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Istanbul Anti-corruption Action Plan as a basis for anti-corruption reforms in Ukraine

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Abstract: The thesis and recommendations provided by the Istanbul Anti-corruption Action Plan (IACAP) have been researched. Ukraine's IACAP implementation status has been identified considering the fact that the country has voluntarily assumed the obligations within the IACAP's framework. The Stages of the IACAP corresponding to different period of independence of Ukraine as well as the IAP implementation results have been considered. The national anti-corruption policy ways ahead have been identified based on the IACAP anti-corruption guidelines and current political situation in Ukraine. Anti-corruption reforms priorities have been described. As an example, there were briefly covered the recommendations of the monitoring results and inspections with the participation of international experts. The instruments to attract political attention of key state institutions to the issue of fighting corruption in various sectors were characterized.

Keywords: corruption, Istanbul Anti-corruption Action Plan, anti-corruption reform, strategy and policies, legislation, building integrity.



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1. Introduction. The definition of the problem

In 1998 in Istanbul (Turkey), in the framework of the regional program “Combating Corruption in Transition Economies, which is implemented under the auspices of the international Organization for Economic Cooperation and Development (OECD) and the US Agency for International Development (USAID), some states’ governments, public non-governmental and international created the program called “The Anti-Corruption network for Eastern Europe and Central Asia” [1].

The main task of the Anti-Corruption Network (ACN) is to provide advisory assistance to member states as far as the issue of fighting corruption is concerned in order to bring national economies to a higher level and achieve prosperity of the countries. The ACN is a combination of implementing and restructuring measures and processes organized at the highest government levels in the participating member states.

According to the results of ACNs’ analyzes, the problem of corruption is particularly prevalent in post-Soviet countries [1, p. 3]. That’s why in 2003 under the “Anti-Corruption Network”, a “Global Sub-regional Initiative” was launched for localization and combating corruption in post-Soviet states. Thus, on September 10, 2003 during the regular session of the ACN (Istanbul, Turkey) the heads of eight states (Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Ukraine) signed the “**Istanbul Anti-corruption Action Plan**” (IACAP/Action Plan).

The Action Plan is based on the voluntary will of the member states and is aimed at launching active processes of national economies development by the means of overcoming the destructive force of corruption first of all in government and law enforcement structures.

The purpose of the article is to research the recommendations of the **Istanbul Anti-corruption Action Plan** as a basis for anti-corruption reforms in Ukraine.

2. Research status

The issue of fighting corruption in Ukraine has been given attention by such national scientists as M. Myhnenko, M. Marchuk, M. Mudrov, M. Karmazina, Y. Kashuba, O. Markyeyeva, M. Melnyk, M. Myhalchenko, O. Myhalchenko, Y. Nevmerzhytsky.

3. Main material of the article

The IACAP is a major sub-regional initiative that is focused on those former Soviet Union countries which had not been involved in other sub-regional programs. The history of the former Soviet Union countries joining the Action Plan had the following trend. Thus, Armenia, Azerbaijan, Georgia, Russia, Tajikistan and Ukraine joined this initiative during the ACN meeting in Istanbul, Turkey in September 2003. Kyrgyzstan joined the Action Plan in October 2003, and Kazakhstan – in December 2004.

It should be clearly pointed out that participation in any sub-regional initiatives including Istanbul Anti-Corruption Action Plan is carried out on a voluntary basis only.

Basically, by joining the Istanbul Anti-Corruption Action Plan Ukraine has taken certain responsibilities. These responsibilities were: a) to develop effective and transparent public service systems; b) to build integrity in business relations; c) support active public participation in the reform of state structures and agencies of Ukraine [2].

The idea of the IACAP is based on 3 main principles, i.e.

1. The development of effective and transparent public service;
2. Intensifying the fight against bribery and integrity building in business;
3. Support public’s active participation in reforms.

Each of these principles contains a comprehensive approach to combating corruption and outlines the scope and areas for the State’s anti-corruption policy reform to achieve the main goal. The essence of the principles can be described as follows:

Principle 1: The development of effective and transparent public service;

Principle 2: Intensifying the fight against bribery and integrity building in business;

Principle 3: Support public’s active participation in reforms.

Each of these principles envisages a comprehensive approach to fighting against corruption, points out the areas of applicability and directions for reforming state policy for the sake of achieving the main goal. The main idea of these principles may be described as follows:

Principle 1: The development of effective and transparent public service:

a) Integrity in public service; b) Accountability and transparency.

Principle 2: Intensifying the fight against bribery and integrity building in business:

a) effective prevention, investigation and prosecution; b) corporate responsibility and accountability.

Principle 3: Support public's active participation in reforms:

a) public discussion and public participation; b) access to information.

It has to be pointed out that the IACAP shall not be considered as just a formal program for Ukraine. In fact, the implementation of the Action Plan points needs to be confirmed by a monitoring mission which is sent to each member country. The monitoring mission in the course of its duties is firstly, performs the tasks assigned if several rounds, secondly, it includes international subject matter experts, thirdly, it issues reports on the implementation of the previous obligations and recommendation on the way ahead. ("The list of recommendations, implementation of which is aimed at eliminating corruption practices using a comprehensive range of tools").

Thus, during January 2004 in Ukraine, in order to initialize the Action Plan, the Ukraine's legal and institutional framework survey was carried out by the international experts from Anti-Corruption Department of Finance and Entrepreneurship Directorate of Organization for Economic Co-operation and Development (OECD). 24 "generalized recommendations" were prepared and issued as the result of this survey.

The document includes provisions for Ukraine's action aimed at implementing the principles mentioned above and which can be divided based on the following criteria:

- 1) National anticorruption institutions (4 recommendations);
- 2) Legislation and criminalization of corruption (9 recommendations);
- 3) Transparency of public service (11 recommendations) [3].

Overall, since the signing of the Action Plan by Ukraine the international experts of OECD have held three rounds of monitoring, in particular:

a) The 1st round of monitoring (completed on 12.12.2006) – the comprehensive monitoring of national actions aimed to implement the recommendations adopted during the revision of the current anti-corruption legislation base and institutional anti-corruption framework was conducted [4].

b) The 2nd round of monitoring (completed on 08.12.2010):

Outlined the main directions of the state anti-corruption policy aimed at de-criminalization and prevention of corruption;

Pointed out the necessity of integrity and transparency building in the functioning of state bodies and institutions of governance [5];

Stressed on the obligation to integrate anti-corruption measures into functions of each central government institution [6];

Noted that it is necessary to create an Anti-Corruption Bureau in Ukraine:

c) The 3rd round of monitoring (completed 24.03.2015), under the support of international non-governmental organization "Transparency International – Ukraine" determined the main efforts to be focused on the implementation of anti-corruption reforms [7, p. 10]. Also it was noted that out of 19 previous recommendations (the second round) Ukraine has not fulfilled one, partially fulfilled – 10, mainly – 5 and fully fulfilled – 3 recommendations [7].

Therefore, as a result of the third round of monitoring, 19 new recommendations were made; 2 previous recommendations were found as such that still have to be implemented [7].

As far as the actions that have been performed by Ukraine in the framework of the IACAP implementation it has to be noted that although not fast but steady steps forward are made. Particularly, it concerns the state anti-corruption policy of Ukraine which has undergone significant changes, including its legislative sector.

In particular, on 14 October 2014 under the initiative of public and international NGOs a package of anti-corruption laws was adopted.

Among them, there should be noted a Law of Ukraine "On Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014-2017 years". This is the basic document that:

- recognizes officially the presence of corruption problem in Ukraine and the necessity of corruption deterrence, countering and minimization;

- determines the goals and mechanisms of fighting corruption;

- establishes the State Anti-Corruption Policy criteria and implementation phases [8].

Additionally, a Law of Ukraine "On Prevention of Corruption":

- combines the regulation of the legal and institutional framework of the system of preventing corruption in Ukraine;

- defines the content and the procedures of preventive anti-corruption mechanisms in governmental executive institutions;

- establishes rules aimed at eliminating the consequences and ensuring proper responsibility for corruption offenses in Ukraine;

- defines the principles of building integrity, etc. [8].

Successful implementation of the Anti-Corruption Strategy will help lowering the level of corruption in Ukraine, raise the level of people trust to the government, and increase the level of foreign investments into national economy, and form the basis for further anticorruption reform implementation.

It has to be noted that the change at legislation level has also touched the executive level of governance hence practical implementation of the Strategy established by the Law of Ukraine "On the basis of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014–2017" is done through the adoption of the Cabinet of Ministers of Ukraine Resolution of 29 April 2015 Number 265 "State Program on the implementation of state anti-corruption policy in Ukraine (the Anti-Corruption Strategy) for 2015–2017 years".

Taking into consideration the thesis above one may conclude that Ukrainian State is dedicated to perform the actions aimed at eradicating the negative effects of corruption.

Having this in mind there are all the reasons to believe that Ukraine is getting closer to European Union due to the comprehensive approach to legislation changes in combination with processes of reforming the institutional environment.

However, it has to be noted that all of the issues generated by such negative phenomena as corruption cannot be fully solved only by legislative strengthening of fundamental anti-corruption principles.

However, taking into consideration the Recommendation 1 of the Action Plan, Ukraine is gradually gaining momentum to implement its international obligations that initially were voluntarily undertaken by the state.

Another important step in the realization of the goals was the adoption of the "Memorandum of Understanding" between Ukraine and OECD in 2014. The document signed was aimed to facilitate procedural processes of implementation of anti-corruption reforms which are taking place in Ukraine today.

Thus, the signing of this document has initiated the Ukrainian anti-corruption project under which the state receives the following international aid for:

- the initial stages establishment and the organization of activities of the National Anti-corruption Bureau; the capacity building of the specialized service within the Prosecutor General's Office of Ukraine, which will work with the National Anti-corruption Bureau to ensure the effective detection and investigation of corruption cases;

- the development of joint training programs for law enforcement and judicial authorities on certain aspects of detection, investigation, prosecution and adjudication of complex cases of corruption, including financial investigations;

- accelerating the development of Ukrainian anti-corruption system according to OECD standards concerning foreign authorities bribing, setting corruption offenses responsibility standards to legal entities and establishing international cooperation to return the assets illegally derived [9].

Thus, Ukraine's efforts to implement public policies aimed at fighting corruption are currently gaining new momentum. Unlike Georgia, which joined the Action Plan together with Ukraine in 2003, its implementation goes relatively slowly.

The problem of combating corruption is relevant for the entire period of independence of our country. According to sociological studies, revolutionary events of 2013–2014 years took place under the slogan of fighting corruption. So, in March 2014, 63% of the people surveyed supported the idea that Ukraine should implement primarily anti-corruption reforms, 61% of them supported the urgency of economic reforms. In December 2014 more than every third citizen of Ukraine (35.5%) believed that "the best way to fight corruption – execute the corrupt officials by firing squads (as in China)" [10].

At last, it has to be mentioned that Ukraine's anti-corruption actions today are limited by the legal framework and state institutions reforms while no attention was initially paid to changing the existing behavior patterns and conduct of officials as well as the population as a whole.

As a matter of fact, corruption is a problem the solving of which depends on everybody, therefore everyone has to make an effort in fighting corruption encounters.

The real key to a successful fight against corruption in Ukraine rests with re-education and re-orientation of population to clear and transparent state system to be functioning without corrupted elements.

4. Conclusion

The effectiveness of Ukraine anti-corruption policy implementation as well as the implementation of its international obligations regarding prosecution of corruption, will be the subject of special attention from international organizations (EU, Council of Europe, World Bank, OECD) and countries that provide financial and technical assistance to Ukraine. Negative assessments on the state of corruption, low level of economic freedom, insufficient protection of investors, the lack of property rights, inefficient justice system threatens Ukraine's European integration, political and economic cooperation with international partners and may cause such effects as a reduction of financial aid or sanctions.

So, in order to fight corruption some countries take organizational steps such as creation of specialized agencies, organizations, the purpose of which is to develop an appropriate strategy and tactics, the development of preventive legislative and functioning measures. However, it is necessary to review the complex of organizational, legal and other measures at the national level in Ukraine in order to improve them and intensify Ukraine's activities in international organizations.

It should be noted that the Istanbul Anti-Corruption Action Plan is a productive process, in the course of which two major results in the fight against corruption were received, namely the specific improvement of anti-corruption legislation and institutions in the countries, and strengthening human prosperity and knowledge in the field of fighting corruption in the region.

More specifically, as a result of the Action Plan implementation the anti-corruption legislation and institutions practical reforms were conducted in line with the recommendations of international subject matter experts. The local experts from the regions monitored also had the opportunity to participate in the practical training and significantly increased the level of knowledge of international standards concerning fighting corruption and monitoring procedures, and have gained valuable experience necessary to advance anti-corruption reforms in their countries and for effective international cooperation in this field.

Government officials from a large number of agencies, representative offices of foreign states, international organizations and civil society organizations were able to see the results of the monitoring and surveys, participate in meetings and present their observations concerning the reports on the region. A wide coverage of the program was a useful tool for attracting political attention of all key state institutions to the problem of fighting corruption and ensured the adoption of effective measures to accelerate the process of reforms in various sectors.

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Стамбульський план дій по боротьбі з корупцією як основа антикорупційної реформи в Україні

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старший офіцер відділу спеціальної підготовки та методичного забезпечення наукового центру запобігання та протидії корупції

Анотація. Досліджено положення та рекомендації Стамбульського плану дій по боротьбі з корупцією. Визначено стан виконання Україною добровільно взятих на себе зобов'язань відповідно до цього міжнародного документу. Опрацьовано етапи та результати реалізації Стамбульського плану дій по боротьбі з корупцією, в різні періоди незалежності України. На підставі орієнтирів Стамбульського плану дій по боротьбі з корупцією та особливостей безпекової та політичної ситуації сьогодення, встановлені подальші шляхи державної вітчизняної політики у сфері запобігання корупції. Охарактеризовано пріоритетні сфери реформ впровадження заходів із запобігання корупції.

Ключові слова: корупція, Стамбульський план дій по боротьбі з корупцією, антикорупційна реформа, стратегія і політика, законодавство, розбудова доброчесності.

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Стамбульський план дій по боротьбі з корупцією як основа антикорупційної реформи в Україні

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старший офицер отдела специальной подготовки и методического обеспечения научного центра предотвращения и противодействия коррупции

Аннотация. Исследованы положения и рекомендации Стамбульского плана действий по борьбе с коррупцией. Определено состояние выполнения Украиной добровольно взятых на себя обязательств в соответствии с этим международным документом. Проанализированы этапы и результаты реализации Стамбульского плана действий по борьбе с коррупцией, в разные периоды независимости Украины. На основании ориентиров Стамбульского плана действий по борьбе с коррупцией и особенностей безопасности и политической ситуации настоящего, установлены дальнейшие пути государственной отечественной политики в сфере предотвращения коррупции. Охарактеризованы приоритетные сферы реформ внедрение мер по предотвращению коррупции.

Ключевые слова: коррупция, Стамбульський план дій по боротьбі з корупцією, антикорупційна реформа, стратегія і політика, законодавство, розвиток добродетелі.

Appendix A. Supplementary material

Supplementary data associated with this article can be found, in the online version, at <http://dx.doi.org/10.14254/2223-3822.2016.14-1.9>

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Використана література

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