

COUNTERACTION OF CORRUPTION OF LOCAL AUTHORITIES

REDKO Alla Oleksandrivna - PhD Fellow of Kharkiv National University of Internal Affairs

This article examines reasons of existence of corruption at the level of local authorities. Modern methods of its counteraction are analyzed and new methods are suggested.

Key words: *corruption, local authorities, administrative liability, disciplinary liability, criminal liability.*

Today Ukrainian corruption has acquired signs of systemic phenomenon which extends its negative impact on some aspects of life and it appears to be means of achievement of certain goals. Reform of system of preventing corruption is one of the most important aspects of modern state legal policy in Ukraine. In conditions of socio-political crisis that has engulfed Ukraine it is necessary to form public trust in government and economic growth potential, to improve the welfare of citizens.

The problems of combating the phenomenon of corruption are examined mainly by such Ukrainian and foreign scholars as O.M. Bandurka, V.B. Averyanov, O.F. Andriyko, D.M. Bahraha, J.P. Bytyak, V.M. Garashchuk, V.V. Zuy, S.V. Kivalov, L.V. Koval, T.O. Kolomojets, V.K. Kolpakov, A.T. Komzyuk, O.V. Kuzmenko, D.M. Lukanets, N.P. Matyukhin, O.I. Ostapenko, I.M. Pakhomov, V.P. Pyetkov, M.I. Melnyk, Y.V. Nevmerzheritsky, O.F. Skakun and other.

M.I. Melnyk points out that corruption is a complex, multifaceted negative phenomenon, which has become a global problem not only for Ukraine but also for the international community as a whole [1, c.79].

According to O.M. Bandurka and L.M. Davydenko the term «causes of crime» is covered by a set of interacting determinants. Searching among them those that could be called causes or conditions of crime, it's exactly the same as to look for in a haystack a needle or a match. Moreover, in one case, a specific phenomenon may be a reason, and in another - condition of a concrete crime. [2, c.39-40].

One of the main centers of public power that is as close to the person as possible is local authorities. Local authorities solve a significant part of local affairs, acting within the law and under its responsibility in the public interest.

Paragraph 1 of article 16 of the Law of Ukraine On Local Self-governance Authorities in Ukraine stipulates that local authorities are legal entities endowed with powers by law within which they operate independently and are responsible for their actions [3]. Thus, local authorities can bear criminal, administrative, civil and disciplinary liability if they violate the law.

According to Article 14 of the Code of Ukraine on Administrative Violations, officials bear administrative responsibility for administrative violations related to noncompliance with established rules in the field of public order, public and social order, the environment, public health and other regulations, the enforcement of which is their duty [4].

According to the Criminal Code of Ukraine bribery is a criminal violation only if the economic value of undue advantage exceeds in two hundred or more times the minimal income of a citizen [6, ст. 368]. Analysis of the criminal laws of other countries, including the CIS, gives reason to believe that there is a lack of rigor of sanctions of article 368 of the Criminal Code of Ukraine. Thus, in the Republic of Azerbaijan the above-mentioned actions are punished by imprisonment of two to seven years [8, p. 311.1, art. 311]. In Belarus offender is punished by imprisonment for the same term but with confiscation of property and without any further right to occupy similar positions [9, p. 1, art. 430]. Perpetrators in Tajikistan are punished by imprisonment for up to five years but without the right to occupy certain positions for three years and sanction of this article punishes for prosecution, patronage and connivance [10, p. 1, art. 319]. Criminal legislation of the Republic of Turkmenistan punishes this crime by imprisonment for up to eight years with confiscation of property and without any right to occupy similar positions for up to three years [11, p. 1, art. 184]. For the repeat of the same act or for soliciting bribes an official who holds a responsible position is punished by imprisonment for up to fifteen years with confiscation of property [11, p. 2, art. 184].

Disciplinary responsibility occurs for officials in cases of misconduct that discredit them as civil servants or departments in which they work. For this offense there are two types of liability - disciplinary and material.

Material liability also occurs in case of violation of civil and labor legislation of Ukraine.

In 2013 the Cabinet of Ministers of Ukraine approved the Model Regulations of authorized unit on the prevention and detection of corruption. This legal act recommended to the heads of regional councils, regional state administrations, central authorities to create and to operate the units on the prevention and detection of corruption within their powers. This regulation defines

the main tasks assigned to the above units, namely:

- 1) conducting of the organizational work related to prevention, detection and combating corruption;

- 2) preparation, maintenance and monitoring of measures to prevent corruption; providing guidance and advice on compliance with anti-corruption laws;

- 3) participation in the information and research support of prevention and detection of corruption and international cooperation in this area;

- 4) inspection of timely filing of income, expenses and financial obligations, verification of declarations on conflict of interest, as well as the implementation of logical and arithmetic control;

- 5) monitoring compliance with legislation on conflict of interests [7].

For these tasks authorized unit should conduct activities to prevent corruption offenses and provide clarification on the application of anti-corruption legislation. At the same time, it should take steps to identify conflicts of interest and facilitate its removal and control compliance with resolving conflicts of interest. For example, the Kharkiv Regional State Administration detected and prevented 3 cases of conflict of interest resulting from economic activities between the district administrations and business entities. In this regard, two cases were forwarded to the court, concerning the third one an internal investigation was conducted. And also it should reveal risks conducive for corruption offences made by of officers and employees of the executive authorities, enterprises, institutions and organizations; makes proposals to their headship concerning the elimination of such risks. It provides assistance in completing declarations of property, income, expenses and financial liabilities, verifies in the accordance with law the facts of timeliness of these declarations, checks the conflict of interests and performs arithmetic and logical control declarations. In case of detection of arithmetic or logic errors during the verification of declaration notifies immediately the

relevant entity for submission of written explanations and corrected declaration. In case of any facts that may indicate corruption offenses made by officials, as well as elements of offenses in declarations of assets, income, expenses and financial obligations, it informs the head of the executive authority about such cases in the established procedure; keeps a record of executives, enterprises, institutions and organizations prosecuted for corruption. It interacts with other departments on preventing and detecting of corruption of state agencies, local governments, enterprises, institutions and specifically authorized entities in combating corruption; within the authority it considers reports on the involvement of executives to corruption offenses [7].

To overcome the corrupt schemes that are used in local government, it is necessary to identify the factors that contribute to corruption manifestations and prepare proposals their elimination, improve national legislation on principles of preventing and combating corruption and order of compensation for corruption offenses; to restore violated rights, freedoms and interests of individuals, rights or interests of legal entities, state interests, and to create necessary conditions for the established liability of legal persons for committing corruption offenses; to develop effective mechanisms for bringing them to justice; to regulate the procedure of publication in the media data on cases of prosecution so that they had experienced public pressure for such actions; to provide legal, institutional, ideological and other necessary conditions for the formation of the atmosphere of professional integrity; to fix stricter procedures of selecting candidates for the civil service.

The issue of social responsibility of state and local authorities to society as a whole and to each individual in particular becomes a more challenging problem. All these measures should be implemented comprehensively, and only in the presence of such an approach it is possible to achieve certain results in reducing corruption in Ukraine.

Literature

1. Мельник М.І. Корупція: проблеми визначення сутності і поняття // Вісник Академії правових наук України. – Харків. – 1997. - №3 (10). - С.76-86.
2. Бандурка А. М., Давыденко Л. М. Преступность в Украине: причины и противодействие: Монография. – Харьков: Гос. спец. изд-во „Основа”, 2003. – 368 с.
3. Про місцеве самоврядування в Україні: Закон України від 21.05.1997- № 280/97-ВР [Електронний ресурс]. – Режим доступу: <http://zakon2.rada.gov.ua/laws/show/280/97-вр>
4. Кодекс Украины об административных правонарушениях: закон от 07.12.1984, № 8073-X (с изменениями и дополнениями) [Электронный ресурс]. – Режим доступа: <http://zakon2.rada.gov.ua/laws/show/80731-10/print1329896557051809>.
5. Закон Украины «О внесении изменений в некоторые законодательные акты Украины относительно ответственности за коррупционные правонарушения» от 07.04.2011 г. № 3207-VI [Электронный ресурс]. – Режим доступа: <http://zakon2.rada.gov.ua/laws/show/3207-17>.
6. Уголовный кодекс Украины : закон от 05.04.2001 г. № 2341-III [Электронный ресурс]. – Режим доступа: <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2341-14>.
7. Типове положення про уповноважений підрозділ (особу) з питань запобігання та виявлення корупції від 04.09.2013 № 706 [Електронний ресурс]. – Режим доступу: <http://zakon2.rada.gov.ua/laws/show/706-2013-п>
8. Уголовный кодекс республики Азербайджан. – СПб. : Юридический центр Пресс, 2001. – 325 с. [Электронный ресурс]. – Режим доступа: <http://artlibrary2007.narod.ru/gukodeksi.html>.
9. Уголовный кодекс республики Беларусь : закон от 09.07.1999 г. № 275-З. [Электронный ресурс]. – Режим доступа: <http://artlibrary2007.narod.ru/gukodeksi.html>.

АНОТАЦІЯ

У статті досліджено причини існування такого негативного явища в системі органів місцевого самоврядування, як корупція. Проаналізовано сучасні методи боротьби з нею та запропоновано нові способи її протидії з урахуванням умов сьогодення.

SUMMARY

The article investigates the reasons for the existence of such negative phenomena in the system of local government, such as corruption. Modern methods of combating it and suggest new ways to combat with the present.

10. Уголовный кодекс Таджикистана с изменениями и дополнениями, внесенными Законами РТ № 684 от 13.11.1998 г. № 877, от 10.12.1999 г.-

№ 498, от 12.03.2001 г. № 6, от 12.05.2001 г. [Электронный ресурс]. –

Режим доступа: <http://artlibrary2007.narod.ru/gukodeksi.html>.

11. Уголовный кодекс Туркменистана : утверждён 12.07.1997 г. № 222-1. [Электронный ресурс]. – Режим доступа: http://artlibrary2007.narod.ru/kodeks/turkmenistan_uk.doc.