



FIGHT AGAINST CORRUPTION: THE IMPORTANCE OF TECHNICAL ASSISTANCE. EXPERIENCE OF UKRAINE

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SUMMARY

The scientific article is dedicated to a complex research of the combating of organized crimes and corruption with the consideration of the norms of international law. Employment of foreign experience in any country cannot duplicate one or another action of a state or municipal governments, private business or civil society organizations that proved to be effective in other countries. Corruption is constantly adapting to changes in political, economic and social fields and has national characteristics and stereotypes of perception. Therefore measures, which were effective in some countries several years ago, are unlikely to be effective today in my country. These measures should always be updated and adapted for use in one or another country taking into account its specific environment.

Key words: corruption, corruptible offences, combating corruption, organized crime.

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Научная статья приурочена комплексному изучению ведения борьбы с организованной преступностью и коррупцией с учетом норм международного права. Автор подчеркивает, что занятость зарубежного опыта в любой стране, не могут дублировать того или иного действия государства или муниципальных органов власти, частного бизнеса и организаций гражданского общества, которые доказали свою эффективность в других странах. Коррупция постоянно адаптируется к изменениям в политической, экономической и социальной областях и имеет национальные особенности и стереотипы восприятия. Поэтому меры, которые были эффективны в некоторых странах несколько лет назад, вряд ли будут эффективны сегодня в Украине. Эти меры всегда должны быть обновлены и адаптированы для использования в той или иной стране с учетом его конкретной среды.

Ключевые слова: коррупция, коррупционное правонарушение, борьба с коррупцией, организованная преступность.

Statement of the Problem. The current international legal regulation of anti-corruption activities developed by international organizations under the auspices and within which were produced relevant international normative instruments for that matter. That they were the main core for the formation and development of modern international legal framework against corruption. However, such a mechanism is required to improve and evolve with new threats and challenges emanating from corruption.

It should be noted that some of the theoretical and practical aspects of the fight against corruption are in the works of scholars such as Astafyev, Bagriy-Shahmatov, Buromensky, Vogulsky, Haiduk, Hauhman, Dell J., Deming, George, Dudorov, Zabroda, Zelenetsky, Kalman, Kamlyk, Karpovich, Lacy K. Lunyeyev, Miller, Nevmerzhytsky, Sarasoro, Senturian, Hyman, Shabalin etc.

However, these works do not contain a comprehensive scientific approach to the problem of international anti-corruption mechanism, as represented by the study of organic supplements, and the existence of these works does not deprive the actors of its relevance.

Relevance. Significance of technical assistance for countries-recipients, which is rendered by UN, other international and regional organizations and agencies is undoubted and cannot be overemphasized [1]. Technical assistance is a multifaceted

issue and requires sustainable and consistent approach. I will focus, however, on its several, very important aspects, based on lessons learned in Ukraine, which are:

The effectiveness of anti-corruption programs

Ukrainian experience shows that sectoral anti-corruption reforms can sometimes have more positive and tangible results than the fight against corruption in the broad sense.

Political will of the executive authorities and the strategic choice of a field for intervention is a key to successful anti-corruption programs. In particular, sufficient will of the authorities to change was one of the determinatives of the successful implementation of external testing procedure in Ukraine, which was introduced last year in order to prevent corruption related opportunities [3; 8].

Local and all-Ukrainian reform initiatives of NGOs remain ineffective

without cooperation of donors with the executive authorities at the central level. Absence of the will to change at the central level significantly reduces overall effectiveness of great number of projects successfully implemented at the local level.

An effective approach lies in simultaneous work with various NGOs, in particular, social organizations, resource centers, community organizations, etc. Coordination of efforts of such organizations strengthens their capacities. In order to ensure success in this field, constructive cooperation between civil society and the authorities at all levels is needed. Education projects for target social groups and government officials aimed at developing should be integral parts of technical assistance programs.

Effectiveness of coordination of donor's assistance

To be successful in an environment of weak political will of the authorities for reforms, anti-corruption programs should:

- provide for the development of cooperation with different types of beneficiaries (executive authorities, public organizations);
- develop analytical and expert abilities of the authorities and civil society to reform;
- maintain will to reform through diplomatic dialogue with the authorities;



- strengthen need for reforms on the part of civil society organizations at the national and regional levels.

Some donors, implementing different approaches towards fighting corruption, feel lack of resources and facilities for launching such system programs. It lays down increased requirements to the abilities of international donors to identify potentially successful areas for intervention and to coordinate their activities in order to achieve maximum effect [8].

There is also a need for of anti-corruption donor assistance coordination mechanism, which would function regardless of coordination mechanisms elaborated by the executive authorities [5].

Efforts and potential of a civil society in fighting corruption

Different NGOs have the potential to realize different functions in fighting corruption. As a rule, donors use these NGOs abilities in their anti-corruption programs:

- carry out an independent analysis, as well as policy development and expertise. Independent experts take part in individual donor programs providing relevant expertise (legislative drafting, policy documents), also the organization itself maybe invited to conduct research in the framework of a program.

Such Ukrainian NGOs as the Foundation "Democratic Initiatives" Laboratory of Legislative Initiatives, Center for Political and Legal Reforms, Ukrainian Independent Center for Political Research and others are periodically enlisted in designing and evaluating anti-corruption legislation and policy documents, researching corruption related risks in different spheres of public administration.

- Conduct awareness raising and educational campaigns among general public and target groups. Examples of such work: improving legal education of citizens through preparation of training manuals and conduct of trainings, preparation of publication in mass media of anti-corruption information materials, etc.

- render services and assistance to individuals (services). As a rule, various human rights organizations carry out such activities, in particular by means

of establishment of legal clinics for the population.

The capacity of civil society organizations in fighting corruption is utilized partially. Among problems weakening it, experts mention the following problems:

- «brain drain»;
- lack of sufficient weight of civil society organizations in order to be heard by the authorities and provoke definite changes in society, reluctance of the authorities to go for such a dialogue;

- access restriction to public information by the authorities, which complicates monitoring, expertise and assessment of their actions;

- international donors are primarily focused on the implementation of projects by NGOs in cooperation with the authorities, or at their request. This approach is often counterproductive, as it leads to silencing real problems in fighting corruption.

In order to solve the abovementioned problems, both donor and NGOs themselves have to change their approach. Among concrete recommendations voiced by the respondents, the most common were:

- refrain from providing priority support to the authorities, focusing also on non-governmental organizations in their anti-corruption activities;

- donors and civil society should more actively involve different social and professional groups, business associations, trade unions etc. in their fight against corruption. Establishment of links between different types of organizations will increase their weight in their cooperation with the authorities;

- in this regard, donors should support projects on transfer of knowledge and skills from grant- supported NGOs to those which had not cooperated with international donors before;

- organization of a system work between the registered NGOs and unregistered entities may represent an important step increasing anti-corruption efficiency of donors and NGOs;

- one of the steps that can increase the weight of the civil society in its dialogue with the government, may be establishment of a broad coalition that would include various NGOs: advocacy groups, human rights organizations, etc.

Establishment of such unions will give an opportunity take more active stance on many issues in the field of fighting corruption.

Technical Assistance to Law Reform

Universal experience shows that no state has capacity to overcome corruption in full, while its substantial reduction is quite possible. In many developed and developing countries, corruption levels were on a high and very high levels, however they managed to significantly lower them and ensure that the corruption does not become insurmountable on the way of development of their economies and societies. Relatively high level of corruption in my country at present does not mean inability of Ukrainian authorities to effectively combat this challenge and I believe that with the help of international community and its profound experience in this field it will be reduced to a permissible level soon [8].

Employment of foreign experience in any country cannot duplicate one or another action of a state or municipal governments, private business or civil society organizations that proved to be effective in other countries. Corruption is constantly adapting to changes in political, economic and social fields and has national characteristics and stereotypes of perception. Therefore measures, which were effective in some countries several years ago, are unlikely to be effective today in my country. These measures should always be updated and adapted for use in one or another country taking into account its specific environment. Programs and projects offered within the framework of technical assistance should also take into account such specificities [6; 7].

Conclusions. In addition, in order to make the fight against corruption consistent, the system of versatile measures and mechanisms intended for effective counteraction to the corruption has to be employed. The fight against corruption, which is carried out mainly by means of measures within the criminal law, remains ineffective. Moreover, such isolated and piecemeal efforts may represent some risk to states and societies since they may prove to be ineffective to subdue corruption within a state apparatus, while bribe rates may



grow substantially. Consequently, any approach towards rendering technical assistance should be sustainable and comprehensive.

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ОТНОСИТЕЛЬНО РЕЖИМА «ОБЕЗДВИЖЕННОЙ ВЕЩИ»

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SUMMARY

The legal mode of movable thing on that it is widespread to the mode of immobile thing (immobilized things) is considered in the article. It is set that for today laws in force of Ukraine do not enter the mode of immobile thing in relation to any type of movable things. Essence of the mode of immobilized thing is investigational. It is set that the legal mode of immobile thing includes for itself both civil legal and administratively-procedural features of the legal adjusting of this type of property. Two basic administrative elements of the legal mode of immobilized thing are educed: registration and security. It is well-proven that a registration element is the basic administrative element of the legal mode of immobilized thing. Derivative character of security element is investigational, the presence of security element is educed in relation to the separate types of movable things, on that the mode of immobile thing can be widespread.

Key words: mode, real estate, movable objects, state registration, legal facilities, material rights, register element, security element.

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В статье рассмотрен правовой режим движимой вещи, на которую распространен режим недвижимой вещи (обездвиженной вещи). Установлено, что действующие на сегодняшний день законы Украины не вводят режим недвижимой вещи относительно ни одного вида движимых вещей. Исследована суть режима обездвиженной вещи. Установлено, что правовой режим недвижимой вещи включает в себя как гражданско-правовые, так и административно-процедурные особенности правового регулирования этого вида имущества. Выявлены два основных административных элемента правового режима обездвиженной вещи: регистрационный и обеспечивающий. Доказано, что регистрационный элемент является основным административным элементом правового режима обездвиженной вещи. Исследован производный характер обеспечивающего элемента, выявлено наличие обеспечивающего элемента относительно отдельных видов движимых вещей, на которые может быть распространен режим недвижимой вещи.

Ключевые слова: режим, недвижимость, движущиеся объекты, государственная регистрация, правовые средства, вещные права, реестровый элемент, обеспечивающий элемент.

Постановка проблемы. Определение обездвиженной вещи (движимой вещи, на которую распространен режим недвижимой вещи) дается через правовой режим недвижимости, однако оно не раскрывает сути различия с общим правовым режимом движимой вещи. Понятие правового режима достаточно дискуссионное на данном этапе развития правовой науки, и его содержание зависит от средств исследования, которые выбирают ученые и, как правило, отличается у ученых-цивилистов и ученых-административистов.

Состояние исследования темы. Исследуемые в этой статье понятия были и являются предметом исследования многих ученых, в частности С. Алексеева, М. Бабенко, А. Деминой, А. Жиделева, И. Карпуши, Ю. Кихая, С. Кузниченко, С. Спиндиса, А. Шевченко и других.

Целью статьи является исследование режима «обездвиженной вещи», анализ различий правового статуса обездвиженной вещи от подвижной.

В основу методологии исследо-

вания положен комплексный подход, обусловленный многоаспектностью поставленных задач с использованием общенаучных методов (прежде всего, системного, логического и структурного). Для решения поставленных задач также использованы специальные методы: сравнительно-правовой и научного обобщения.

Изложение основного материала. Определение обездвиженной вещи дается через правовой режим недвижимости. При таких обстоятельствах