
TECHNOLOGICAL PROCESSES OF COMBATING CORRUPTION OF OUR TIME

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Abstract. The article determines that system-wide technologies aimed at ensuring the proper quality of adopted regulatory legal acts and effective law enforcement practice rightly include: legal technology, legal monitoring, legal expertise, legal forecasting. Special technologies that contribute to the suppression and prevention of corruption include anti-corruption monitoring; anti-corruption examination of regulatory legal acts and their projects. Coordination technologies include: regulatory impact assessment, information and legal technologies for systematizing legislation and processing legal data, etc. The author has proven that the current technology of zinc regulatory impact, as well as the recently introduced assessment of the actual impact, carried out on the basis of the conclusions of the relevant government bodies, experts and representatives of the business community, as additional practical tools aimed at improving the quality, effectiveness and efficiency of legal regulation of the conditions for conducting business and investment activities, it is more correct to attribute not to coordination technologies, but to the type of funds associated with the direct cessation and prevention of corruption. The consolidation of excessive duties, prohibitions and restrictions in the field of entrepreneurial and other economic activities, the establishment of uncertain and difficult to implement requirements for citizens and organizations, the creation of conditions leading to unreasonably high financial burdens for individuals and legal entities are obvious corruption factors. It was concluded that anti-corruption technologies, both standard ones, requiring constant improvement in terms of compliance with objective realities, and new ones, make it possible not only to prevent the onset of harmful consequences from committing corruption offenses, but also to improve the quality of lawmaking, its effectiveness and optimize management processes.

Key words: corruption, countermeasures, technological processes, regulatory legal act, criminal law.
INTRODUCTION

The adoption by state authorities of regulatory legal acts that are not always systematized, often contradictory and (or) blank, and ignore the rules for using legal terminology, not only sharply reduces the effectiveness of the legal system as a whole, but also increases its susceptibility to corruption. The multiplicity of regulatory legal acts inconsistent with each other raises questions among law enforcement entities regarding the correct application of a particular norm and its real action. Often there is no system of feedback between the result of legislative activity – regulatory legal acts and decisions made on their basis. All these factors entail negative phenomena, including the development of corruption in the state.

The purpose of this article is to identify anti-corruption technologies that meet the requirements of our time.

MATERIALS AND METHODS

The empirical basis for scientific work was the provisions of regulatory legal acts of Ukraine, specific provisions of the norms of criminal procedural law, international law, in particular, regarding the observance of human and civil rights. Empirical also includes official statistics on the application of certain measures to ensure criminal proceedings against persons violating anti-corruption laws, in particular the data of the Office of the Prosecutor General. The theoretical basis of the scientific study was the scientific works of domestic and foreign scientists of our time regarding the application of restrictive measures to subjects that violate the standards of anti-corruption legislation, the direction of improving legislation on this issue and law enforcement practice.

Research methods were determined according to the purpose, tasks, object and topic of the article. During the study, general scientific and special research methods were used. Formally logical methods were used to analyze the norms of anti-corruption legislation, substantiate the conclusions and proposals for their improvement. To form the conclusions, the synthesis and generalization method was used.

RESULTS AND DISCUSSION

Corruption in Ukraine has become a real threat to the country’s national security. Despite the fact that many states around the world are taking a large number of measures to overcome this threat, there is still no unified idea of the social essence of corruption.

According to the prevailing opinion in modern Ukrainian society, corruption belongs to the most dangerous manifestations of criminal behavior in state and local authorities. It permeates all management structures, destroys and destabilizes them, slows down the development of social processes, and hinders the implementation of priority national projects.

The phenomenon of corruption in Ukrainian society began to be actively investigated in the second half of the 90s of the twentieth century. It is no coincidence that particular attention is paid to scientific research on corruption, for example, numerous scientific treatises and regular scientific forums can serve as this. The reason for this attention is that the implementation of anti-corruption measures is impossible without scientific understanding, the research of which is engaged in legal science. The latter should develop
not only a conceptual basis for combating corruption, but also a theoretical basis based on practical material. Only under such conditions can anti-corruption practices be effective.

In addition, the last decade was marked by the intensive development of legislation on combating corruption in Ukraine. Currently, it is obvious that the correct legislative definition of corruption makes it possible to determine the system of corruption criminal offenses, the most dangerous part (subsystem) of corruption criminal offenses for society, to include socially dangerous acts of a corrupt nature in the current Criminal Code of Ukraine, to make the necessary changes to the existing criminal law norms providing for responsibility for corruption criminal offenses, to bring them as close as possible, taking into account the peculiarities of national legislation with the relevant regulatory provisions of international criminal law.

According to some authors, everything has already been said about corruption as a negative phenomenon, the necessary documents have been developed taking into account the experience of other countries where corruption is successfully opposed, and therefore it is no longer possible to add something new and offer any innovations.

At the same time, a study of doctrinal legal sources shows that corruption is considered superficially, there is no depth, consistency and complexity. Moreover, some author’s teams in the preparation of training courses in criminology do not distinguish sections, divisions or paragraphs on the problem of corruption in the structure.

At the same time, the problem of corruption crime requires an integrated approach, which allows a wide and systematic study of this negative social phenomenon, to determine its place and role in public life.

Philological interpretation of the concept of “corruption”. The characterization of corruption must begin with its etymological meaning, the definition of the conceptual apparatus, in particular, the establishment of the terminological and lexical component makes it possible to understand its overall social meaning.

The term “corruption” was borrowed in the 20s of the twentieth century. in English, where the word “corruption”, understood as “corruption, bribery, distortion, corruption”, dates back to lats. “corruptio”, meaning “spoilage, distortion”.

The verb “corrumper” (consisting of the prefix “cum-“ and the root “rumper” – “violate, rape”) has as an effective element that rupcor, which acts especially expressively in the abstract concept of legi-rupio, is translated only as “violator of laws”, with which lego is easily associated, and therefore its antonym neg-lego “do not worry about”, so that the action romper, in the meaning of legi-rupio refers precisely to the one who violates the rules, since he is “deprived of conscience”.

To explain the essence of corruption, it is important to define the concept of “corruption manifestations.” Corruption, as already found, can manifest itself in society in different forms. At the same time, if the committed illegal act does not contain all the signs of a corruption criminal offense, for which criminal law provides for liability, it can still be considered a corruption manifestation. Thus, corruption will occur if a person directly or indirectly carries out an act not provided for by law, in the interests of third parties or a group of persons using their official capabilities and powers for personal enrichment for material remuneration.
According to the results of anti-corruption monitoring of public opinion for 2019-2020 conducted by the Committee on Anti-Corruption Policy, the largest number of respondents (representatives of the business community) understand corruption as obtaining illegal benefits (34% of the total number of respondents); 32% – as the use of official position for personal purposes; 19% – as embezzlement of budget funds; 13% – as unfair performance of official duties; 1% is different. However, corruption in the broader sense is not enough to consider only as an improper benefit, since it is stipulated in selfish aspirations aimed at personal enrichment and in the use by an official for this purpose of the rights related to his position. Corrupt behavior should also be recognized as obtaining other intangible benefits and advantages.

Thus, based on an etymological study, it can be concluded that terminological polysemy is observed when formulating the concept of corruption. It is noteworthy that modern dictionaries do not contain the term “corruption”, which indicates an insufficient level of research on this phenomenon and terminological uncertainty.

In translation from Greek “technology” (techne) is an art, skill, ability. Explanatory dictionaries define technology as set of the interconnected methods, ways, methods of subject activity. Anti-corruption technologies, being a system of methods, methods and means of implementing anti-corruption regulations, are used at various stages of preparation and adoption of legal norms, as well as law enforcement and play an important role in timely and systematic detection of defects, legal errors and corruption factors (Verkhovna Rada Committee on Anti-corruption Policy, 2022).

Given the lack of a unified approach to understanding the nature of anti-corruption technologies and their species classification in the scientific literature and in legislation, one of the indicated theoretical positions should be cited, which is based on the level of involvement of technologies in relevant processes. Thus, technologies are proposed to be divided into three types: system-wide, special and coordination (Khabrieva, 2009).

System-wide technologies aimed at ensuring the proper quality of adopted regulatory legal acts and effective law enforcement practice rightly include: legal technology, legal monitoring, legal expertise, legal forecasting.

Special technologies that contribute to the suppression and prevention of corruption include anti-corruption monitoring; anti-corruption examination of regulatory legal acts and their projects.

Coordination technologies include: regulatory impact assessment (ODS), information and legal technologies for systematizing legislation and processing legal data, etc.

We believe that the current technology of ODS, as well as the recently put into practice assessment of the actual impact (FEV), carried out on the basis of the conclusions of the relevant state bodies, experts and representatives of the business community, as additional practical tools aimed at improving the quality, effectiveness and effectiveness of legal regulation of the conditions for conducting business and investment activities, it is more correct to attribute not to coordination technologies, but to the type of funds related to the direct cessation and prevention of corruption. The consolidation of excessive duties, prohibitions and restrictions in the field of entrepreneurial and other economic activities, the establishment of uncertain and difficult to implement requirements for citizens and
organizations, the creation of conditions leading to unreasonably high financial burdens for individuals and legal entities are obvious corruption factors.

In turn, coordination technologies, which are used to achieve coherence and orderliness between the applied technologies and are combined with a common goal, can be supplemented with information technologies for promoting anti-corruption ideas and views and specialized automated anti-corruption systems in the activities of government bodies that ensure the publicity and openness of their activities.

Despite the flexibility of this classification, it can be noted that the task of increasing the effectiveness of anti-corruption legislation can be solved only with the effective use of various kinds of technologies.

These can be both proven (traditional) and modern technologies, including legal ones, which make it possible to ensure the high quality of regulatory legal acts and the stability of right regulation, as well as provide an opportunity to systematically and systematically influence law-making and law enforcement practice, excluding legal errors, and, if the latter are present, correct them. At the same time, legal technologies should be understood as a system of scientifically based techniques, methods and other legal instruments, as well as procedures for their use, which make it possible to use the necessary resources (financial, organizational, personnel, etc.) to ensure the effectiveness of legal decisions. (Khabrieva, 2009).

The effectiveness of combating corruption is largely due to the comprehensive professional analysis of regulatory legal acts, the practice of their application and the constructive use of the entire arsenal of technologies. Legal science has paid due attention to issues of assessing the effectiveness of legal norms since Soviet times.

The classic proven practice and time technologies, which ensure the high quality of legal regulation and public administration, as well as the effectiveness of anti-corruption decisions, include legal technology responsible for the legal and technical content of the legal act. In this regard, we will consider the rules of legal technology, which include everything related to the principles and methods of execution, the search for the optimal structure of the act, the completeness of the scope of the regulatory material in the text of the draft of a particular regulatory act. The level of civility of society actually depends on the level of legal technology (Anners, 1994).

With the help of legal technique, the possibility of including corruption provisions in the regulatory act at all stages of its preparation ceases: from the formation of the idea and concept of the regulatory act, search and systematization before the draft regulatory legal information to the technique of making changes and techniques for preparing accompanying documents.

It seems that as part of the fight against corruption, such aspects of legal technology as:

− logical and theoretical basis for structuring regulatory legal acts, formulation and compilation of definitions, language and graphic rules (in order to prevent the inclusion of corrupt norms and legislative errors in the regulatory act);
− technical and legal aspects of systematization of national legislation in order to eliminate conflict and duplicate provisions, gaps in legal regulation;
− legal forecasting, design and expertise technique.

As a separate area of anti-corruption activities, such advanced legal technology as
legal monitoring should be considered, which is one of the main tools for improving the effectiveness of legal regulation, ensuring the proper quality of regulatory legal acts and their implementation (Gorokhov, 2015).

Legal monitoring is a feedback channel between the state and society, which is a comprehensive structural and information-analytical mechanism for analyzing and assessing the “life cycle” of a law or other legal act at all stages of its creation and application (Khabrieva, 2010). The absence of such a cyclical legal development leads to a rupture of the “legal chain,” fragmentation and illusory legal regulation.

From the point of view of etymology, the words “monitoring” are systematic systematic activities aimed at collecting, summarizing, analyzing and evaluating information to ensure the adoption, amendment and recognition of invalid legal acts. In turn, the main goal of legal monitoring is to identify the effectiveness of regulatory legal acts, form recommendations for their further improvement and optimize the legal system as a whole.

Since the legislative level does not provide for the basis for organizing and conducting legal monitoring, in practice and in modern legal science there is no unified position on terminology, and scientific research cannot be carried out without agreeing on terms. The terms “monitoring of law enforcement,” “monitoring of law enforcement practice,” “monitoring of legislation,” “monitoring of law,” “monitoring of regulatory legal acts” often used separately do not cover either the stage of rulemaking or the stage of enforcement, although those who use these terms, the process of rulemaking and enforcement in monitoring not only do not deny,

Scientific generalization allows you to define legal monitoring as a system of information observations, which makes it possible to analyze and evaluate:

1) the results of legislative activity (legal process);
2) the quality of regulatory legal acts adopted by one or another legal authority in accordance with the legal competence provided to it;
3) the effectiveness of their practical action, implementation (law enforcement process).

Accordingly, the object of legal monitoring is not only the current legislation and the practice of its application, but also legislative and other rule-making activities carried out by all branches of government. Legal monitoring is aimed at assessing such important indicators as the balance, coordination and stability of legislation and the practice of its application, identifying their defects, determining the vector of legislative development, improving the quality of legislative technology and improving the legislative process.

The components of the legal monitoring mechanism include: anti-corruption examination of regulatory legal acts and their projects; assessment of regulatory impact; assessment of actual impact; sociological studies, including a survey of expert experts and the study of public opinion.

The purpose of the anti-corruption examination, enshrined at the legislative and by-law levels, is to significantly reduce corruption practices, identify and eliminate uncertainties from the texts of draft regulatory legal acts and texts of the regulatory legal acts themselves, excessive discretion, a variety of options for dispositions of legal norms, the possibility of prudence of the law enforcement officer, and the like.

A significant part of corruption offenses appears precisely because of defects in laws and
by-laws, admitted either due to the oversight of law-making bodies, or deliberately in order to veil corruption actions and schemes. Despite the fact that it is quite difficult to determine the purpose of finding a corruption factor in the draft regulatory right act or the text of the regulatory legal act, the legislative registration of corruption norms, in the form of legal, and in the content of illegal, can be attributed to the presumption of illegal actions.

It should be noted that anti-corruption examination is not a novella of domestic legislation. The need for a systematic and systematic analysis of legislation for corruption is recognized by the international community. Thus, the 2003 UN Convention against Corruption contains the following provision on the prevention of corruption: “Each State Party seeks to periodically assess relevant legal documents and administrative measures in order to determine their adequacy in terms of preventing and combating corruption.”

By virtue of the provisions of the Law, anti-corruption expertise should be classified as a preventive measure. We believe that the regulatory potential of anti-corruption expertise is undoubtedly higher, which is confirmed, among other things, by the norms of the law.

Anti-corruption expertise is a synthesis of preventive and control means of combating corruption aimed both at creating legislation that prevents public persons (employees) from committing corruption transactions, which reduces corruption risks, which eliminates the arbitrary interpretation and possibility of the emergence of provisions that form a breeding ground for abuse in the future, and on improving law enforcement practice by identifying corruption factors directly in regulatory legal acts.

However, legal acts of an individual nature do not actually fall into the sphere of anti-corruption expertise, namely, they give a wide space for corruption actions of officials, and regulatory agreements (transactions) and their projects.

If we compare all existing methods of conducting anti-corruption expertise, then their analysis allows us to state that those previously used contained a more detailed list of corruption factors, including:

- systemic factors, which can be identified only during comprehensive analysis of the draft document;
- factors related to legal gaps.

As for independent anti-corruption expertise, its further effective implementation is possible only with a clear identification and solution of such a problem that has arisen in practice as the elimination of insufficient elaboration of the mechanism for its implementation and accounting for its results. We consider it expedient to provide for a regulatory procedure for considering the conclusions of an independent anti-corruption examination of draft regulatory legal acts with determining the timing of accounting for its comments, as well as publishing the conclusions of independent experts on the official websites of government bodies and the like.

Improving the effectiveness of anti-corruption expertise of legislation would also serve as a clearer distinction between its content, results, consequences and legal expertise.

The current methodological base of anti-corruption expertise also requires development. The existing methods do not provide for a description of the procedure for conducting an examination, its stages, stages and methods of conducting, there is no systematic training of state and municipal employees in the skills of anti-corruption analysis. The trainings
conducted in this area are not systematic. In addition, the experience of developing and applying foreign methods for conducting anti-corruption expertise of regulatory legal acts remains practically unexplored. Although, of course, significant work in this direction has been carried out.

The regulatory impact assessment (ODS) is a combination of legal and economic technology and a systematic process for identifying and assessing the possible consequences of introducing certain regulatory norms. This tool is used at the stage of identifying the problem for a risky assessment of the results of the introduction of new regulatory acts, its purpose is to identify provisions introducing excessive administrative and other restrictions and obligations for business entities, as well as those that contribute to the emergence of unreasonable expenses of business entities and budgets of all levels of the state budget system.

Along with the ODS, it is mandatory to conduct such an economic examination as an assessment of the actual impact (FEV) regulatory legal acts, during the development of projects of which an ODS was carried out, in order to analyze the achievement of regulatory goals, determine and assess the actual positive and negative consequences of the adoption of regulatory legal acts, as well as identify provisions in them that unreasonably complicate the conduct of entrepreneurial and other economic activities or lead to the emergence of unreasonable expenditures of the budget system of the state. Thus, the FEV can be attributed to a retrospective economic assessment related to determining the effectiveness and justification of achieving the initially set goals.

It has been established that if draft regulations of federal executive bodies regulate relations in the areas of entrepreneurial and other economic activities, organization and implementation of state control (supervision), then conclusions based on the results of an independent anti-corruption examination are sent as part of public consultations. Nevertheless, we consider it expedient to consider the assessment of corruption risks comprehensively, while developing mechanisms and diagnostics for preventing corruption offenses.

Risk management, being a comprehensive technology, is also a symbiosis of legal, economic and political technologies. The analysis and assessment of general theoretical and practical knowledge of risk as a legal category as a whole allows us to formulate the concept of “corruption risk”, which provides for the possible and alleged actions (inaction) of subjects of law in order to illegally obtain material and other benefits in the exercise of their official powers. The characteristics inherent in “corruption risk” should include the following:

1) actions (inaction) are intentional and their ultimate goal is to obtain material and other benefits. The risk assessment provides for the identification and analysis of the relevant risks associated with the achievement of the established goals. This is a prerequisite for determining how to manage risks. The risks are analyzed taking into account the likelihood of their occurrence and impact in order to determine what actions should be taken in relation to them. Situations are assessed in terms of inherent and residual risk.

Typical factors that require assessment for the possibility of determining corruption manifestations may include:

- absence or incompleteness of regulatory legal acts aimed at combating corruption;
- availability of provisions in the legal and organizational system that contribute to the creation of administrative barriers;
– absence of administrative and job regulations;
– The need to increase transparency and accountability of public sector activities in the implementation of a number of functions;
– low efficiency of internal and external control over the activities of officials and ordinary employees, a set of procedures;
– imperfection of feedback mechanisms between citizens and public authorities;
– lack of proper legal anti-corruption education of officials (employees), etc.

In the field of detecting and preventing corruption risks, the practice of state executive bodies and senior executive bodies of state authorities of state entities is developing, which independently develop appropriate methods for diagnosing corruption risks, which are considered exclusively through the prism of state administration (placement of a state order for state and municipal needs, social sphere, etc.). At the same time, we consider it expedient, on the basis of doctrinal research, to develop a unified approach to assessing corruption risks, diagnosing the prevention of corruption offenses in various spheres of public life.

Legal forecasting, closely related to legal monitoring, the data of which can serve as the basis for forecasting, is also one of the proven legal (legal) technologies aimed at adopting working laws, building a holistic system of anti-corruption legislation that can respond to the challenges of the present and withstand global threats. Forecasting provides for the development of scientifically based options for the future state, the dynamics of the development of legislation, the practice of its application by specially organized research teams based on the achievements of legal science, other areas of knowledge, as well as data from law enforcement practice.

The subjects of predictive activities based on comprehensive, systemic research are mainly research and educational organizations and institutions specializing in the field of law; relevant divisions of the authorities.

The variety of legal forecasting, in addition to anti-corruption legal forecasting, includes such a technology as scientific design of the development of legislation, carried out on the basis of comprehensive, systemic studies, which are not limited to the field of law and are based on the achievements of other social sciences, primarily economics, history, sociology, political science and psychology.

Abroad, scientific design technologies are successfully used mainly in the development of acts of socio-economic and, above all, budgetary legislation.

In connection with the above, it is advisable to develop a scientific tool for legal forecasting to determine the dynamics of forms of legal regulation and their relationship with illegal regulators.

In recent years, information and legal (reference and legal) technologies for systematizing legislation and processing legal data have been rapidly developing. In theory, information technology is a clearly regulated process that determines the forms of data presentation and the procedure for performing operations for processing information by people and technical means, which leads to the production of an information product with specified properties (Kazantsev, 2011). Such technologies, implemented by collecting regulatory legal acts into a computer complex with its subsequent processing for attribution to industry
affiliation, legal force, situational affiliation, significantly facilitate the work of specialists in various industries and professions to analyze the current legislation, identify its gaps and contradictions, and find the necessary legal solutions.

The result of a more complete use of information resources (IT technologies, etc.) is the strengthening of interdepartmental information interaction, which is a key direction to increase the efficiency of the public administration system by moving to an electronic form of providing public services. An equally significant area is the improvement of the public service system based on the use of information and communication technologies, the implementation of which, together with the automation of personnel procedures in the public service, including in terms of combating corruption, is also a key task.

Do not forget about such a type of information technology actively used by civil society institutions as public sources of information about corruption on the Internet (websites, blogs and microblogs).

**RECOMMENDATIONS**

In conclusion, it should be noted that anti-corruption technologies, both standard ones, requiring constant improvement in terms of compliance with objective realities, and new ones, make it possible not only to prevent the onset of harmful consequences from committing corruption offenses, but also to improve the quality of lawmaking, its effectiveness and optimize management processes.

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