THE ROLE OF LAW ENFORCEMENT INSTITUTIONS IN ENSURING POLITICAL ACCOUNTABILITY OF PUBLIC AUTHORITIES IN UKRAINE AND ITS ADAPTATION TO THE REQUIREMENTS OF THE EUROPEAN UNION

Abstract. The article defines the essence, factors and stages of legalization (laundering) of the proceeds of crime; establishes the role of the state regulatory policy in the field of combating the legalization of illegal income, and summarizes the methods of combating this phenomenon in the context of Ukraine's European integration. The author also analyses the regulatory framework for preventing and combating the legalization (laundering) of the proceeds of crime, including international instruments ratified by Ukraine. The author examines the institutional framework for preventing and counteracting the legalization (laundering) of proceeds of crime: the structure of the National Financial Monitoring System of Ukraine. It is noted that cooperation with international organizations is important in combating this phenomenon, since legalization of illegally obtained income is a global problem. The author identifies the main problems related to prevention and counteraction to legalization (laundering) of proceeds of crime which need to be addressed: bringing the national legislative framework in this area in line with European standards; training of specialists of national government agencies and financial intermediaries on prevention of legalization of proceeds of crime; improvement of interaction with international money transfer systems and transnational payment systems, etc. The author provides a classification of methods of combating money laundering. Particular attention is paid to the key areas of state policy in this area: ensuring conditions for the proper functioning and development of the system of prevention and counteraction to legalization (laundering) of...
proceeds of crime; improving the activities of law enforcement agencies; effective international and national cooperation in this area, coordination of actions of all participants in the existing system; ensuring awareness-raising, educational activities and scientific support of the system of prevention and counteraction to legalization of proceeds of crime.

Keywords: anti-money laundering system, national financial monitoring system, grey economy.

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РОЛЬ ПРАВООХОРОННИХ ОРГАНІВ В ЗАБЕЗПЕЧЕННІ ПОЛИТИЧНОЇ ВІДПОВІДАЛЬНОСТІ ОРГАНІВ ПУБЛІЧНОЇ ВЛАДИ ЄУКРАЇНИ ТА ЇЇ АДАПТАЦІЇ ДО ВИМОГ ЄВРОПЕЙСЬКОГО СОЮЗУ

Анотація. У статті визначено сутність, чинників та стадій легалізації (відмивання) доходів одержаних злочинним шляхом; встановлено роль державної регуляторної політики у сфері протидії легалізації незаконних доходів, а також узагальнено методи протидії цьому явищу, у контексті євроінтеграції України. Також проаналізовано нормативно-правове забезпечення запобігання та протидії легалізації (відмивання) доходів, одержаних злочинним шляхом, зокрема і міжнародні акти, які ратифікувала Україна. Розглянуто інституційну основу запобігання та протидії легалізації (відмиванню) доходів, одержаних злочинним шляхом: структуру Національної системи фінансового моніторингу України. Зазначено, що у боротьбі з даним явищем важливою є співпраця з міжнародними організаціями, адже легалізація незаконно отриманих доходів є глобальною проблемою. Визначено основні проблеми, щодо запобігання та протидії легалізації (відмиванню) доходів, одержаних злочинним шляхом, які потребують вирішення: приведення вітчизняної законодавчої бази у даній сфері у відповідність до європейських стандартів; підготовка спеціалістів...
вітчизняних державних органів, а також фінансових посередників з питань запобігання легалізації доходів, отриманих злочинним шляхом; покращення взаємодії з міжнародними системами переказів грошей та транснаціональними платіжними системами тощо. Наведена класифікація методів протидії легалізації доходів, отриманих злочинним шляхом. Особливу увагу приділено ключовим напрямам державної політики у даній сфері: забезпечення умов для належного функціонування і розвитку системи запобігання та протидії легалізації (відмиванню) доходів, одержаних злочинним шляхом; покращення діяльності правоохоронних органів; ефективне міжнародне і національне і співробітництво у даній сфері, координація дій всіх учасників існуючої системи; забезпечення просвітницької, освітньої діяльності і наукового супроводу системи запобігання та протидії легалізації доходів, одержаних злочинним шляхом.

Ключові слова: система протидії легалізації (відмиванню) доходів одержаних злочинним шляхом, національна система фінансового моніторингу, тіньова економіка.

The problem statement. Ukraine, having undergone a complex process of democratic transformation and changes in its political system, faces a number of challenges, such as corruption, distrust of public authorities and lack of civic engagement. Politics cannot function without accountability, but there are serious disagreements about how accountability should be understood and huge debates about how it should be allocated, rewarded, legislated and enforced.

The liberal notions of personal responsibility that have dominated political thinking in the West for more than a century are rooted in the familiar territory of individual will and causal blame, but these theories have been criticized as inadequate to explain or address the political demands of the global social architecture. That is why the outcome of political accountability in Ukraine should be reflected in ensuring democracy, building the rule of law, increasing trust in law enforcement agencies and establishing positive standards for government.

Overview of recent research and publications. Theoretical and practical aspects related to combating money laundering have been covered in the works of such domestic researchers as L. Dolya, V. Bilous, V. Popovych, M. Kamlyk, L. Kashpur, G. Usatyi, S. Cherniavskyi and others. Foreign scholars have also considered this problem K. Zinn, M. Olson, B. Page, C. Rowe, G. Hodson and others. At the same time, it should be noted that the issues of public administration of the system of combating money laundering require additional research.

The purpose of the study (task statement). The purpose of the article is defining the essence, factors and stages of legalization (laundering) of the proceeds of crime; establishing the role of state regulatory policy in the field of combating
money laundering and methods of counteracting this phenomenon in the context of Ukraine's European integration. The study uses both general scientific and special methods and approaches.

**Research results.** Political accountability takes a certain form when it is established by state legislation, such as the constitutional accountability of persons holding high public office. However, it should be noted that the list of people who make the most important decisions on behalf of the state is rather limited. In fact, we are talking about the constitutional responsibility of senior executive officials. It is important to emphasize that it is personal constitutional responsibility, since "only one - the only leading minister - can be truly responsible in matters of major policy, and not an anonymous panel", as Chancellor Otto von Bismarck rightly noted. In a democratic society that adheres to the rule of law, there are laws, functional government institutions and processes in place to ensure that all public authorities are held accountable for any failures or unethical actions they may commit. There are specific standards used to evaluate their performance, methods for correcting mistakes, and mechanisms for removing senior officials and entire governments that fail to fulfil their responsibilities, causing harm to the country and its citizens. These mechanisms are designed to avoid deterioration of people's lives and degradation of the nation. That is why legal control is an important form of ensuring political accountability in public authorities. For it to be effective, it is necessary to ensure the independence of courts and other state control bodies, create mechanisms for citizens to appeal and protect their rights, and ensure compliance with laws and regulations governing the activities of public authorities.

In this context, it is important to note that for the development of a fully-fledged state governed by the rule of law, it is important to eliminate any manifestation of corruption by public authorities. The control over violations in this aspect is carried out directly by law enforcement agencies.

The process of identifying corruption risks in the management of state organizations should be based on the use of information about the management system of the state organization, its own and delegated functions and powers.

Management should be based on the use of information about the management system of a state institution, its own and delegated functions and powers. At the same time, experts believe that the sources of such information are completely different.

Thus, all information bases recommended by international experts for qualitative identification and analysis of corruption risks in the Ukrainian administrative system can be used in our country. At the same time, we propose to divide these sources of information on risks into external and internal, written and oral, depending on the environment.
Additionally, it should be noted that this process requires a complete and in-depth understanding of all components of state institutions, as the identification of corruption risks involves the systematic use of information to identify and analyze the causes and risk factors. As a result, the use of various sources of information on possible corrupt activities of public officials should be maximized.

An equally important element, perhaps even the main one, in the process of identifying and analyzing corruption risks in the administrative system is the documentation of the results obtained. In the authors' opinion, identification of corruption risks in the administrative system as an independent stage of the risk management system is crucial not only for the rational and efficient use of internal control resources, but also in view of the need to decentralize authority and responsibility for managing these risks.

It is also crucial for decentralizing authority and responsibility for risk management.

At the same time, in order to avoid formalizing the process of identifying and analyzing corruption risks, the heads of state institutions should be directly involved in this process and set the tone by example. In other words, the top leadership of our country should pursue a consistent policy of preventing corruption, develop and implement an effective national anti-corruption programme [1].

This programme should become the basis for action at the national level or in specific state institutions.

Today, our country, with the support of international organizations, is developing the conceptual prerequisites for taking effective anti-corruption measures.

These include monitoring potential corruption risks in the administrative system, investigating and assessing the causes and conditions of corruption in the public sector.

The process of identifying and assessing corruption risks is a priority on the agenda of international organizations such as the UN, the Group of States against Corruption (GRECO), the Organization for Economic Co-operation and Development (OECD) and the World Bank. In addition, according to a study conducted by the United States Agency for International Development (USAID), corruption risk assessment is necessary to ensure an understanding of the corruption situation in the country, identify and prioritize the goals and objectives of anti-corruption Programmes in order to achieve the desired results from anti-corruption activities [2, c. 186].

According to the International Monetary Fund, the existence of risks to the freedom of action of civil servants when granting permits for economic activity inevitably leads to abuse in the administrative system. At the same time, according to IMF research, between USD 1.5 and 2 trillion (about 2 per cent of global GDP) is
diverted from the global economy annually in the form of bribes. This inevitably undermines trust in the state and ethical values of citizens [3].

The issue of corruption in the administrative system and corruption risk assessment is currently one of the main challenges in Ukraine's anti-corruption policy.

This is one of the key issues in Ukraine's anti-corruption policy. In particular, the requirements of the Law of Ukraine "On Combating Corruption" oblige specialized anti-corruption bodies in our country to develop and approve methods for assessing the state of corruption in the country and corruption risks in the activities of public institutions [4].

In view of the above, and given the lack of an exhaustive set of actions for assessing corruption risks, the author proposes a mechanism for assessing corruption risks by developing an appropriate algorithm which will allow for a more efficient and prompt determination of the level of corruption risks in practice.

The Anti-Corruption Law of Ukraine clearly defines the terms "corruption offence", "corruption", "unlawful benefit" and "corruption-related offences".

A corruption offence is an act containing signs of corruption committed by a person referred to in the first paragraph of part one of Article 3 of this Law, for which the law provides for criminal, disciplinary and/or civil liability. The concept of "corruption" is defined as the use by a person referred to in part one of Article 3 of this Law of the public powers granted to him/her in order to provide an unlawful benefit to a person referred to in part one of Article 3 of this Law or at his/her request to another individual or legal entity in order to obtain an unlawful benefit or to accept a promise or offer of such benefit for himself/herself or another person or to induce such person to unlawfully use the official powers or opportunities related to them.

An undue advantage is also defined as money or other property, advantages, privileges, services, intangible assets or other benefits of an intangible or moral nature that promise material or intangible benefits, which are promised, offered, provided or received without legal grounds. Corruption-related offences are acts that do not contain signs of corruption but violate the requirements, prohibitions and restrictions established by this Law, committed by the entities referred to in part one of Article 3 of this Law, and for which this Law provides for criminal, administrative, disciplinary and/or civil liability.

Pursuant to Article 65 of the Law of Ukraine "On Prevention of Corruption", for committing corruption or corruption-related offences, the persons referred to in part one of Article 3 of this Law shall be held criminally, administratively, civilly and disciplinarily liable in accordance with the procedure established by law.

Chapter 17 of the Criminal Code of Ukraine, "Crimes in the Field of Public Service and Activities Related to the Provision of Public Services", criminalizes a number of offences, including declaration of false information, abuse of power or
position and abuse of authority by persons providing public services; offering,
promising or accepting an undue advantage to an official; illicit enrichment; bribery
of an official; offering, promising or giving an undue advantage to an official.

The footnote to Article 45 of the Criminal Code of Ukraine defines corruption
offences as offences under Articles 191, 262, 308, 312, 313, 320, 357 and 410 of the
Code, as well as Articles 210, 354, 3641, 3652, 368-3692, if committed through
abuse of power. Crimes under Articles 210, 3541, 3641, 3652, 368-3692 are defined
as criminal offences.

Pursuant to Article 65(5) of the same Law, a person who has been notified of
suspicion of committing a crime in the field of official activity is subject to removal
from office in accordance with the procedure established by law.

Losses and damage caused to the state because of a corruption or the person
who committed such an offence in accordance with the procedure established by law
shall reimburse corruption-related offence.

Financial assets and other property obtained because of a corruption offence
are subject to confiscation or special confiscation by court decision in accordance
with the procedure established by law.

Administrative liability The list of corruption offences and sanctions for their
commission are set out in Chapter 13A "Administrative Offences Related to
Corruption" of the Code of Ukraine on Administrative Offences, namely Articles
1724, 1725 and 1726: 1724, 1725, 1726, 1727, 1728, 1729 - Pursuant to Article 65(5)
of the Code, a person against whom a protocol on an administrative offence related
to corruption has been drawn up may be suspended from performing official duties
by the decision of the head of the institution (establishment, enterprise, organization)
in which he or she works until the end of the court proceedings, unless otherwise
provided by the Constitution and legislation of Ukraine. If the proceedings in the
case of an administrative offence are completed, a Ukrainian may be suspended from
performing official duties until the end of the court proceedings.

If the proceedings on an administrative offence related to corruption are
closed due to the absence of an event or elements of an administrative offence, the
suspended person is reimbursed the average salary for the period of forced absence
from work due to such suspension.

Pursuant to Article 38 of the Code of Ukraine on Administrative Offences, an
administrative penalty for committing a corruption-related offence, as well as for
offences under Articles 164-14, 212-15 and 212-21 of this Code, shall be imposed
taking into account the provisions of Article 212-21 of this Code,

For offences under Articles 212-21 of this Code, a penalty may be imposed
within three months from the date of their detection, but not later than two years
from the date of their commission.
Civil liability for corruption or corruption-related offences shall be incurred in accordance with the Civil Code of Ukraine if they lead to negative legal consequences (material or moral damage).

The issue of civil liability for corruption offences for civil servants and employees of local self-government bodies is resolved in court.

Disciplinary liability for corruption offences. Article XI of the Law defines the basic principles of liability for corruption or corruption-related offences and elimination of their consequences.

Thus, persons who have committed corruption-related offences, but for which a court has not imposed a penalty or a penalty in the form of deprivation of the right to hold certain positions or engage in certain activities or equivalent activities related to the performance of state or local government functions, are subject to disciplinary liability in accordance with the procedure established by law in such cases. Article 65(3) of the Law provides that the head of the institution, enterprise, institution, organization where the person who committed such offences is employed shall conduct an internal investigation upon the submission of a specially authorized entity in the field of combating corruption or a state body in order to identify the causes and conditions that contributed to the commission of a corruption or corruption-related offence or to the failure to comply with the requirements of the Law in any other way.

Restrictions on the prohibition of persons removed from office in connection with prosecution for corruption offences to engage in activities related to the performance of state or local government functions or activities equivalent to such activities shall be imposed only by a reasoned court decision, unless otherwise provided by law.

Information on persons brought to liability for corruption offences in respect of whom a court has issued a relevant decision and this decision has entered into force, as well as information on the application of penalties for corruption offences, shall be entered into the Unified State Register of Persons Who Have Committed Corruption Offences.

The list of corruption and corruption-related offences for which the law establishes criminal or administrative liability, and the jurisdiction of criminal offences.

According to the commentary to Article 45 of the Criminal Code of Ukraine [5], a corruption offence shall be recognized as a crime under this Code if it is committed through abuse of office:

– Article 191 (misappropriation, embezzlement or acquisition of property through abuse of office);
– Article 262 (taking possession of firearms, ammunition, explosives or radioactive materials by means of theft, misappropriation, extortion, fraud or abuse of office);
– Article 308 (theft, misappropriation, extortion of narcotic drugs, psychotropic substances or their acquisition by fraud or abuse of office);
– Article 312 (obtaining precursors by means of theft, misappropriation, extortion, fraud or abuse of office);
– Article 313 (seizure by stealing, misappropriation, extortion, fraud or abuse of office of equipment intended for the production of narcotic drugs, psychotropic substances or their analogues, as well as other illegal actions with such equipment);
– Article 320 (violation of the established rules for the circulation of narcotic drugs, psychotropic substances, their analogues or precursors);
– Article 357 (stealing, misappropriation, extortion, fraud or abuse of office in the course of taking possession of documents, seals, stamps and seals or damaging them);
– Article 410 (theft, misappropriation, extortion by a serviceman of weapons, ammunition, explosives and other munitions, vehicles, military and special equipment, other military property, as well as their acquisition by fraud or abuse of office).

According to Article 216 of the Criminal Procedure Code of Ukraine [6], pre-trial investigation of criminal offences related to corruption shall be carried out by the following pre-trial investigation institutions:

– National Police of Ukraine - for offences under Articles 262, 308, 312, 313, 320, 357, 3641, 3652, 3683 and 3684 of the Criminal Code of Ukraine;
– The State Anti-Corruption Service of Ukraine - Articles 191, 210, 310, 310, 310, 310, 354 (regarding employees of legal entities under public law), 364, 368, 3682, 369, 3692 and 410 of the Criminal Code of Ukraine and under the conditions stipulated by part 5 of Article 216 of the Criminal Code of Ukraine.

According to Chapter 13A "Administrative Offences Related to Corruption" of the Code of Ukraine on Administrative Offences [7], following administrative liability is provided for: violation of restrictions on the compatibility of official and other activities (Article 1724); violation of statutory restrictions on receiving gifts (Article 1725); non-compliance with financial management requirements (Article 1726); violation of the requirements for the prevention and settlement of conflicts of interest (Article 1727); unlawful use of information obtained in connection with the performance of official duties (Article 1728); failure to take measures to combat corruption (Article 1729).

Conclusions. The research proved that political responsibility of public authorities in Ukraine is implemented through law enforcement agencies. In general, analysing the key principles of the functioning of a conscious government, one of the key indicators of its work is the elimination of corruption and prevention of any corruption risks at all levels of public authorities. The main acts of anti-corruption legislation in Ukraine include three groups of documents: international acts,
Ukrainian codes and the legislative anti-corruption framework of Ukraine. Also important are the decrees of the President of Ukraine, such as: "On the Establishment of the National Anti-Corruption Bureau of Ukraine" of 16.04.2015 No. 217 and "On the Strategy for Sustainable Development "Ukraine 2020" of 20.01.2015 No. 5/2015. The legislative anti-corruption framework promotes political accountability of the Ukrainian public authorities and guides the development of our country and its adaptation to EU requirements.

It is also crucial to shape the national consciousness and influence society on the responsibility of public authorities. Especially in recent years, as the situation in the country has deteriorated, the interaction of authorities at all levels with society requires a more open dialogue, the government is responsible for its citizens, and in times of crisis, information should be provided in a transparent, open and accessible manner. Communication should not contradict the rights of citizens, which are granted to them by the Constitution, and all-important decisions should be based solely on the principles of humanism.

References:

Література:

