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Anti-Corruption Policy in the Field of Public Administration of the Social Sector in the Context of Decentralisation

Iryna Ryzhuk*, Oleksandr Bryhinets, Olena Halus

Khmelnytskyi University of Management and Law named after Leonid Yuzkov
29000, 8 Heroiv Maidanu Str., Khmelnytskyi, Ukraine

Abstract

The purpose of the study is to analyse the relationship between the implementation of the reform of decentralisation of public power in the field of social sector management and anti-corruption policy in Ukraine, and the development of scientifically based recommendations for improving legislation on the prevention of corruption in local self-government bodies. In the process of scientific research, a complex of philosophical and ideological, general scientific, and special scientific methods was used. The axiological approach is used to clarify the role and importance of proper legislative regulation of certain public relations that arise when making power decisions at the municipal level. The method of analysis and synthesis contributed to the analysis of the concept, features, object, parties, and conditions of decentralisation. From special scientific methods, the study applies systemic and structural-functional, comparative-legal. It is emphasised that the reform on the decentralisation of public power initiated the creation of united territorial communities capable of independently providing high-quality public services, organisational and legal guarantees to the population for the implementation of their constitutional right to social protection by residents. It is stated that many of the positive transformations that are being conducted in the state are being offset primarily at the local level due to the large-scale spread of corruption manifestations. Due to the lack of a special strategic document of anti-corruption orientation, the work of the Parliament on resolving the issue of the anti-corruption strategy was analysed, in particular, the Draft Law "On the principles of state anti-corruption policy for 2020-2024". It is proved that corruption negatively affects the image of the state in the international community, hinders the attraction of foreign investment, and poses a threat to social and economic security. Due to the fact that fraud with budget funds causes substantial damage to the social functions of the state, corruption at the municipal level is often the most harmful, because it affects the most vulnerable segments of the population. It is determined that the legislative framework has been updated at the state level, concepts and programmes for preventing corruption have been adopted, and its own anti-corruption institutional model for organising public administration has been formed. It is stated that corruption continues to play a negative role in public administration, and the means and methods aimed at preventing it remain insufficiently effective. Ways to increase the level of anti-corruption policy in the field of public management of the social sector in the context of decentralisation are proposed. The conclusion is formulated on improving the current anti-corruption legislation by adding local self-government bodies to the list of entities that approve anti-corruption programmes

Keywords:

anti-corruption policy; social protection; decentralisation; local self-government; public administration

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*Corresponding author

Introduction

The current centralised system of state financing of human capital has exhausted its capabilities and needs to be transformed on new principles. The restructuring of the domestic economy as a consequence of the events of 2020 implies not only new development prospects for the state related to the establishment of a new technological paradigm, which was proclaimed at the World Economic Forum in Davos but also new social challenges caused by a substantial transformation of the labour market. Under such conditions, states such as Ukraine, whose industry is already outdated, can suffer the most, so production costs are compensated at the expense of cheap labour. Notably, there is too much cheap labour in the state, so some of it, in particular in the 90s of the last centuries and after 2014, the state “exports” primarily to the member states of the European Union. Such activities are extremely active in the western territories of Ukraine, where the population of the entire village goes to work in the Republic of Poland. The situation is also complicated by the fact that the most qualified employees leave for a long time or forever, and less qualified employees – for seasonal work. Thus, given the fact that human capital is formed due to large-scale investments in the social field, Ukraine has been suffering substantial losses for years.

The purpose of the study is to analyse the relationship between the implementation of the reform of decentralisation of public power in the field of social sector management and anti-corruption policy in Ukraine, and the development of scientifically based recommendations for improving legislation on the prevention of corruption in local self-government bodies.

The following tasks are set to achieve this goal:

- identify the main aspects of social field decentralisation;
- investigate the impact of the state's anti-corruption policy on the development of local self-government;
- analyse the implementation of the state-wide anti-corruption strategy at the local level;
- prove the expediency of approving anti-corruption programmes by local self-government bodies;
- develop scientifically based ways to improve the legal regulation of anti-corruption activities in the field of public management of the social sector in the context of decentralisation.

Results and Discussion

Aspects of the subject under study are covered in the papers of both Ukrainian and foreign researchers. In particular, the problems of public management of the social sector were investigated by V.D. Bakuhenko, N.P. Boretska, N.M. Vlasenko, V.A. Goshovska, K.V. Denysenko, T.V. Kravchenko, V.V. Lavrukhin, Yu.O. Makhortov, Yu.A. Khatniuk, Yu.D. Yurchenko, and others [1-2]. Theoretical and practical aspects of

the decentralisation of public power in general and in the social field, in particular, were considered by O.M. Babych, O.I. Vasilieva, A.S. Gavrylenko, A.P. Lelchenko, O.V. Remeniak, I.Z. Stornianska, A.F. Tkachuk, S.L. Schultz, and others [3-4]. Such researchers as L.I. Arkusha, D.G. Zabroda, V.V. Kovalenko, V.S. Lukomskyi, M.I. Melnyk, E.V. Nevmerzhytskyi, S.S. Rogulskyi, V.M. Solovyov, S.S. Seriogin, O.V. Tereshchuk, O.V. Tkachenko, S.A. Shalgunova have investigated aspects of the issue of general anti-corruption [5]. The current content and methodological foundations of the study of the problem of forming the foundations of the national anti-corruption policy were not investigated in the field of public administration science. Findings in this area have the following researchers: V.V. Bashtannyk, T.E. Vasylevska, S.G. Kosianchuk, N.A. Lypovska, V.M. Soloviov, V.L. Fedorenko, Yu.S. Tsal-Tsalko, V.P. Yakobchuk, and others [6]. The identification of political corruption as a threat to the state security of Ukraine is investigated [7].

Scientific and theoretical justifications, which were the result of scientific (scientific-practical) achievements of these researchers and practitioners, were focused on the legal regulation and practical activities of subjects authorised to counteract corruption, require further comprehensive theoretical development of this problem. A number of key issues for anti-corruption activities remain insufficiently investigated. First of all, this concerns a clear definition of anti-corruption policy in certain areas of public administration, in particular, in the social field.

In the process of ensuring decentralisation, it is important to consider the position of U. Oates, which determines the use of public resources for the development of each territory, in particular, the benefits of using public resources should be localised in the relevant territory; the population of this territory finances a substantial part of the needs for public or mixed goods and can optimise the production of public goods through involvement in the representative bodies of the relevant territory; the degree of difference in the preferences of the population of this territory in relation to the benefits regulated by the authorities is lower than one of the populations of different territories. Only under such conditions can decentralisation contribute to improving the efficiency of the public sector, economic growth rates, and reducing inter-territorial inequality in living standards [8].

Relatively developed human capital in Ukraine is still one of the main competitive advantages of the national economy. The state leadership tried to change this situation in 2014, approving the concept of reforming local self-government and territorial organisation of power in Ukraine, as a result of which, a reform was initiated to decentralise public power [9]. This reform was not limited to the field of public management of the social sector, as the provision

of social services to the population and the conduct of social work should be as close as possible to the people. The reform gave a new impetus to the study of the problems of financial support for social spending in Ukraine through the prism of decentralisation. With the beginning of the process of voluntary association of territorial communities, they began to create capable united territorial communities (UTC) that can independently provide high-quality public services, organisational and legal guarantees for the implementation of their constitutional right to social protection by residents. This is manifested in the ability to create independent executive bodies for the social protection of the population; properly conduct social work in the community, in particular, to introduce positions of social managers, specialists in social work and social workers; create municipal social service providers and their own administrative service centres, which are front offices for providing administrative services to members of this territorial community. Unlike the capable UTCs, territorial communities that have not united, due to insufficient financial capacity, are often not able to properly ensure the conduct of social work in the community, create the necessary organisational and legal guarantees for the exercise of their constitutional right to social protection of their residents. For example, the Law of Ukraine “On local self-government in Ukraine” provides that in small territorial communities with less than 500 residents, executive bodies may not be created at all, and their functions, in particular in the social field, will be performed by the village head.

The reform on the decentralisation of public power provided for two stages of its implementation. In the first stage, the most important laws were adopted, in particular, “On the voluntary association of territorial communities” [10] and “On cooperation of territorial communities” [11].

The Law of Ukraine “On the voluntary association of territorial communities” defined the procedure for the voluntary association, amended a number of legislative acts regarding state support for such association [11]. In the process of practical implementation of the provisions of this law, many problems arose, which led to repeated amendments, in particular, concerning: the introduction of a mechanism for joining territorial communities to already established UTCs; ensuring the possibility of uniting territorial communities of adjacent districts without changing the boundaries of districts; determining the budgets of UTCs; simplifying the procedure for joining territorial communities to cities of regional importance by introducing additional elections of deputies of the council instead of holding new elections of the mayor and deputies of the council. A mixed reaction among researchers and practitioners was caused by changes to this law concerning the simplification of the procedure for

approving long-term plans for the establishment of community territories. Long-term plans for the establishment of community territories (hereinafter – long-term plans) are approved by the Cabinet of Ministers of Ukraine on the recommendation of regional state administrations instead of being approved by decisions of regional councils. They argued that the introduction of such changes was due to the fact that regional councils, often guided by their own political ambitions and attempts to gain the trust of voters, adopted such long-term plans that did not contribute to the creation of capable UTCs. These amendments to the law established a mandatory condition for the voluntary association – association according to long-term plans.

The adoption of the Law of Ukraine “On cooperation of territorial communities” was also an important step in the decentralisation of public administration of the social sector [11]. This law provides for various forms of cooperation, in particular, the delegation of one community by other communities to perform certain tasks with the transfer of appropriate resources to it; the implementation of joint projects, including in the field of social protection; joint financing or maintenance of municipal institutions; the establishment of joint municipal enterprises, institutions and organisations; the establishment of joint management bodies for the implementation of powers defined by law, etc. [12]. For example, territorial communities can conclude a cooperation agreement on the creation of a common social service provider or a common administrative service centre, etc.

An important step in the reform to decentralise public power was the implementation of the territorial reform to eliminate and form enlarged districts in all regions of Ukraine in July 2020 [13]. The reform of the territorial organisation at the district level led to the termination of the activities of district state administrations of the liquidated districts and the need to transfer certain powers of district state administrations in the field of social protection to local self-government bodies of UTCs. A number of normative regulations were adopted, regarding: securing for local self-government bodies of UTCs of the authority to provide administrative services of a social nature, basic social services; the obligation to create a separate structural unit for social protection of the population of the local council; the creation of village, town, and city centres of social services by reorganising the relevant centres of social services for families, children, and youth; the mandatory creation of village, town, and city services for children, separated from other structural divisions of local self-government bodies, etc.

There have also been changes in the organisation of receiving applications and other documents for the appointment of state social assistance, which from March 1, 2021, are accepted by officials of the executive body or the centre for providing administrative

services directly in the UTC [14]. That is, structural divisions of local self-government bodies, their authorised persons and centres for providing administrative services have become front offices for providing administrative services of a social nature to residents of territorial communities. Since 2021 all territorial communities have been connected to the Social Community software application, which has combined front offices (entities that receive applications and documents from the population) with back offices (the social protection body that makes decisions on the provision of social administrative services) in a single information space to prevent corruption phenomena [15-16].

Unfortunately, many positive changes that are taking place in Ukraine are being offset primarily at the local level due to the large-scale spread of corruption manifestations. Indeed, a comprehensive analysis of the problems that hinder the development of the state has allowed determining that the most dangerous manifestation of criminal behaviour in public authorities and local self-government in modern society is corruption, venality of the authorities. In most cases, corruption is considered a set of crimes or law violations committed by officials of state and municipal authorities to satisfy their mercenary or other personal interests. Corruption is a complex, developed phenomenon, and the process of reforming the social, economic and political foundations of society has always been accompanied by a substantial increase in its level. This circumstance is due to the fact that the shadow economy, an essential part of which is corruption, is more flexible, primarily during large-scale transformations in society [17]. In Ukraine, the reform processes continue constantly. Recently, the process of financial decentralisation has started, which is accompanied by social changes.

The main areas of the anti-corruption policy include: improving the current legislation; developing a balanced system of checks and balances between the main bodies of state and municipal authorities; streamlining the existing system of executive and municipal authorities; changing the principles of control over the property status of government representatives and their families; creating conditions for effective control over the distribution and expenditure of budget funds; strengthening the independence of the judiciary both at the national and local levels; improving the system of internal affairs bodies; coordinating anti-corruption policy both at the national and municipal levels [18].

Proper coordination of anti-corruption policy is one of the most important areas of effective support for positive changes in the country. The anti-corruption policy imposes appropriate obligations on all state and municipal bodies, in particular for those for which anti-corruption activities are not

leading. Therewith, interpreting the fight against corruption as a full-fledged function of the modern state, a public-power institution, which can be assigned responsibility for such coordination is necessary. Law enforcement agencies and special services should ensure only the detection of corruption manifestations and bring corrupt officials to justice.

It is extremely important to develop a national anti-corruption strategy to achieve a positive result, which should be properly detailed at the municipal level considering the specific features of the development of individual regions of the state.

After the end of the period defined by the relevant law, since 2017, Ukraine has been without a special strategic document of anti-corruption orientation. So far, no new special law has been adopted. The current Draft Law "On the principles of state anti-corruption policy for 2020-2024" [19] was subjected to "amendment spam" - already for the second reading, people's deputies submitted over 500 amendments, which were considered by the working group established under the Committee on Anti-Corruption Policy.

In particular, the Committee considered the amendments that provided that the draft law approved the State Anti-Corruption Strategy for 2021-2025. The proposed strategy contains four sections, the first one is devoted to the concept of forming a state anti-corruption policy for the specified period and the mechanism for its implementation. Other sections of the document describe certain problems and the expected strategic results that are planned to be achieved to solve them. In addition, the draft law provides for the mandatory adoption of the state Anti-Corruption Programme, which would define measures aimed at implementing the Anti-Corruption Strategy, and which will become mandatory for implementation by state bodies, local self-government bodies and other entities determined by the executors of the state Anti-Corruption Programme.

For several years now, the absence of a law has led to the absence of a corresponding state programme, and special departmental strategies and programmes aimed at preventing corruption. Corruption negatively affects the reputation of the state in the international community, hinders the attraction of foreign investment, and poses a threat to domestic social and economic security. Due to the fact that fraud with budget funds causes damage to the social functions of the state, corruption at the municipal level is often the most harmful, because it affects the most vulnerable segments of the population.

The study supports the position of A.S. Bystrova, A.B. Daugavet, A.V. Duka, A.V. Korniienko, who believe that a comprehensive plan to combat corruption in the social field should cover the following elements: the introduction of an appropriate programme for the education of citizenship; the establishment of

intolerance to corruption in society; raising the status of a state official as a representative of society with providing them with special rights and guarantees; increasing the level of legal education; strengthening the influence of civil society; promoting moral values in society; increasing the role of the media in preventing corruption [20]; reducing the level of legal nihilism; guaranteeing an appropriate level of social security for each citizen; strengthening the role of political organisations; reporting on sources of funding for political entities; monitoring by the society for compliance with laws providing for penalties for corruption and abuse of official position.

One of the most important ways to combat the spread of corruption is the reform of anti-corruption legislation, which provides for the creation of anti-corruption laws themselves, and the elimination of norms and provisions of existing laws, future bills that increase corruption in all fields of state activity.

It is proposed to amend the following legal regulations within the framework of the current regulation, which aims to ensure the implementation of anti-corruption policy in the field of public administration of the social sector in the context of decentralisation:

1. part 1 of Art. 19 of the Law of Ukraine “On prevention of corruption”, which defines the list of public authorities that adopt anti-corruption programmes [21], should be supplemented with paragraph 6 “local self-government bodies – by approving their decisions”. In this regard, it is necessary to amend Art. 26 and 43 of the Law of Ukraine “On local self-government in Ukraine” [22], concerning the assignment of powers to local councils to approve anti-corruption programmes.

2. In the methodological recommendations for the preparation of anti-corruption programmes of government bodies, approved by the decision of the National Agency for the Prevention of Corruption of January 19, 2017, No. 31 [23], there is only a mention of the social field, when it is determined that anti-corruption programmes, in accordance with the requirements of Art. 19 of the Law of Ukraine “On prevention of corruption”, are necessarily approved in state trust funds, such as, for example, the Social Insurance Fund of Ukraine, the Fund for Social Protection of Disabled People. In addition, the allocation of any financial or other benefits for individuals or legal entities (social security, subsidies, benefits, etc.) is an integral part of the procedure and decision-making processes defined by the regulatory regulation [21].

Despite the difficulties, the attempt of the NAPC to propose common approaches to the establishment of anti-corruption programmes of state and local government bodies is one of the steps towards introducing effective standards of public administration. However, in practice, a number of problems were identified that negatively affected the form

and content of draft anti-corruption programmes of public authorities. The current situation requires the NAPC to focus on working with developers of anti-corruption programmes and strengthening clearer procedures for involving civil society institutions and experts in this process.

Considering the specific features of economic activity regulated by the state and conducted by the private sector of the economy, it was concluded that each of its areas is characterised by special types of corruption risks, the analysis of which requires the involvement of professional experts specialising in certain industries.

Conclusions

In Ukraine, the phenomenon of corruption and the means aimed at preventing it have become an important subject of discussion for both public authorities and the opposition, which is an instrument of political struggle. At the state level, the legislative framework has been updated, concepts and programmes for preventing corruption have been adopted, and the establishment of an anti-corruption institutional model for organising public administration continues. Despite this, corruption continues to play a negative role in public administration, and the means and methods used to prevent it remain ineffective.

This is due to the incompleteness of the establishment of the principles of national anti-corruption legislation, the absence of the relevant law “On the principles of National Anti-Corruption Policy”, the detached public reaction to the systematic impact of corruption, the lack of an integrative anti-corruption approach of citizens, public organisations, and the state, because only with a combination of such factors and the socio-political nature of preventing corruption can this ensure real results.

In addition, attention should be focused on the establishment of a platform for cooperation and coordination of the work of experts and non-governmental organisations, which on an ongoing basis would conduct independent monitoring and evaluation of anti-corruption programmes in government bodies and legal entities, would be involved in independent expert assessments of anti-corruption policies and programmes, would take part in the review and improvement of anti-corruption programmes in government bodies and legal entities, would be involved on a regular basis in trainings for authorised units in government bodies, which is extremely important for the effective work of the NAPC.

It is necessary to improve the current anti-corruption legislation by adding local self-government bodies to the list of subjects that approve anti-corruption programmes to prevent corruption in the social protection of the population in the context of decentralisation.

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Антикорупційна політика у сфері публічного управління соціальною галуззю в умовах децентралізації

Ірина Володимирівна Рижук,
Олександр Олексійович Бригінець,
Олена Олександрівна Галус

Хмельницький університет управління та права імені Леоніда Юзькова
29000, вул. Героїв Майдану, 8, Хмельницький, Україна

Анотація

Мета дослідження – аналіз взаємозв'язків між проведенням в Україні реформи з децентралізації публічної влади у сфері управління соціальною галуззю та антикорупційною політикою, а також розроблення науково обґрунтованих рекомендацій з удосконалення законодавства про запобігання корупції в органах місцевого самоврядування. Методологія. У процесі наукового пошуку використано комплекс філософсько-світоглядних, загальнонаукових і спеціально-наукових методів. Аксиологічний підхід використано для з'ясування ролі та значення належного законодавчого врегулювання окреслених суспільних відносин, які виникають під час прийняття владних рішень на муніципальному рівні. Метод аналізу та синтезу сприяв аналізу поняття, ознак, об'єкта, сторін та умов децентралізації. Зі спеціальних наукових методів дослідження в статті застосовано системний та структурно-функціональний, порівняльно-правовий. Наукова новизна. Акцентовано, що реформа з децентралізації публічної влади започаткувала створення об'єднаних територіальних громад, здатних самостійно надавати якісні публічні послуги населенню, забезпечувати організаційно-правові гарантії реалізації їх жителями конституційного права на соціальний захист. Констатовано, що чимало позитивних перетворень, які здійснюються у нашій державі, нівелюються передусім на місцевому рівні через масштабне поширення корупційних виявів. У зв'язку з відсутністю спеціального стратегічного документа антикорупційної спрямованості проаналізовано законопроект роботи парламенту щодо врегулювання питання антикорупційної стратегії, зокрема увагу приділено проекту Закону "Про засади державної антикорупційної політики на 2020–2024 роки". Доведено, що корупція негативно позначається на іміджі держави в міжнародному співтоваристві, що перешкоджає залученню іноземних інвестицій, створює загрозу вітчизняній соціальній та економічній безпеці. Унаслідок того, що махінації з бюджетними коштами завдають істотного збитку соціальним функціям держави, часто корупція на муніципальному рівні є найшкідливішою, адже вона робить вразливішими найнезахищеніші верстви населення. Визначено, що на державному рівні оновлено законодавчу базу, прийнято концепції та програми запобігання корупції, сформовано власну антикорупційну інституціональну модель організації публічного управління. Констатовано, що корупція продовжує відігравати негативну роль у публічному управлінні, а засоби й методи, спрямовані на її запобігання, залишаються недостатньо ефективними. Висновки. Запропоновано шляхи підвищення рівня антикорупційної політики у сфері публічного управління соціальною галуззю в умовах децентралізації. Сформульовано висновок щодо вдосконалення чинного антикорупційного законодавства шляхом доповнення переліку суб'єктів, які затверджують антикорупційні програми, органами місцевого самоврядування

Ключові слова:

антикорупційна політика; соціальний захист; децентралізація; місцеве самоврядування; публічне управління