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FORENSIC PREVENTION OF CORRUPTION OFFENCES: SOME ASPECTS

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Ukraine's European integration and the on-going reforms in the principal areas of public life irresistibly call for countering corruption in its various manifestations that have turned into an acute problem of late. The current realities indicate that corruption infects and affects every area of Ukrainian public concern. This situation directly threatens the stability of democratic institutions and successful development of the country, hinders reforming the economy, completely discredits the public authorities. Despite government efforts to the contrary, notwithstanding the existence of well-developed anti-corruption legislation and newly created anti-corruption state agencies, the number of corrupt acts and abuses does not decrease. The most dangerous corruption forms and manifestations exhibit elements of criminally punishable acts and within a legal framework are defined as criminal, or termed corruption-related crimes.

These latter are listed in the present Ukrainian Penal Code (see the note to Article 45), yet obviously, the list of corruption-related acts and abuses is not comprehensive. As a rule, such criminal activities are committed not by separate, independent offenders, but by large-scale, ramified networks based on well-

established links of corruption and using well-developed illicit techniques. These networks become entrenched in the economy and financial system, thus influencing public policies as a whole. Apart from the offences enumerated in the Ukrainian Penal Code, they commit a number of other crimes. For example, some of these latter may be included under economic offences, under offences against property, against official duties or public authorizations, against local government agencies, against citizens' associations, against justice, etc. Characteristically, corruption offences tend to remain latent, for their perpetrators are steadily becoming more «professional» while the legislation remains imperfect. Moreover, individuals in possession of substantial amounts of money establish close contacts with senior government officials. Therefore, prevention of corruption-related offences is an essential condition for the establishment of a state based on the rule of law.

Crime prevention is treated in academia along with the notions of «responses to crime», «addressing criminality», «crime-fighting», etc. We do, however, side with those experts who think that crime prevention relates to the other above-listed notions as one that is integral to, and at the same time separate from them. Thus, law dictionaries define crime prevention as a system of economic, social, cultural, educational and coercive measures and actions taken by the governmental authorities and civil society organizations for the prevention of crime and elimination of its causes. Legislation and practical law enforcement–in particular, activities of the courts that apply criminal punishment as specific anti-crime measure–form part of this process [1, p. 343].

I. V. Odnolko indicates that such measures are not directed against criminality as such, yet they have a considerable indirect influence on the crime rate. The expert suggests that the notion of crime prevention be approached and considered in broad and narrow senses. Thus, in a broad sense, crime prevention implies a historical pattern of systematic measures aimed at addressing the objective and subjective causes of crime by all civil society institutions' activities targeted at eliminating, reducing or neutralizing the factors that generate criminality and lead to criminal acts. In a more narrow, applied sense, crime prevention is an activity directed at identification and elimination of the causes and conditions conducive to criminality and criminal acts, as well as at influencing the individuals inclined to commit offences [2, c. 145].

This understanding of crime prevention concept seems quite reasonable, for indeed, primary prevention activities should be conducted at the state level. First and foremost, they should cover efficient and effective legislative regulation with respect to all areas and spheres of social life; this should not only entail legally binding rights and obligations of citizens, but set out adequate mechanisms to that end and also guarantee their implementation. At this elevated, state level efforts should therefore be undertaken precisely to prevent crime.

Another aspect of the crime prevention activities relates to the activity of law enforcement bodies that has a preventive effect and aims at: detection and prevention of intended offences; stopping the attempted crimes; identification of

conditions or causes that contribute to the commission of criminal acts; implementation of measures directed at the elimination of the aforementioned causes and conditions; prevention of similar criminal acts in the future; identification of individuals who risk committing offences (problem young people and minors, ex-convicts, etc.); taking appropriate preventive measures against the officials or employees known to be inclined to commit corruption offences.

Such activities are often termed «forensic prophylaxis». In his fundamental consolidated study V. M. Shevchuk comes to the conclusion that *forensic prophylaxis* of criminal acts should be seen in two different but complementary perspectives [3, pp. 176–177]. Firstly, it should be regarded as a specific activity carried out by legitimately authorized entities using investigative methods, techniques and tactics intended to deal with certain offences and identify the conditions or causes conducive to committing criminal acts, as well as using special forensic techniques in order to prevent intended criminal activities or suppress those already conducted by particular individuals. According to the entity, the types of preventive measures fall into four categories: 1) investigative prevention activities (or *prophylaxis*) carried out by the investigator during investigation of an offence; 2) operative prevention (or *prophylaxis*) activities performed by the bodies of inquiry in the process of detecting and revealing crimes; 3) expert prevention (or *prophylaxis*) activities implemented in the course of forensic investigation; 4) judicial prevention (or *prophylaxis*) activities carried out during consideration of criminal cases in court [4, c. 209]. Secondly, «forensic prophylaxis» of crime can be treated as a branch of criminology focusing on: 1) studying the patterns of emergence, identification and examination of the criminogenic conditions specific for various forms of crime; 2) developing and updating forensic methods, techniques and tactics intended to identify, record and examine various criminogenic conditions, as well as provide protection against criminal offences; 3) developing and updating forensic methods and techniques intended to identify and eliminate causes and conditions conducive to criminality and criminal acts; 4) identifying objects of preventive forensic interest and research in each case of investigation; studying their estimated influence and impact; 5) identifying and studying typical crime prevention-related situations that emerge in the course of investigation and may contribute to the subsequent development of key crime prevention techniques; 6) identifying and projecting into the future various complexes of possible preventive measures, efficient and effective in any of the above-mentioned crime prevention-related situations; 7) research and development into the measures intended to curtail and forestall the particular types of crimes in the preparation, commission or concealment [5, c. 35].

In view of this, we can say that as regards forensic prevention of corruption offences, the purpose of the law enforcement agencies should be primarily to identify the potentially dangerous categories of officials or employees, presumably prone to corruption offences, and carry out preventive work (discussions, official warnings, reprimands) with these groups of persons. It would also be necessary to

identify the causes and conditions conducive to committing corruption offences and thereupon implement activities focused on the elimination of these causes and conditions (by proposing to fill legislative gaps, through the identification of negative aspects in the structure and activities of the state bodies, institutions and organizations. Potentially dangerous activities that could be used in corruption schemes (as well as potentially vulnerable economic spheres, etc.) should also be duly identified.

This preventive work constitutes a responsibility of the National Police crime prevention, operative and investigation units, of the Security Service, the State Investigations Bureau, anti-corruption agencies, etc. The nature of preventive measures is different in each of these instances and depends on the legal status of the above-listed entities.

Thus, measures of corruption offences prevention should be carried out at two levels, general and special. At the general level, anti-corruption activities are performed by the competent state bodies, institutions and public organizations; at the special level they are within the competence of law enforcement agencies. Direct preventive mechanisms at the special level include, among other things, a number of preventive measures implemented by these specialized agencies within the framework of their competence.

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