribed by the Law of Ukraine “On Access to Public Information”, information on activities to prevent corruption;
• to conduct public anti-corruption examinations of normative legal acts and draft normative legal acts, to submit proposals to the relevant bodies based on the results of the examination, to receive information from the relevant bodies on the consideration of the submitted proposals;
• Participate in parliamentary hearings and other events on the prevention of corruption;
• make proposals to improve the legislative regulation of relations arising in the field of corruption prevention;
• conduct, commission research, including scientific, sociological, etc., on the prevention of corruption;
• to take measures to inform the population on the prevention of corruption;
• to exercise public control over the implementation of laws in the field of prevention of corruption with the use of such forms of control that do not contradict the law.

In this case, a public association, individual, legal entity may not be denied access to information regarding the competence of entities that take measures to prevent corruption, as well as regarding the main areas of their activities. Such information is provided in the manner prescribed by law (Verkhovna Rada of Ukraine, 2014).

At the same time, despite the availability of sufficient positive experience of interaction between the public and the authorities (both at the central and local levels), there are a number of problems that hinder the more active role of civil society institutions in preventing and combating corruption. Among them, the main negative determinants are:

• the fact that practically all Ukrainian society is involved in corrupt practices and interactions due to the established traditions of state-power relations and mental non-condemnation of domestic corruption by ordinary Ukrainians;
• increase in corruption risks and temptations for local government officials due to ill-considered decentralization, when the financial and resource capabilities of local authorities are significantly increased without a corresponding strengthening of control over their use. In this regard, L. Andrushchenko warns that in Ukraine we should be more careful with the granting of discretionary powers (departmental rule-making) to lower-level authorities, eliminate the possibility of arbitrary interpretation and multivariate compliance with the law and clearly define the criteria for application of bylaws. degree of rigidity and scale of coverage) in relation to the subjects of public relations (ANDRUSHCHENKO, 2016);
• the existence of opposition from local authorities, whose leaders do not seek to control the mechanisms and procedures for making administrative decisions, the provision of administrative services, the budget process, the allocation of land, etc. They try to hide full information, refuse to hold public hearings, try to prevent activists of public formations from attending meetings of deputy commissions and sessions of local councils, etc.;
• the existence in Ukraine of tacit encouragement of corruption by heads of public authorities from the highest levels to the bottom (the so-called "exchange of loyalty" of lower officials to higher hierarchies of power for the right to "feed" from their place),
involvement of ordinary employees in corruption networks. In this regard, P. Berlin noted: "In an effort to tie the bureaucracy to strong ties, the government looks through its fingers at enrichment through bribes and budget theft. The government knows that if bribe-takers both deceive and rob the treasury, then on the other hand, politically they are always the most loyal and lenient element" (WEWER, 1994).

- insufficient motivation of the residents of territorial communities to participate in local government processes, including the prevention and combating of corruption. The reluctance to participate in various gatherings of citizens, public hearings, examinations, advisory councils, etc. can be explained by the alienation of power from the people, value nihilism and total distrust of all levels and authorities in Ukraine.

- there are many cases of pseudo-public organizations and movements that carry out the relevant activities purely declaratively or are created by persons close to the government specifically to receive municipal grants, which generally get in the way of corrupt practices. As S. Gluzman aptly notes in this regard, corruption in Ukraine also exists among public organizations. After all, today many ministries and departments are overgrown with "manual" NGOs, which receive money from the state and with the help of very simple schemes return a significant part of the amount to a particular boss. Experts, private and public donors are to blame for this process. Quite easily giving money, they do not actually control the results of NGO work. There are known cases of specific complicity of fund officials in corrupt interaction with the grantee, the so-called "kickbacks". Sometimes romantic ideas about Ukrainian realities contribute to the vicious choice of the grant recipient (GLUZMAN, 2015).

A number of requirements and procedures aimed at preventing corruption have been established by law as the main tool of the preventive measures mechanism. All these tools constitute a set of anti-corruption mechanisms that act as "barriers" to the commission of corruption offenses. The legislation establishes a number of provisions, which in content are restrictions and prohibitions of certain types of behavior of officials, namely:

1. Restrictions on the use of official position
According to Article 22 of the Law, the subjects of responsibility for corruption offenses are prohibited from using their official powers or their position and related opportunities in order to obtain illegal benefits for themselves or others, including the use of any state or municipal property or funds in private interests.

2. Restrictions on receiving gifts
Pursuant to Article 23 of the Law, the subjects of responsibility for corruption offenses are prohibited to directly, or through other persons to demand, request, receive gifts for themselves or their relatives from legal entities or individuals (in connection with the implementation of such persons activities related to the performance of functions state or local government; if the donor is subordinate to such a person);

3. Restrictions on combination and combination
In accordance with the requirements of Article 25 of the Law, the restriction on combination and combination applies only to persons authorized to perform the functions of the state or local self-government. When applying the restriction in terms of "entrepreneurial activity" should be guided by the definition in Article 42 of the Commercial Code of Ukraine as an independent, proactive, systematic, at their own risk economic activities carried out by economic entities (entrepreneurs) to achieve economic and social results and making a profit.

4. Restrictions after the cessation of activities related to the performance of state or local self-government functions
According to Article 26 of the Law, a number of prohibitions are provided to persons authorized to perform the functions of the state or local self-government who have resigned or otherwise terminated activities related to the performance of the functions of the state or local self-government. It should be noted that the introduction of such restrictions by Article 26 of the Law is a universally recognized international anti-corruption standard. By its nature,
the mentioned preventive mechanism aims to minimize the risks of conflict of interest in the transition of an employee to another job not related to the performance of state functions, to minimize cases when a person illegally creates particularly favorable conditions for institutions, enterprises, organizations where she plans to work after leaving the public service or uses official information or other opportunities of her former position in the new position.

5. Restrictions on joint work of relatives

Pursuant to Article 27 of the Law, restrictions on the joint work of close persons apply only to persons authorized to perform the functions of the state or local self-government.

And most importantly, it should be noted that this restriction essentially consists of two separate prohibitions: to be subordinate to loved ones or to be directly subordinate to them. Therefore, the situation when close persons are in a relationship of direct subordination and the subordinate works in rural areas, and the head works in the city, needs to be resolved, because there is a violation of the restriction by the person who is the head.

CONCLUSION

Summing up, a successful democratic transition is taking place in Ukraine and the work of key institutions is being resumed. Ukraine is making rapid progress towards implementing the Association Agreement with the EU and the reforms required by citizens during the first part of 2020.

Coordinated efforts will be needed in areas such as energy and corporate governance, as well as critical reforms in the area of judicial reform and the rule of law in general, as Ukrainian citizens can be expected to continue to demand progress in these areas.

Thus, for the first time in many years, it is not only a matter of counteracting and punishing corruption, but also of eradicating one of the basic causes of this phenomenon - the direct influence of big business on politicians and civil servants.

This was evident in the reaction of Ukrainian society to the recent decisions of the Constitutional Court, which affected the country’s efforts and achievements in the fight against corruption after the Revolution of Dignity. The European Union will continue to support Ukraine’s reform efforts, constantly adapting and refining its support through participation and dialogue, using all available means.

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Implementação de mecanismos preventivos para prevenir a corrupção nas autoridades estaduais da Ucrânia

Resumo
O objetivo do artigo é identificar novas tendências, padrões de corrupção no sistema de governo e desenvolver abordagens para melhorar os mecanismos de prevenção e combate à corrupção na Ucrânia. No contexto da reforma da sociedade ucraniana moderna, o estudo do desenvolvimento de mecanismos para prevenir a corrupção é muito relevante. Além disso, devido ao aprofundamento da crise sócio-política e econômico-financeira na Ucrânia, a corrupção é uma séria ameaça à segurança nacional. De acordo com a experiência internacional, deve ser claramente estabelecido um mecanismo de seleção de especialistas para atuar no setor da administração pública. Um conjunto eficaz de ferramentas para combater a corrupção no estado são, em primeiro lugar, as proibições e restrições. O foco na superação dos fatores de corrupção inerentes à esfera das estruturas do Estado é o aprimoramento dos mecanismos. Um dos mecanismos eficazes de prevenção da corrupção são as medidas preventivas em órgãos públicos com uma série de restrições e proibições.

Palavras-chave: Corrupção. Mecanismos preventivos. Governança. Reforma do Serviço Público. Autoridades estaduais.

Abstract
The aim of the article is to identify new trends, patterns of corruption in the system of government and develop approaches to improving mechanisms to prevent and combat corruption in Ukraine. In the context of reforming modern Ukrainian society, the study of the development of mechanisms to prevent corruption is very relevant. In addition, given the deepening socio-political and financial-economic crisis in Ukraine, corruption is a serious threat to national security. According to international experience, a mechanism should be clearly established for the selection of specialists to work in the public administration sector. An effective set of tools to combat corruption in the state are, first of all, prohibitions and restrictions. The focus on overcoming the factors of corruption that are inherent in the sphere of state structures is the improvement of mechanisms. One of the effective mechanisms for preventing corruption is preventive measures in public bodies with a number of restrictions and prohibitions.

Keywords: Corruption. Preventive mechanisms. Governance. Civil Service Reform. State authorities.

Resumen
El objetivo del artículo es identificar nuevas tendencias, patrones de corrupción en el sistema de gobierno y desarrollar enfoques para mejorar los mecanismos para prevenir y combatir la corrupción en Ucrania. En el contexto de la reforma de la sociedad ucraniana moderna, el estudio del desarrollo de mecanismos para prevenir la corrupción es muy relevante. Además, dada la profundización de la crisis sociopolítica y financiero-económica en Ucrania, la corrupción es una grave amenaza para la seguridad nacional. Según la experiencia internacional, debe establecerse claramente un mecanismo de selección de especialistas para trabajar en el sector de la administración pública. Un conjunto efectivo de herramientas para combatar la corrupción en el estado son, en primer lugar, prohibiciones y restricciones. El foco en la superación de los factores de corrupción inherentes al ámbito de las estructuras estatales es la mejora de los mecanismos. Uno de los mecanismos efectivos para prevenir la corrupción son las medidas preventivas en los organismos públicos con una serie de restricciones y prohibiciones.

Palabras-clave: Corrupción. Mecanismos preventivos. Gobernanza. Reforma de la administración pública. Autoridades estatales.