

## LAW

### ADMINISTRATIVE AND LEGAL FUNDAMENTALS OF CORRUPTION PREVENTION IN THE AGRICULTURAL SPHERE OF THE STATE

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**Annotation.** *The phenomenon of the corruption and ways to stop and avoid its preconditions have become the subject of the controversy, an instrument of political struggle in Ukraine. Especially the fight against corruption in the agricultural sector of the economy is important, considering its share in the structure of the Ukrainian economy. There are also no transparent rules of operation and responsibility of the central executive bodies for the development of the agricultural sector at this stage.*

*The article analyzes the issues of administrative and legal principles of combating offenses in the agricultural sector, which are related to corruption. Gaps have been identified in the legal regulation of liability for corruption-related offenses, and ways to address these issues have been suggested. Attention was paid to the need to develop and apply a mechanism to bring an official to administrative responsibility for offenses related to corruption in the agricultural sector of the economy.*

*Based on the principles and norms of administrative legislation related to the prevention and combating of corruption, the subjects of ensuring and preventing corruption in the agricultural sector, the concept and essence of the law were specified, law enforcement in the field of preventing corruption in the agricultural sector was determined. The role and significance of the fight against corruption in the field of internal security of the state are determined, as well as the forms and methods of activity of law enforcement bodies for the fight against corruption are determined. The subject and content of normative legal acts regulating the process of preventing corruption in the agricultural sector of Ukraine are also analyzed.*

**Keywords:** *corruption, anti-corruption, agricultural producer, agribusiness, anti-corruption legislation, anti-corruption bodies.*

**Introduction.** Preventing and combating corruption is a form of protection of society, human rights and freedoms, their guarantees and ensuring the internal security of the country from excessive abuse of power by state bodies. Creating activities on the prevention and prevention of corruption it is necessary to take into account their adequacy in accordance with the general criminogenic situation, as well as their timely application.

The phenomenon of corruption and ways to stop it and avoid its preconditions have become the subject of controversy and an instrument of political struggle in Ukraine. Each new government passed anti-corruption laws and concepts that did not work at all in practice, but, as usual, only more - contributed to the spread and growth of corruption in the state.

Thus, it is undeniable that corruption negatively affects all areas of government activity, especially the economy, which, in its turn, slows down the development of market reforms and economic policy. The agricultural sector of the state, which has enough unregulated legislation to allow the use of various shadow schemes, is no exception. There are also no transparent rules of operation and responsibility of the central executive bodies for the development of the agricultural sector at this stage. Therefore, it is important to develop and ensure compliance with Ukrainian legislation to prevent corruption in the agricultural sector and to impose severe sanctions for corruption offenses.

The purpose of the article is to identify the legal framework and practical principles of preventing corruption in the agricultural sector, feasibility, regulation, clarity and adequacy in accordance with the Constitution of Ukraine and current legislation on corruption prevention based on a comprehensive analysis of theoretical material. Also, analyze and compare international experience in the field of corruption prevention, development and identify prospects for improving national legislation in the field of combating corruption in the agricultural sector. Definitely the main ways to prevent corruption in the agricultural sector of the country on the basis of a comprehensive analysis and to prospects for improving national legislation in the field of combating corruption in the agricultural sector. The article identifies the essence and features of law enforcement agencies in relation to the prevention of corruption in the agricultural sector due to such methods as dialectical, analysis and synthesis, comparative law, systemic, formal-logical and sociological.

The use of a set of methods and techniques is determined by a systematic approach, which makes it possible to explore the problems in the unity of their social content and legal form. Using methods such as dialectical, analysis and synthesis, comparative law, system, formal-logical and sociological, the essence and features of law enforcement agencies' activities to prevent corruption in the agricultural sector are determined.

The main in this system is the general scientific dialectical method, which makes it possible to explore the problems in the unity of their social content and legal form and to carry out a systematic analysis of legal regulations in the field that is the subject of research. The methods of analysis and synthesis were used in the analysis of the provisions on the content, structure, competence, administrative responsibilities and rights of public authorities and specially authorized bodies in the agricultural sector and their administrative and legal status. The formal-dogmatic method was used in the interpretation of current legislation. The method of comparative legislation made it possible to carry out a comparative characterization of foreign experience and the experience of Ukraine in the field of the agro-industrial complex.

**Review of literature.** Defining the priority areas of state anti-corruption policy, we should proceed from the definition of "corruption" proposed by the American economist Robert Klitgaard. Corruption is defined by this researcher as greed plus opportunity and minus control [4, p. 23].

Melnyk M.I. includes the following in the list of tasks of anti-corruption: clarification of the social and legal essence of corruption; identification of the main social preconditions, general causes and conditions of corruption, causes and conditions of specific acts of corruption; formation of the state anti-corruption policy, and on its basis - definition of concepts and programs of counteraction to corruption; development and practical implementation of anti-corruption programs (at the national, regional and local levels), which could include appropriate socio-economic, political, legal, organizational and managerial, law enforcement and other measures; clear formation and improvement of legislation on liability for corruption offenses; analysis, comparison and use of positive experience of anti-corruption activities of foreign countries, cooperation with countries and international organizations in the field of anti-corruption [9, p. 136].

**Law enforcement activities in the field of preventing corruption in the agricultural sector of the economy.** It is especially important clearly define the concept, essence and content of the tasks of these bodies in this area in an environment where the activities of law enforcement agencies in the fight against corruption in the agricultural sector are becoming more multifaceted. Therefore, it is important clearly and concretely formulate the functions of law enforcement agencies as participants in the fight against corruption in the agricultural sector and enshrine them in special anti-corruption legislation in order to create a system that will professionally, effectively and effectively fight corruption in the agro-industrial complex.

Adoption of the Law of Ukraine "On Prevention of Corruption" [13], Anti-Corruption Strategy and Anti-Corruption Program, in particular in the agricultural sector for 2018-2020, the Law of Ukraine "On Anti-Corruption Bureau of Ukraine" [11] and other normative acts, as well as the introduction of appropriate changes in the current legislation governing the law enforcement activities of law enforcement agencies is the beginning of the formation of such a system. Prerequisites created for a theoretical study of the functions of law enforcement agencies in the field of anti-corruption.

For effective research, it is important to reveal the concept and essence of such a concept as the definition of law enforcement in the field of prevention of corruption in the agricultural sector. Clarifying the essence of this term is extremely important, as a general understanding of the tasks of law enforcement agencies will help to identify such areas of the task as combating corruption, and to correlate it with other types of tasks of law enforcement agencies.

As a result of a survey conducted by the Public Union "All-Ukrainian Agrarian Council" through a questionnaire, another problematic issue for the private sector there is still a raider seizure of agricultural land. About 71% of farmers believe that their business and property rights are not protected from raiders attacks, and this problem is especially acute for residents of the southern and eastern regions of Ukraine. According

to the results, 31% of the surveyed farmers noted a high risk of a raider attack on their business, while 44% of respondents rated the level of threat as average. According to 64% of farmers, the main reason for the dominance of raidership is corruption in government, local government and law enforcement [7].

The main way to fight corruption and raiding is that 39% of surveyed farmers see farmers' associations and 36% see changes in current legislation.

After analyzing the above assessments, we can say that they are general and describe the direction of law enforcement, however, the general nature of the tasks may not contribute to the recognition of law enforcement agencies as specially authorized entities in the field of combating corruption, in particular in the agricultural sector.

Obviously, this situation in the fight against corruption in the agricultural sector by law enforcement agencies as anti-corruption actors is unsatisfactory, and therefore needs scientific research.

Analysis of the functions of law enforcement agencies in combating and preventing corruption is no less important.

Thus, S. Khripko believes that the functions of a state body express the main purpose of the state body, that is, they adjust part of the work that should be performed by a state body in the framework of its activities [3, p. 118]. The functions of public authorities are the main areas of their activities, which reveals their essence and purpose in the state mechanism [216, p. 7]. Such approaches for understanding the concept of functions are the most common among domestic, and foreign scholars, as they are understandable and most acceptable.

Despite the insignificant achievements and work of scientists in the field of disclosure of the concept and tasks of law enforcement agencies, yet the legislator is on the right track. Because specialized bodies are gradually being created and the functions of general bodies, which are called in many ways, are being expanded and to act efficiently and quickly at all stages of the investigation of corruption offenses. It is also very important to further expand and make these tasks more specific in different areas, where corruption offenses may occur, in particular the agricultural sector.

**Legal regulation of law enforcement agencies to ensure the fight against corruption in the agricultural sector.** According to the Law of Ukraine "On Prevention of Corruption" [13] of October 14, 2014, corruption is the use by a person of his official powers and related opportunities in order to obtain an illegal benefit or accept a promise / offer of such benefit for himself, or other persons, or, respectively, a promise / offer or giving an improper benefit to a person, or at his request to other individuals or legal entities in order to persuade that person to misuse his or her official powers and related capabilities.

Covering the issues of legal regulation of law enforcement agencies in the field of combating corruption in the agricultural sector.

It is worth analyzing Section IV of the Law of Ukraine "On the National Police" [12], which enshrines the powers of the National Police, according to which police units in Ukraine are empowered to prevent and combat corruption offenses, namely:

implementation of preventive and preventive activities aimed at preventing such violations; identifying the causes and conditions that contribute to the commission of criminal and administrative offenses, taking measures within their competence to eliminate them; taking measures to identify criminal and administrative offenses; cessation of identified criminal and administrative offenses in the field of anti-corruption.

In order to eliminate the corruption component in the agro-industrial complex requires active action on the part of both farmers and legislators. Because the opinions, proposals and conclusions provided by farmers, must be perceived and taken into account by the committees of the Verkhovna Rada of Ukraine.

In order to combat corruption in the agricultural sector, the Ministry of Agrarian Policy and Food of Ukraine adopted the Anti-Corruption Program of Ukraine for 2018-2020, which was developed on the basis of and to implement Article 19 of the Law of Ukraine "On Prevention of Corruption". , approved by the decision of the National Agency for Prevention of Corruption of December 2, 2016 №126, registered with the Ministry of Justice of Ukraine on December 28, 2016 by №1718 / 29848, and taking into account the Guidelines for the preparation of anti-corruption programs approved by the National Agency for the Prevention of Corruption of January 19, 2017 №31. The main purpose of the Anti-Corruption Program is to take effective and improve existing measures, aimed at effective and efficient prevention of corruption in the field of agribusiness in Ukraine.

**The most common corruption offenses in the agricultural sector and ways to eliminate their consequences.** Ukraine can be called an agrarian country, as most of the country's GDP and foreign exchange transactions are agricultural products. However, this area of business also has problems with various corruption schemes and fraud, which operate independently of changes in reformers and legislation. Government losses from shadow schemes in the agricultural sector are estimated at billions each year. The following are the most popular schemes of corruption in the business:

1. Free privatization of land. According to the law, every citizen of the country is entitled to 2 hectares of agricultural land free of charge. In practice, this process is mainly accompanied by corruption - the land is acquired by a law-abiding citizen who is denied reasons for lack of free land (according to the explanation of a corrupt official of the State Geocadastre), and individuals who then lease the land to the organizer of the scheme for free for 49 years. In the same way, the lands intended for participants of anti-terrorist operation were distributed. The volume of corrupt services in the field of free transfer of land is not less than UAH 500 million per year [5]. Can be accepted as an option to solve this problem bill № 4355 On the expansion of the rights and opportunities of local communities in terms of land use, which reduces the powers of the State Geocadastre, the maximum - just to abolish the possibility of free privatization of land.

2. Corruption schemes with the assets of the National Academy of Agrarian Sciences and state enterprises. The National Academy of Agrarian Sciences of Ukraine has an area of 400,000 to 600,000 hectares (there is no exact information on the calculation of land). The purpose of these lands is to conduct research, and in practice, these lands are

leased for cash and leave money for themselves (about \$ 100 per hectare). The academy could bring about one billion hryvnias a year to the budget by officially leasing part of the land. This would allow the institution to be independent of public funding and quietly engage in research activities. About 1 billion hryvnias a year are lost by the state on illegal land lease [2].

3. Grain market: obtaining phytosanitary certificates. The disadvantage is that the shipment permit - quality certificates, the results of grain analysis are sold today in Ukraine. If the funds are not paid, no certificate will be issued, which will result in the payment of a large number of fines for the downtime of the vessel. It is impossible to solve the problem by revoking the phytosanitary certificate, as was the case with grain quality certificates - it is issued in accordance with international obligations. Therefore, private laboratories should be given the right to conduct grain analysis, and officials should be left with only the obligation to issue certificates in the event of a positive conclusion from a private laboratory. It is important to develop adequate criteria in the laboratory so that it does not turn into another scheme of corruption (when there is only one laboratory owned by the same official), and on the other hand, to ensure the appropriate technical level of laboratories that could have the right to conduct such research.

4. Services of the State Statistics Committee and the Agrarian Fund. State Grain Operator - The State Food and Grain Corporation of Ukraine (SFGCU) and the Agrarian Fund, according to farmers, have collected a full range of corruption schemes: overpayment for the provision of transport or grain storage services, buying grain is expensive - selling cheap (sometimes the same counterparty). At the same time, the grain that has been deposited in SFGCU or Agrarian Fund elevators may simply disappear. Only for 3 years, the State Control Committee of Ukraine brought losses of 3.5 billion UAH. This problem can be solved by privatizing these enterprises [8].

5. Grain logistics. There are many opportunities to take bribes in grain logistics. By limiting the maximum weight of self-propelled trucks to 40 tons and establishing weight control on the roads, grain producers and traders pay inspectors a certain amount of money to keep their eyes closed in case of breakage and overload. In addition, the fact that there is a shortage of grain trucks during the peak season. When agricultural production grows, at this stage of development there is a need for rail transport, which, unfortunately, by 2.3 times higher than the actual supply of grain trucks. The problem can be solved by abolishing weight restrictions, increasing the rolling stock of grain trucks, as well as developing rules for the carriage of goods together with carriers and manufacturers, exporters and officials [2].

**Conclusions.** 1. After having analyzed activities of the main actors in the prevention of corruption, in particular in the agricultural sector, we can conclude that their functions, tasks and powers at the legislative level are described in detail. However, in order for these norms to work, there must be a high-quality practical implementation of the established norms. Unfortunately, in the practical application of the basic principle of the rule of law, we face their ineffectiveness due to a number of circumstances, irresponsibility and impunity of employees of anti-corruption institutions and lack of practical mechanisms

for their solution. Therefore, the parliament should establish sanctions for violations and deviations from the exercise of powers by members of anti-corruption bodies and institutions and the mechanism for their application in more detail at the legislative level.

2. We also would like to emphasize that despite the small achievements and work of scientists in the field of disclosure of concepts and tasks of law enforcement agencies, the legislator is still on the right track. As specialized bodies are gradually created and the functions of general bodies are expanded. They are involved from all sides and at all stages of the investigation of corruption offenses in order to act quickly and effectively. It is also very important to further expand and make these tasks more specific according to the various areas where corruption offenses may occur, including strategic areas such as agriculture.

3. Despite the introduction of new anti-corruption laws, finally, from year to year in the rankings of international organizations, Ukraine is among the countries most affected by corruption. Thus, we consider it necessary to note that the state anti-corruption policy in Ukraine needs significant modernization in the application of updated approaches based on the results of in-depth research. Priority areas should be determined only by a correct understanding of the legal nature and content of corruption, taking into account the so-called corruption zones, as well as the factor of population perception of this socially dangerous phenomenon.

4. To implement the principles of the general departmental policy on preventing and combating corruption of the Cabinet of Ministers of Ukraine it is necessary to assess corruption risks and measures to eliminate them, organize monitoring of compliance with the rules of virtue, objectivity and impartiality, competence and efficiency, a proper implementation by officials of the provisions and requirements specified in the regulations on structural units, job descriptions and compliance of decisions with the requirements of laws and other regulations, to strengthen the ability to fight corruption in state-owned enterprises, institutions and organizations belonging to the sphere of government, ministries and departments, to eliminate corruption factors in the field of public procurement, use of budget funds, providing conditions for reporting violations of the law on corruption requirements.

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