

STATE REGULATION OF THE NATIONAL ECONOMY: WORLD EXPERIENCE AGAINST CORRUPTION

ДЕРЖАВНЕ РЕГУЛЮВАННЯ НАЦІОНАЛЬНОЇ ЕКОНОМІКИ: СВІТОВИЙ ДОСВІД ПРОТИДІЇ КОРУПЦІЇ

The article examines the features of anti-corruption in foreign countries. In particular, the concept of corruption in international acts is defined, as well as the peculiarities of the legal regulation of anti-corruption in Germany, Israel and Estonia. It is recommended to use the experience of these countries to combat corruption in Ukraine. It is noted that in general, the mechanisms for combating corruption in foreign countries are not fundamentally different. The main difference is in the approaches and motivation of their application. Therefore, in order to successfully overcome corruption, it is necessary to have not only perfect legislation, but high-quality work of anti-corruption bodies. It has been shown that an analysis of inter-national legal instruments defining corruption suggests that corruption at the inter-national level is interpreted as an abuse of power or a notion of trust for the sake of personal privileges or in favor of privileges of another person or group to whom loyalty is observed. The analysis concluded that the countries that have created an effective anti-corruption mechanism include: Germany, Finland, Denmark, New Zealand, Iceland, Singapore, Sweden, Canada, the Netherlands, Luxembourg, Norway, Australia, Switzerland, Great Britain, Austria, Israel, USA, Chile, Ireland and others.
Key words: state regulation of economy, corruption, counteraction, mechanism, prevention, legislation.

У статті досліджуються особливості протидії корупції в зарубіжних країнах. Зокрема, визначено поняття корупції в міжнародних актах, а також здійснено особливості правового регулювання протидії корупції в Німеччині, Ізраїлі та Естонії. Рекомендовано використати досвід даних країн для протидії корупції в Україні. Зауважено, що в цілому, механізми протидії корупції в зарубіжних країнах принципово не відрізняються. Основна відмінність полягає в підходах та мотивації їхнього застосування. Тому, для успішного подолання корупції необхідно мати не тільки досконале законодавство, а якісну роботу антикорупційних органів. Обґрунтовано, що у Цивільній конвенції про боротьбу з корупцією, ратифіковану Україною у 2005 році, корупцію визначено як «прямі чи опосередковані вимоги, пропонування, дачу або одержання хабара чи будь-якої іншої неправомірної вигоди або можливості її отримання, які порушують належне виконання будь-якого обов'язку особою, що отримує хабара, неправомірну вигоду чи можливість мати таку вигоду, або поведінку такої особи». Доведено, що аналіз міжнародно-правових документів, де надано визначення корупції, дозволяє стверджувати, що корупція на міжнародному рівні трактується як зловживання владою або поняттям довіри заради персональних привілеїв чи на користь привілеїв іншої особи або груп осіб, до яких спостерігається відношення лояльності. У результаті аналізу зроблено висновок про те, що до країн, які створили ефективний механізм протидії корупції, можна віднести: Німеччину, Фінляндію, Данію, Нову Зеландію, Ісландію, Сінгапур, Швецію, Канаду, Нідерланди, Люксембург, Норвегію, Австралію, Швейцарію, Великобританію, Австрію, Ізраїль, США, Чилі, Ірландію та інші. За допомогою узагальнення літературних джерел обґрунтовано тезу про те, що протидія корупції ґрунтується на державній політиці в напрямі знищення матеріальної, насамперед, фінансової бази злочинних угруповань. Цього досягають двома шляхами: конфіскацією майна та створенням належного правового забезпечення для унеможливлення відмивання «брудних» грошей.

Ключові слова: державне регулювання економіки, корупція, протидія, механізм, залобігання, законодавство.

UDC 331.101:341

DOI: <https://doi.org/10.32843/infracruct63-6>

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Formulation of the problem. In modern conditions, corruption is one of the most difficult socio-political problems not only in Ukraine but also around the world, as it not only negatively affects the pace of economic development, but also the system of public administration and public relations in general. What seemed impossible until recently has become a reality today – high-profile corruption scandals in the highest echelons of power, active lobbying by officials for a new redistribution of property between domestic and foreign oligarchs, discrediting the state by unprofessional management decisions made by high-ranking civil servants. Therefore, it is natural that corruption is a threat to national security and is one of the serious obstacles to the country's development.

In our opinion, a significant reduction in corruption in Ukraine is possible only if the study and implementation of international experience in combating this extremely negative social phenomenon, especially

successful in other countries, political, legal and organizational mechanisms to combat corruption.

Analysis of recent research and publications. Researchers of the corruption sphere often associate the national potential with long-term investments in the productive and non-productive spheres in order to make a profit or achieve a social effect [1 – 13].

The following scientists are known to study the problems of combating corruption as a negative phenomenon in the national economy: I. Revak [1], I. Mazur [3], V. Topchiiy [4], M. Melnyk [7], V. Beglytsia [8], I. Chemerys [9], V. Deineka [11], I. Shaposhnykova [12; 13] and others. According to researchers, the impact of open public data on corruption depends on the quality of the media and freedom of the Internet. The authors also study that factors such as free and fair elections, independent and accountable judiciary or economic development are important in the fight against corruption [13].

Formulation of the goals of the article. The purpose of this work is an analysis of the features of international experience in combating corruption in the system of state regulation of the economy.

Presenting main material. Before directly examining the experience of foreign countries in combating corruption, it is necessary to determine what is meant by this socially dangerous phenomenon in international documents. For example, the Resolution "Practical Measures to Combat Corruption" (Havana, 1990) defines corruption as a violation of ethical (moral), disciplinary, administrative, criminal nature, manifested in the illegal use of their official position by the subject of corruption. The UN Background Paper on the International Fight against Corruption defines it as the abuse of power by the state for personal gain, ie corruption goes beyond bribery. In addition, this concept also includes bribery (reward for deviation from official duties), nepotism (patronage on the basis of private relations) and misappropriation of public funds for private use [1, p. 9–10].

In turn, the Civil Convention against Corruption, ratified by Ukraine in 2005, defines corruption as "direct or indirect demands, offers, giving or receiving bribes or any other illegal benefit or possibility of obtaining it that violate the proper implementation of any -what obligation of the person receiving the bribe, illegal benefit or opportunity to have such benefit, or the behavior of such person" [2].

Instead, the UN Palermo Convention against Transnational Organized Crime, adopted in 2000, describes corruption as follows:

- 1) offering or granting, demanding or accepting any unlawful advantage, including one made intentionally;
- 2) any unlawfully granted advantage includes both material benefits and intangible benefits;
- 3) acts of corruption can be committed both personally and through intermediaries [3, p. 69; 12; 13].

Thus, as we see, the analysis of international legal documents, which provide a definition of corruption, suggests that corruption at the international level is interpreted as an abuse of power or trust for personal privileges or in favor of privileges to another person or group of persons to whom loyalty.

Having identified the essence of corruption, we turn to the analysis of anti-corruption programs in foreign countries. Countries that have created an effective anti-corruption mechanism include Germany, Finland, Denmark, New Zealand, Iceland, Singapore, Sweden, Canada, the Netherlands, Luxembourg, Norway, Australia, Switzerland, the United Kingdom, Austria, Israel, the United States, Chile, Ireland and others. Each of the countries has its own peculiarities in the organization of anti-corruption activities, but common to them are: efforts to organize active counteraction to corruption, the creation of an appropriate legal framework; involvement of public organizations in combating corruption [4, p. 167].

Undoubtedly, the study is difficult to analyze anti-corruption measures in each country, so, in our opinion, the most relevant is the German experience, as assistance to Ukraine in promoting anti-corruption reforms, agreed to provide the German government [5]. It is the experience of Germany that we will focus on.

It should be noted that the fight against corruption in this country is based on public policy in the direction of destroying the material, especially the financial base of criminal groups. This is achieved in two ways: confiscation of property and the creation of appropriate legal support to prevent money laundering "dirty" money [6, p. 125]. German banking institutions are obliged to provide law enforcement agencies with information on cash transactions if they amount to more than 20,000 German marks, provided that this information is used exclusively for investigative purposes. The legislation also stipulates that if a citizen makes a deposit in the bank in the amount of more than 50 thousand German marks, he is obliged to present an identity card [7, p. 111].

The main duty of German civil servants is the neutral and fair exercise of their powers for the benefit of society as a whole. This category of employees is personally responsible for the legitimacy of their actions in the performance of official duties. After the end of his term of office, a civil servant must keep secret information and facts related to his official activity. In addition, the law stipulates the obligation of a civil servant to report illegal acts that have become known to him, especially in the case of corruption. Stricter rules and restrictions in the civil service are offset by adequate maintenance and additional payments, benefits and opportunities that ensure the stability of the position and career, as well as a decent standard of living. In Germany, to get a job in a structure other than the state organization, the employee must first obtain permission from a senior official [8, p. 17].

The general line of the German government in the field of anti-corruption is to prevent the abuse of office by civil servants through legislative, organizational, personnel and other measures. In this part, the regulatory framework for the acceptance of gifts by civil servants has been maximally improved – it is allowed to receive a gift that does not exceed 20 German marks (or 10 euros). However, even in this case, the civil servant must report to his head. The latter, depending on the circumstances, can make one of two decisions: either to leave a gift to the employee, or to oblige him in the prescribed manner to give the gift to the state [9, p. 15]. At the same time, the high level of legal and political culture in Germany, the development of civil society institutions contribute to the fact that politicians in this country are retiring as soon as a corruption scandal erupts around them [5]. Unfortunately, such cases have not occurred in Ukraine so far.

We share the position of V.P. Beglitz, according to which the main strategic directions of anti-corruption

activities in Germany are: a) strict restrictions on gifts and employment after dismissal from public service; b) creation of a register of corrupt private organizations to prevent contacts with state bodies; c) determining the list of positions that are most prone to corruption, and the rotation of staff in these positions [8, p. 19].

Thus, the fight against corruption in Germany is based on the task of destroying the material, especially the financial base of criminal groups. This is achieved in two ways: confiscation (confiscation of property) and the creation of an appropriate legal framework to prevent "laundering" of "dirty" money.

In addition to Germany, the experience of Israel and Estonia will be relevant for Ukraine.

Thus, in Israel, the anti-corruption atmosphere is provided by a system of "certain duplication of monitoring" of possible corrupt practices. It is carried out by governmental organizations and special police units, the State Comptroller's Office, which is independent of ministries and government agencies, and non-governmental organizations such as the Government Cleanliness Office. These organizations investigate possible corruption points, and in case of their detection inform the investigating authorities. In Israel, grassroots corruption is virtually non-existent due to significant social benefits for government officials and their relentless punishment for detecting corruption. No more than 5% of corruption crimes are brought to court in Israel, but the reputation of a person involved in a corruption scandal is highly undesirable [9].

In turn, the Estonian experience is relevant due to the fact that Estonia is one of the countries in the post-Soviet space, which is considered one of the least corrupt in Europe, although organized crime, racketeering and corruption were widespread in the 1990s in particular in law enforcement agencies. Since 1991, the government has developed a strategy to build an innovative e-government model, accompanied by the adoption of new anti-corruption legislation.

The Estonian Criminal Code, adopted in 2002, establishes strict liability for corruption. Bribery is punishable by up to five years in prison (repeated up to ten years), and bribery is punishable by a fine or imprisonment. For providing a valuable gift, bribe, in addition to imprisonment, the court may apply confiscation of property as an additional type of punishment [12; 13].

Estonia's anti-corruption legal framework is the Constitution, the CPC of Estonia, and the Estonian Law on Combating Money Laundering and Terrorist Financing, adopted in 2007. In 2013, the Anti-Corruption Commission of Ministers was established, which included the Ministers of Justice, Interior, Finance, Economy and Communications, as well as the Secretary of State. The purpose of the commission was to develop an anti-corruption strategy "Honest State and Supervision". Corruption is investigated by three bodies:

1) police prefecture – supervises officials working in self-government bodies, as well as in private enterprises / associations;

2) security police – supervise the highest state officials (president, ministers);

3) the State Prosecutor's Office – supervision of law enforcement officers [11, p. 34].

Conclusions and suggestions. Thus, the experience of combating corruption in foreign countries clearly shows that anti-corruption reforms require, in addition to stable anti-corruption legislation and truly independent state institutions – courts and specialized bodies to combat corruption, to have an adequate level of anti-corruption awareness and culture, and therefore should be given due place to conduct anti-corruption legal education systemic activities. The study analyzes the anti-corruption policies of Germany, Israel and Estonia.

As a result, it was concluded that German anti-corruption policy is generally precautionary and focused on the implementation of such legislative, administrative, personnel and other measures aimed at minimizing abuse of office. Given their effectiveness in today's conditions, the experience of Germany can be practically implemented in Ukraine, which will help optimize and strengthen the coordination of anti-corruption policy in our country. Israel's experience is useful in that anti-corruption policies in this country are carried out by government organizations and special police units, the State Comptroller's Office, which is independent of ministries and government agencies, and non-governmental organizations such as the Government Cleanliness Office. In turn, the experience of anti-corruption in Estonia will be useful because in this country the system of anti-corruption bodies is quite extensive.

Thus, in general, the mechanisms for combating corruption in foreign countries are not fundamentally different. The main difference is in the approaches and motivation of their application. Therefore, in order to successfully combat corruption, it is necessary to have not only perfect legislation, but also high-quality work of anti-corruption bodies.

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