

FOREIGN EXPERIENCE OF COUNTERACTION OF CORRUPTION: CRIMINOLOGICAL CHARACTERISTICS

Taking into account the results of recent researches of anticorruption practice in the world, the problem of counteraction to corruption remains to be relevant today. Therefore, analysis of the positive experience of those countries that have already achieved some success in the anticorruption practice, will optimize the modern system of anticorruption measures in other states. The purpose of this paper is criminological research of international experience in this sphere in certain countries: USA, England, Germany, Canada, the Netherlands and Singapore. The possible application of the results in such research in anticorruption practice in other states is analyzed.

Key words: corruption, counteraction of corruption, anticorruption strategy, foreign experience, criminology.

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Зарубіжна практика у протидії корупції: кримінологічна характеристика

Результати останніх досліджень антикорупційної практики в світі свідчать про те, що проблема протидії корупції залишається актуальною і сьогодні. Тому аналіз позитивного досвіду тих країн, які вже досягли певного успіху в антикорупційній діяльності, дозволить оптимізувати сучасну систему антикорупційних заходів й в інших державах. Метою даної статті є кримінологічне дослідження зарубіжного досвіду в цій сфері в окремих країнах світу: США, Англії, Німеччині, Канаді, Нідерландах, Сінгапурі для подальшого застосування результатів такого дослідження в антикорупційній практиці в інших державах.

Ключові слова: корупція, протидія корупції, міжнародна практика, політична кримінологія.

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Зарубежная практика в противодействии коррупции: криминологическая характеристика

Результаты последних исследований антикоррупционной практики в мире свидетельствуют о том, что проблема противодействия коррупции остаётся актуальной и сегодня. Поэтому анализ позитивного опыта тех стран, которые уже добились определённого успеха в антикоррупционной деятельности, позволит оптимизировать современную систему антикоррупционных мер и в других государствах. Целью статьи является криминологическое исследование зарубежного опыта в этой сфере в отдельных странах мира: США, Англии, Германии, Канады, Нидерландов, Сингапура для дальнейшего применения результатов такого исследования в антикоррупционной практике в других государствах.

Ключевые слова: коррупция, противодействие коррупции, международная практика, политическая криминология.

Problem statement. The processes of globalization, transformation, updating of social relations and social sciences are requiring the corresponding changes in the sphere of legal regulation in the modern world. Recent criminological researches allow to use the new advanced technologies in

crime counteraction, and it becomes necessary to outline the new approaches to solve the question of counteraction of corruption [1, p. 12-15; 2, p. 124-125]. A number of necessary comparative legal, interdisciplinary researches were devoted to specific aspects of the problem to corruption, but some

questions were remained without the attention of scientists.

Analysis of recent research and publications.

There is almost no corruption in Germany, Switzerland, Jordan. Other emergent countries can use their criminal law, which establishes the liability for the corruption offenses and to improve their own laws. D. Krupko and F. Faiz devoted their researches to such questions [1; 3]. Also, the results of researches by I. Chemerys and A. Prokhorenko about the international experience in the countering of corruption in the public service are allowed to use it in other spheres of the anti-corruption practices [4; 5]. However, the most significant contribution of the criminological research of the question of international practice about the countering of corruption was made by such famous scientists as O. Kostenko, V. Luneev. They determined the modern type of corruption in society, identified the most significant causes of corruption and the recommended actions of its elimination [6; 7; 8].

The purpose of this article. So it is necessary to continue the research of modern foreign anti-corruption concepts to improve the efficiency of anti-corruption activity. It is a goal of this article.

Statement of the base materials. We can agree with the statement of Professor O. Kostenko about the nature of the phenomenon of corruption in a modern society of Ukraine, which determines the existence of a special mechanism for corruption relations, the nature of corruption criminality and forms the crisis type corruption in the country. Such type of it is extending the crisis in all other spheres of public life and requiring the special advanced anti-corruption strategies [7, p. 86].

Corruption is considered to be a system of negative attitudes, social disease in society, and basically has a psychological setting to use the public service for the corrupt purposes. Such change of mentality in the direction of improving the social, including political culture of all participants of corrupt relations, should become the effective direction of anti-corruption activity. The corruption of «type of crisis» generates the citizens, who have not the proper level of social culture. The counteraction of such type of corruption needs the corresponding technology with the involvement of international experience.

It is important to know, that it is impossible to solve the problem of corruption only by the criminal legal repression. Therefore, to use the new progressive strategies with a variety of social technologies can be productive way. Thereby the institute of prevention of the «conflict of interests» in the public service requires the special attention. The legislation of those countries, which have achieved the success in the anti-corruption activity, already contains the norms for the regulation of such institute. It can be done by the establishing the corresponding control, prohibited, restricted means, which have to play an important role in counteraction of corruption in general. The application of such experience will create a good practice in this sphere for other states.

There are special bodies in some countries, which control the situation to eliminate such conflict. The Nolan's Committee regulates such «conflict of interests» in Great Britain. Besides, a contender for the ministerial post has to submit a list of all his financial interests, but not just the income declaration. Than, all information has to be analyzed in details. After that a person can be offered to change the location of his assets or to cease the cooperation with some companies [5, p. 115]. In the Netherlands there are internal security services in all organizations. They detect the blunders of officials. In Germany the official has to obtain the prior permission from the highest official authority for extra work. Besides the new job after the termination of official duties will be prohibited if it harms the interests of the service [5, p. 114].

Also in a modern anti-corruption activity it is worth taking into consideration the principle of rigid administrative legal control for the partnership of businesses in a political life of society. Such control concerns the period of election campaigns, as an effective method for example in Canada. So such principles as transparency and reporting through the agency of informing the society about the forms and consequences of corruption with the control of officials of their duties will give a positive result for the anti-corruption activity. And the proper level of social culture will provide the required base for the formation of such principles.

Also the attention should be paid to the principle of non-partisan of the official activity, which was

incorporated in the legislation of the most foreign countries. On the one hand, it is one of the important foundations of the professional ethics and it is associated with the impartiality of the officials in their activity. On the other hand, it creates the conditions for the neutralizing the political causes of corruption. Its goal is to limit the impact on the officials by the political parties, political movements or organizations and to limit the application of public service for a political career and to limit the involvement of the officials to the various electoral and political companies [9, p. 44]. Otherwise, this principle is called the principle of «political neutrality» of the official which is established in the legislation of some European countries. In the Model Code of Conduct for Public Officials determines that a public official should act in a politically neutral manner and should not attempt to interfere in the legal policy, decisions or actions of public authorities.

Also it is worth paying attention to the principle of transparency in the activity of public officials, because having the full information about it the general public can actively participate in this sphere. Therefore it will facilitate the ruling of democracy in the country. It is proposed to minimize the number of licenses, permits, to simplify the procedure of its receiving. At once it should be reduced the registration of a new private enterprise to a single action for minimizing the degree of dependence in these procedures from the officials. Besides, it should be embed the modern information technologies by introducing the electronic forms of documents, automated control systems for receive and review the documents. It will contribute to the practice of correct realization the public services and will minimize the personal contacts of officials with citizens and will increase the transparency of such processes.

It should be noted the other international standards and international experience in counteraction of corruption. For example, in Singapore there economic sanctions are too high for bribery, the disciplinary penalties for corrupt crimes were introduced, much stricter sanctions against the top officials for the corrupt crimes were applied, and the duty to pay the amount of bribes apart of penalty was established. Now there it is possible to check

any bank accounts of suspected person in corrupt crime. Also it is worth to paying attention to this special legal principle for officials in Singapore, as <http://www.google.ru/url?source=transpromo&rs=rssf&q=//translate.google.com/community?source=all> the presumption of being corrupted, when the official at any suspicion of corrupt offense is obviously guilty and has to prove his innocence.

Sometimes in a mechanism of counteraction of corruption among the economic (the proper social welfare of officials), organizational (the required control for the activity of officials) principles the scientists are given the preference for moral one. According to the point of view of some foreign scientists, the bribery as an aspect of official conduct has become a normal thing among the officials and it isn't believed to be a corrupt offense. It should be a Code of Official Conduct draft, which would allow to initiate the restraining moral principles into the system of public service. Such proposition was repeatedly mentioned by various national and foreign experts. The consolidation in a Code of Official Conduct those of natural laws, moral standards, which are based on the principles of justice, humanity, impartiality and decency, will become a powerful educational factor in a formation of anti-corrupt culture of citizens [11, p. 206].

The legislation in the majority of European countries already contains the conforming Codes. So the foreign experience could be a basis in the formation of national Code of Official Conduct. If the natural laws form the basis of official relations, it will minimize the abuse of authority in society. The formation of extending society, which will be capable not only to obey the natural laws of life, but also to create the laws by itself, to identify the new natural laws, will allow to develop and improve the level of culture of other society members. As a sample it can be taken the movement of gentlemen in England as an example of high social culture of a man. Modern elite in other countries can be formed on its basis. [7, p. 86; 12, p. 144-145]. To form culture means to form conduct, corresponding to natural way of life. For a public relations and institute of public service it means to create a cultural climate in a sphere of realization authorities by the officials. According to the international experience one of the ways of counteraction of corruption in

China is the encouraging of probity. Also there were combined the punishment with preventative measures. Now in China the educational movement of three encouragements is acting: political awareness, healthy movement of fairness and education [8, p. 143].

At once it is necessary to introduce the state program of forming an anti-corruption culture of citizens for the ensuring the process of education the proper level of social culture of nationals. Primarily it'll increase the overall level of morality and spirituality of society. Also it should be introduced the course «Anti-corruption standards of conduct» into the educational process of secondary and university professional education. At the same time the development of effective scientific and cultural educational programs, the publication of various printed editions about the counteraction of corruption will contribute the increasing level of social culture of citizens [7, p. 185-186].

Conclusions. Firstly, the applying of the positive experience of those foreign countries, which have already achieved some success in the anti-corruption practice, will optimize the modern system of anti-corruption means in the other states. As an example it can be used the anti-corruption practice of the USA, England, Germany, Canada, the Netherlands and Singapore.

Secondly, the education of highly cultured nation will contribute to the counteraction of illegal events in society, particularly, corruption and corruption criminality. The formation of elite in the society, which will be capable not only to obey the natural laws of life, but also to create the laws by itself, to identify the new natural laws, will allow to develop and to improve the level of culture of other society members.

Thirdly, the applying of the experience of the prevention the «conflict of interests» in the public service in Great Britain or of the internal security services in the Netherlands, which are identifying the faults of officials, will allow to improve the functioning of the necessary control institutions in this sphere in other countries. It will be important according to the American and German experience to strengthen the control of public over the decisions of all the important personnel and financial state questions.

Finally, it should be noted, that according to the international experience the modern anti-corruption policy in the world should take place simultaneously in three directions: for the modernization of modern legislation, for the promoting of anti-corruption conduct and the proper legal education.

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