ECONOMIC AND LEGAL ASPECTS OF ENSURING THE EFFECTIVENESS OF COUNTERACTING CORRUPTION IN THE SYSTEM OF ANTI-CORRUPTION MEASURES OF STATE AUTHORITIES

ABSTRACT

The purpose of the article is to study the theoretical foundations and practical aspects of the economic and legal regulation of the process of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities. The results of the conducted research allow us to assert that corruption is one of the most serious problems of our time, which has emerged acutely in Ukraine, and its scale threatens the sustainable socio-economic and socio-political development of the country and successful integration into the European Union. It is determined that the essence of corruption consists in the commission of deliberate illegal acts by officials, aimed at the use of official powers for personal gain and enrichment. It is established that the existing system of prevention and counteraction to corruption in Ukraine is not able to restrain the rapid pace of its spread, and the main anti-corruption measures are characterized by a low level of effectiveness. The imperfection and weakness of the normative and legal regulation of the processes of prevention and counteraction to corruption in Ukraine by state authorities are revealed. It is found that the highest anti-corruption effectiveness indicators in 2022 were recorded for the activities of the President and the Office of the President of Ukraine, as well as the Security Service of Ukraine, and the lowest for the activities of the Cabinet of Ministers of Ukraine. Strategic guidelines for increasing the effectiveness of counteracting corruption in Ukraine are proposed, among which the primary importance belongs to the activation of the processes of implementation of the anti-corruption reform; normalization of the main aspects of interaction between state authorities and the public in the field of counteracting corruption; development and approval of the Methodology for assessing the level of corruption in Ukraine.

Keywords: corruption, anti-corruption policy, corruption counteraction system, corruption offences, legal regulation, corruption risks, anti-corruption measures, legal relations

JEL Classification: H49, O17

INTRODUCTION

One of the obstacles on the way to the successful integration of Ukraine into the European Union is the threatening indicators and scale of the spread of corruption in the country, the problem of combating which has gained considerable importance, and the search for methods and ways of effective counteraction is gradually transformed into a priority task of implementing state policy. It is obvious that the strengthening of corruption risks in the modern conditions of the development of Ukraine as an independent, sovereign and democratic state is due to a number of significant destabilizing factors, one of the most significant of which is the full-scale war of the Russian Federation against Ukraine. Crisis phenomena of a corruption nature are present both in the economy and in politics and society, as a result of which there are significant disproportions in socio-economic and socio-political development, imbalance of macroeconomic processes, a decrease in the standard of living of the population, as well as a weakening of the...
country's position in international rankings. As a result, criminal organized activity related to corruption is constantly intensifying, and its results require legalization and involvement in the official sector of the economy. The mentioned problems indicate the exceptional importance of the research, make it necessary to find effective methods of counteracting corruption and require an in-depth study of the economic and legal aspects of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities.

LITERATURE REVIEW

The issue of researching the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities in the context of economic and legal aspects of its provision has been specially updated under the influence of modern challenges and dangers and is reflected in the works of domestic and foreign scientists. The available scientific work in this direction shows the interest of the scientific community in solving the problem of the spread of corruption in the world in general and in Ukraine in particular, and the existing practical developments prove its applied nature and the intensification of the efforts of state authorities in the field of combating this destructive phenomenon.

It is worth noting that from a scientific point of view, corruption is interpreted as a socially dangerous phenomenon that forms a set of universal strategies of behaviour in society, their peculiarities in social groups, and determines the parameters of the activities of state authorities and socio-economic institutions, the effectiveness of the legal system, as well as the deviation of officials from the norms of law, ethics and morality due to misuse of the powers granted to them for personal gain [1, p. 25–26].

Zhang M., Zhang H., Zhang L., Peng X., Zhu J. and Liu D. [2] also attribute nepotism to manifestations of corruption and claim that the main anti-corruption measures implemented in the countries of the world are rather aimed at the prevention and detection of corruption, rather than elimination of its consequences.

Politova A. [3, p. 111–112] defines corruption as the most acute problem and obstacle on Ukraine's way to European integration and claims that the essence of this phenomenon consists in the implementation of illegal activity by persons authorized to perform state functions, which is aimed at their use of power in order to obtain material benefits, services or other preferences. At the same time, the scientist insists that the use by officials of their official position for personal enrichment should also be considered corruption, which should be taken into account when forming anti-corruption measures at the national level. However, taking into account the fact that corruption in Ukraine has certain features, in particular: (1) its excessive spread to the sphere of politics; (2) activation of corruption manifestations among employees of law enforcement agencies and courts; (3) the inextricable connection of corruption with the titivation of the economy and economic crime; (4) the formation of a tolerant attitude towards corruption manifestations in society and its stimulation, anti-corruption measures should be aimed at ensuring timely prevention and neutralization of corruption risks, and the activities of state authorities in the field of counteracting corruption should be coordinated and effective. Equally important is the establishment of strict control over the activities of officials of state authorities in order to prevent them from committing corruption offences, as well as providing strict methods of punishment for committing crimes related to corruption.

A similar opinion is held by M. Kopytko, O. Podra, M. Vinichuk, and M. Vereskiya [4], who believe that ensuring effective counteraction to corruption in conditions of instability and increasing crisis situations is an extremely difficult, but extremely necessary task for Ukraine on its way to integration into the European financial-economic and social-political space. It is noted that increasing the effectiveness of counteracting corruption in Ukraine is declared in the official documents of the European Commission as a priority task of the state anti-corruption policy and one of the requirements of integration into the European Union, therefore, extremely important attention should be paid to the problem of counteracting it, in particular, at the stage of formation and implementation of preventive anti-corruption measures and in the course of combating this destructive phenomenon. In this context, D. Kos [5] notes that in today's conditions, when forming a complex of anti-corruption measures, it is necessary to take into account the factors of a military nature, which have intensified in Ukraine as a result of a full-scale invasion of the Russian Federation on its territory. Therefore, the scientist came to the conclusion that the effectiveness of counteracting corruption in state authorities is reduced due to the existence of significant obstacles, which determines the use of effective, transparent and accountable mechanisms of the activities of such bodies, as well as their close interaction with the public.

From economic and legal point of view, the counteraction to corruption is considered in detail in the Anti-corruption Strategy for 2021–2025 [6], which defines the main strategic priorities of counteracting it, in particular, at a sufficiently high level, the problems of forming the state anti-corruption policy, strengthening normative and legal provision of issues of assessment and elimination of corruption risks are solved, as well as measures to improve the effectiveness of the activities of state bodies authorized to fight corruption are provided.
The legislative regulation of corruption in Ukraine is regulated by the Law of Ukraine "On Prevention of Corruption" [7], according to which corruption is considered the use by officials of the powers granted to them or the opportunities related to them for the purpose of improperly obtaining a personal benefit, accepting it, giving or accepting an offer and promises of such benefits and opportunities for oneself or others in order to induce the use of official powers for illegal purposes. At the same time, aspects of the legal definition and qualification of actions that contain signs of corruption and are related to it by the composition of the crime are not regulated by the basic law in the field of prevention and counteraction to corruption, however, they do not constitute the fact of its commission. This problem cannot be resolved for a long time and is not reflected in the system of preventing and counteracting corruption. Moreover, the legislation of Ukraine does not provide a methodological toolkit for assessing the level of corruption in the country, and a mechanism for recording corrupt acts committed for the purpose of obtaining an undue benefit and personal enrichment has not yet been formed. Instead, the calculation of corruption indicators is based on the methodology proposed by Transparency International, an international non-governmental organization in the field of prevention and counteraction to corruption, the methodological aspects of which are built on the assessment of the level of corruption based on the perception of this phenomenon in society, and not on the assessment of its real state. It is obvious that such an approach is quite subjective and contains a significant level of error.

At the international level, the problems of finding effective methods of ensuring the effectiveness of counteracting corruption are also raised quite often, especially in those countries where there are growing trends in the spread of corruption. In this context, V. Pujas and M. Rhodes [8] established that the growth of corruption correlates with the parameters of the socioeconomic development of the country. In particular, scientists are convinced that in countries with a higher level of socio-economic development, the effectiveness of counteracting corruption is higher, and anti-corruption measures are carried out in a high-quality, timely and comprehensive manner. The opinion of scientists is shared by P. Maggio [9], in whose studies the mentioned aspects are highlighted, and K. Losien [10] is convinced that the increase in the level of corruption in the country has a significant destabilizing effect on macroeconomic stability, slows down the pace of socio-economic growth, and unbalances social and political processes. Moreover, R. Juwita [11] claims that corruption negatively affects the observance of human and citizen’s rights in the country and proves that in those countries where anti-corruption measures are less effective, there is a violation of the principle of the rule of law and other principles of ensuring human and citizen’s rights and freedoms.

Blikhar V., Syrovackyi V., Vinichuk M. and Kashchuk M. [12, p. 370] carried out a comparative analysis of the institutional basis of counteracting corruption in Ukraine and in the countries of the European Union, as a result of which they established that the low indicators of the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities are due to the imperfection of the current domestic legislation in the field of counteracting corruption, the absence of control over compliance with anti-corruption legislation, and also revealed the need for legislative regulation of methodological aspects of assessing corruption risks and carrying out their systematic analysis. On the other hand, G. Kong, J. Huang and G. Ma [13] believe that only legislative regulation of the problems of effective counteraction to corruption will not be enough and claim that significant attention should be paid to the amount of salaries in the state administration apparatus, in particular, in terms of their sharp gap, because under an imperfect legal environment, various conflicts arise regarding the strengthening of such a gap and its perception by officials as a motive for committing corruption offences.

Lytvyn N., Artemenko O., Kovalova S., Kobets M. and Kashtan E. [14] are also convinced that the search for effective methods of counteracting corruption should take into account the international experience of combating corruption and suggest implementing it into the domestic practice of combating this destructive phenomenon. At the same time, the scientists focus on the need to form and introduce the practical anti-corruption activities of state authorities’ administrative and legal mechanisms for counteracting corruption, the effectiveness of which has been proved by the practical experience of foreign countries. However, B. Giupponi and H. Yu [15] claim that there are significant shortcomings in the international practice of combating corruption, which reduce the effectiveness of counteracting corruption, as a result of which international arbitration is unable to fully consider corruption cases from various sides. It is obvious that, under such conditions, counteraction to corruption is evaluated with lower parameters, and unresolved issues require revision and improvement. At the same time, scientists have established that in accordance with the international practice of counteracting corruption, which is declared in the Anti-Corruption Protocol to the UN Convention against Corruption [16], the issue of ensuring the effectiveness of the activities of specialized international criminal investigators in the field of counteracting corruption and specialized anti-corruption courts at the national level is being updated.

The revealed trends regarding the complexity of the economic and legal regulation of the process of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities due to its multifaceted nature, transnational nature and constant updating of schemes and methods of committing corruption offences necessitate
an in-depth study of the specified socio-economic and socio-political phenomenon with the aim of finding out the methods and ways of increasing the effectiveness of counteracting this destructive phenomenon.

**AIMS AND OBJECTIVES**

The purpose of the article is to study the theoretical foundations and practical aspects of the economic and legal regulation of the process of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities. Achieving the set goal involves solving the following tasks: the implementation of a critical analysis of existing scientific and practical approaches to determining the essence of corruption; clarification of the features of the economic and legal regulation of the process of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities of Ukraine; assessment of the state and trends of changes in indicators of the effectiveness of counteracting corruption in Ukraine; determination of strategic priorities for improving the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities.

**METHODS**

The methodological basis of the research is based on general scientific and special methods of economic analysis and scientific knowledge, in particular: the definition of the essence of corruption was carried out using the method of system analysis, comparative analysis, scientific abstraction and synthesis; a review of the normative and legal support for counteracting corruption in Ukraine and the formation of measures to effectively counteract it was carried out on the basis of observation and economic and legal analysis; empirical studies of the state and dynamics of changes in corruption were conducted using statistical analysis and comparison; the functional-systemic approach was applied in order to identify the problems of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities; on the basis of the method of generalization and systematization, the conclusions and results of the conducted research were formed.

**RESULTS**

The identified problems of increasing the risks of the spread of corruption in Ukraine and the complexity of counteracting it make it necessary to study the real state of the mechanism for ensuring the effectiveness of counteracting this socially dangerous phenomenon. The results of the conducted theoretical studies in this direction testify that the outlined problems became especially relevant under the influence of Russia's war in Ukraine and, regardless of the complexity of the socio-economic and socio-political situation in the country, deepened and took on a new form due to the presence of high-profile corruption scandals in the state administration apparatus and as a result of the ineffectiveness of existing methods of preventing, detecting and counteracting corruption offences.

Empirical studies conducted in the field of evaluating the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities cannot be characterized as a stable trend towards unambiguously positive changes either in the pre-war period or in the period of military confrontation. As evidenced by the data published by the National Agency for the Prevention of Corruption [17], for the period from 2017 to 2022, an extremely large number of criminal corruption offences has been systematically recorded in Ukraine (Figure 1), the dynamics of which in the analyzed period have a cyclical nature and indicate the critical parameters of corruption in the country, as well as the insufficient effectiveness of existing anti-corruption measures.

In particular, it is worth noting the extremely unsatisfactory trends regarding the number of recorded criminal corruption offences containing signs of abuse of power or official position during the entire analyzed period from 2017 to 2022, the indicators of which reached the value of 3,995 offences in 2017, increased to 4,371 offences in 2019 and there was a slight decrease in them in 2022 to 2,214 offences.

As for such a type of criminal corruption offence as offering, promising, or providing an undue benefit to an official, the period of 2017–2021 is characterized by a slight but steady upward trend from 556 cases in 2017 to 1,577 cases in 2021. Again in 2022, a slight decrease in the value of this indicator was recorded to 1,512 offences.

The radically opposite trends were recorded regarding the acceptance of an offer, the promise or obtaining an undue benefit by an official, the trends of which show a decrease in the number of such acts from 2,086 cases in 2017 to 988
cases in 2022, which indicates an increase in the effectiveness of counteracting corruption among officials and the formation of their intolerant attitude towards corruption.

Criminal corruption offences such as abuse of authorities by persons providing public services and abuse of influence are characterized by somewhat lower indicators.

In addition, it should be noted that during the full-scale war of Russia against Ukraine, the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities has significantly increased across all analyzed types of criminal corruption offences. However, if we conduct a study of the total number of criminal corruption proceedings, for which a notice of suspicion was served, in Ukraine for the same period of 2017–2022, the indicators of such activity are quite low (Figure 2). In particular, with the most significant trends in the detection of crimes related to the abuse of power and official position, which are estimated from 2,214 to 4,371 cases per year, only 6.2% of the total number of detected corruption offences were served with a suspicion notice in 2017, 8.4% in 2018, 3.5% in 2019, 3.2% in 2020, 6.6% in 2021 and 9.9% in 2022.

As for another type of criminal corruption offence – offering, promising, or providing an undue benefit to an official, a steadily growing trend in the delivery of a notice of suspicion has been recorded. However, the maximum possible indicators were not reached in terms of percentage either, and the recorded values stopped at 53.8% in 2017, 61.9% in 2018, 61.1% in 2019, 70.9% in 2020, 73.4% in 2021 and 80.4% in 2022.
The delivery of notices of suspicion regarding the acceptance of an offer, promise or obtaining an undue benefit by an official also has downward trends and is estimated at 32.6% in 2017, 30.1% in 2018, 28.2% in 2019, 30.2% in 2020, 29.1% in 2021 and 24.5% in 2022 of the total number of detected corruption offences of this type.

The number of served notices on suspicion of abuse of authority in the provision of public services and abuse of influence is quite low, considering the relatively small number of recorded offences. In relation to the first of the specified types of criminal corruption offences, the share of served notices of suspicion is 8.5% in 2017, 7.8% in 2018, 8.5% in 2019, 10.0% in 2020, 20.4% in 2021 and 15.9% in 2022. In relation to the second type of offences, the share of served notices of suspicion is 81.5% in 2017, 73.3% in 2018, 75.6% in 2019, 66.3% in 2020, 63.9% in 2021 and 61.8% in 2022.

It becomes obvious that the most effective fight in the field of counteracting corruption by state authorities is in relation to counteracting the abuse of influence, the second step is counteracting offers, promises, or providing undue benefits to an official, and the third place is counteraction to the acceptance of an offer, promise or obtaining an undue benefit by an official.

We propose to deepen research on the level of ensuring the effectiveness of counteracting corruption by state authorities in the direction of evaluating the parameters of the effectiveness of each of the anti-corruption bodies in Ukraine in the dynamics for 2020–2022 (estimated data for 2017–2019 are not available) (Figure 3).

From the obtained results of the conducted research, it can be seen that the level of effectiveness of counteracting corruption in the implementation of anti-corruption measures of each of the state bodies authorized to implement the anti-corruption fight in the country is characterized by different parameters in different periods of time. In accordance with the methodological principles for assessing the effectiveness of counteracting corruption in Ukraine, which are defined and proposed by the National Agency for the Prevention of Corruption, a 5-point scale of effectiveness is used, according to which 5 points indicate the absolute effectiveness of the activity of the state authority in the field of counteracting corruption, and 1 point determines the absolute ineffectiveness of such counteraction.

Based on the data shown in Figure 3, it can be asserted that none of the anti-corruption bodies in Ukraine ensures the absolute effectiveness of its activity in detecting, preventing and counteracting corruption and its manifestations. At the same time, it was established that in 2020, most of the state bodies authorized to fight corruption conducted more effective activities in the field of counteracting this destructive phenomenon than in 2021 and 2022. At the same time, there are no reasons to state that there are no positive trends in the field of counteracting corruption, because comparing the data recorded in 2022 regarding the effectiveness of counteracting corruption in Ukraine, it is possible to see certain positive changes in the activity of, in fact, all investigated state authorities, except for the Cabinet of Ministers of Ukraine.
The most significant negative gaps in terms of ensuring the effectiveness of counteracting corruption are to be noted in the activities of the High Anti-Corruption Court, which weakened its position on the analyzed indicator by 2.13 points in 2021 and by 1.73 points in 2022 compared to 2020. Similar trends are also observed regarding the effectiveness of counteracting corruption by the National Anti-Corruption Bureau, the indicators of which decreased from 3.50 points in 2020 to 1.8 points in 2021 and 2.32 points in 2022.

A significant gap was also recorded regarding the decrease in the effectiveness of the Specialized Anti-Corruption Prosecutor’s Office, the value of indicators of which in 2020 was at the level of 3.08 points, in 2021 it dropped to 1.8 points, and a slight increase to 2.25 points was observed in 2022. At the same time, in 2022, the President of Ukraine managed to increase the indicators of the effectiveness of counteracting corruption (2.65 points in 2020, 1.60 points in 2021 and 2.90 points in 2022) and the Office of the President of Ukraine (in 2020 2.33 points, in 2021 1.92 points and in 2022 2.90 points), as well as the Security Service of Ukraine (2.31 points in 2020, 1.91 points in 2021 and 2.58 points in 2022).

The most pessimistic indicators are related to the anti-corruption fight of the Cabinet of Ministers of Ukraine, whose activities are not able to ensure the slightest progress in improving the effectiveness of counteracting corruption [21].

In 2022, other state authorities also demonstrated positive trends in ensuring an increase in counteracting corruption effectiveness indicators, which indicates the strengthening of their political will and understanding of the need to counteract corruption risks.

It is obvious that under the existing circumstances, the state anti-corruption policy of Ukraine needs to be revised and improved, and the provision of effective counteraction to corruption by the state authorities at the current stage is considered unsatisfactory.

DISCUSSION

The conducted studies of the problems of economic and legal regulation of the process of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities allow us to state that critically low values of indicators of the effectiveness of counteracting corruption by state authorities were found in Ukraine, and the processes of the spread of corruption to the economy, politics and society are constantly intensifying. We agree that the most significant problems of counteracting corruption at this stage are [22]:

▪ Russia’s war against Ukraine, the destabilizing factors of which do not allow the state authorities to fully implement their functions;
▪ the inability of the current domestic anti-corruption legislation to ensure the implementation of the necessary anti-corruption measures;
▪ lack of methodological tools for assessing the effectiveness of counteracting corruption at the regional level.

In order to solve the problems of counteracting corruption and ensuring the effective activity of state authorities in the field of preventing and combating this destructive phenomenon, we propose to outline the main strategic vectors for increasing the effectiveness of counteracting corruption, in particular:

▪ intensify the processes of implementation of the anti-corruption reform;
▪ at the legislative level, regulate key aspects of the interaction between state authorities and the public in the field of counteracting corruption;
▪ form the Methodology for assessing the level of corruption in Ukraine and implement its legislative consolidation;
▪ direct the measures regarding the planning of law-making activities to mandatory consideration of the provisions of the state anti-corruption policy and multi-level examination of the National Anti-Corruption Bureau of Ukraine.

The proposed measures will help to form a system of ensuring the improvement of the effectiveness of counteracting corruption by state authorities and improve the national system of prevention and counteraction to corruption.

CONCLUSIONS

Thus, the results of the research on the theoretical foundations and practical aspects of the economic and legal regulation of the process of ensuring the effectiveness of counteracting corruption in the system of anti-corruption measures of state authorities give grounds to state that the problems of counteracting corruption in Ukraine have become extremely acute and constitute a significant obstacle on the way to European integration. On the basis of calculations of the effectiveness
of counteracting corruption by state authorities, the weakness of the normative and legal regulation of the processes of preventing and counteracting corruption in Ukraine was established, as well as sufficient loyalty was revealed regarding the specified types of responsibility for committing corruption offences. It has been proved that the highest level of effectiveness of counteracting corruption in 2022 is characterized by the activities of the President and the Office of the President of Ukraine, as well as the Security Service of Ukraine. The lowest level of effectiveness of counteracting corruption is related to the Cabinet of Ministers of Ukraine. The main problems of counteracting corruption in the modern conditions of the state’s existence have been identified, among which the most significant is Russia's war against Ukraine. Strategic vectors for improving the effectiveness of counteracting corruption in Ukraine are proposed, including the need to intensify the processes of implementing anti-corruption reform; the need to normalize key aspects of interaction between state authorities and the public in the field of counteracting corruption; the need to develop and approve the Methodology for assessing the level of corruption in Ukraine.

ADDITIONAL INFORMATION

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8. Blikhar, M., Vinichuk, M., Kaštuk, M., Gapčič, V., Babý, S. (2022). Визначення сутності корупції у часі і масштаби її гостроти в Україні, а також загрози її проведенню дослідження дозволяє стверджувати, що корупція є одним із найбільш значимих проблем сучасності, яка гостро постала в Україні, а її масштаби загрожують статом соціально-економічному та суспільно-політичному розвитку країни і успішній інтеграції до Європейського Союзу. Визначено, що сутність корупції полягає у...
вчиненні посадовими особами й службовцями зумисних протиправних діянь, спрямованих на використання владних повноважень із метою одержання особистої вигоди та збагачення. Установлено, що існуюча система запобігання й протидії корупції в Україні не спроможна стримати стрімкі темпи її поширення, а основні антикорупційні заходи характеризуються низьким рівнем ефективності. Виявлено недосконалість і слабкість нормативно-правового регулювання процесів запобігання та протидії корупції в Україні органами державної влади. З'ясовано, що найвищі показники ефективності протидії корупції у 2022 р. зафіксовано в діяльності Президента та Офісу Президента України, а також Служби безпеки України, а найнижчі – у діяльності Кабінету міністрів України. Запропоновано стратегічні орієнтири підвищення ефективності протидії корупції в Україні, серед яких першочергове значення належить активації процесів реалізації антикорупційної реформи; унормуванню основних аспектів взаємодії органів державної влади та громадськості у царині протидії корупції; розробленню та затвердженню Методики оцінювання рівня корупції в Україні.

Ключові слова: корупція, антикорупційна політика, система протидії корупції, корупційні правопорушення, правове регулювання, корупційні ризики, антикорупційні заходи, правові відносини

JEL Класифікація: Н49, О17