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Responsibility for Abuse of Influence: Global Experience

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Abstract

The main purpose of this study was to conduct an independent investigation of some international regulations that make provision for criminal liability for abuse of influence; analysis of the experience of countries that have achieved considerable success in implementing and improving criminal legislation, which determines the implementation of mechanisms of public legal responsibility for abuse of influence to consider the possibility of implementing some of their provisions in the legal system of Ukraine. The general methodological framework of this study was formed by an integrated approach to cognition, in which all the main aspects of the subject matter were investigated. The combatting intensifies and measures are being taken to prevent criminal offences in official and professional activities relating to the provision of public services. It was concluded that there is considerable progress in corruption combatting in the world. Ukraine is one of the countries that take steps in developing anti-corruption legislation, though, further improvements are needed. The materials of this study are of practical value for further scientific research and legislative transformations in the field under study.

Keywords: criminalisation of corruption influence, corporate transparency, compliance programmes, protection of informants, deferred prosecution agreement.

Introduction

The lack of measures applied by states, the intensifying globalisation, led to an increase in the interdependence of individual countries' economies in the 20th century, thereby forcing them to join the fight against corruption. Moreover, control over the level of corruption in the modern world has not only become the responsibility of a particular country, but also a part of synergistic management. In present-day reality, international law has yet to develop a unified concept for defining such a multidimensional phenomenon as corruption. It manifests itself

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quite often in various spheres of state regulation and in completely different forms (Kuzyakin,2018; Sui et al., 2018). The impact of corruption is considered quite fatal if it can hinder the development of a country, whether it is improving infrastructure or making progress in other areas aimed at improving people's lives. As for the eradication of criminal acts of corruption, there is a need for commitment on the part of the government and cooperation on the part of society, because corruption itself is a crime that continues to evolve over time, demonstrating a systematic new model with a changing way of correcting legal gaps in each country, which can be exploited by parties seeking to profit from corrupt acts, including abuse of influence.

The concept of abuse of influence or trading in influence is considered as an action that directly relates to the offer or promise to provide a person with an illegal benefit, the very provision of a benefit to a civil servant or someone for the purpose of making a profit. The so-called "active" trading in influence lies in offering an unlawful benefit to a person, so that the latter abuses its influence to procure benefits for that person with the provision of this advantage – a positive decision of a state body or administration. Accordingly, "passive" trading in influence lies in extorting or accepting any benefit from a person for misuse of influence to obtain such a benefit in the interests of a person – a positive decision of a state body or administration. Under international agreements, the crime of trading in influence relates to the conventional crime of bribery, but differs from the classic crimes of bribery in two important aspects: firstly, unlike bribery, trading in influence requires multilateral relation where a public authority is tempted to act or refrain from action. The public official who commits the act is not part of the bribery process, which points to the indirect purpose and implicit nature of such offence. Secondly, while bribery mainly focuses on the act or inaction of a public official, trading in influence attempts to criminalise the use of a person's influence to gain unlawful benefit from a public official in favour of a third party. For government employees who act as influence traders, the crime of trading in influence goes beyond cases covered by bribery.

It is not uncommon for abuse of influence to guarantee the conclusion of profitable state and municipal contracts, conduct the necessary examinations, provide public services, receive tax benefits and other preferences (Simonova,2016; Slabliuk, 2021). The very fact of intentionally offering or accepting an unlawful advantage is punishable, regardless of whether any further action has been taken or whether the alleged "influence" actually exists. Amongst the countless forms of corruption, trading in influence is considered as soft corruption, since it does not entail direct losses for the state. However, by abusing

influence, an unlawful advantage can be gained (Durdynets et al., 2020; Fad, 2020; Smaghi et al., 2021).

In a general sense, abuse of influence is considered as a crime where people from the middle to upper class are guilty(Timoty and Firmansyah, 2020; Titarenko, 2021; Vázquez-Portomeñe Seijas, 2022). A person is considered to have power or wealth, and therefore this type of corruption is often referred to as a white-collar crime, wherein the crime is committed by someone rich or with excessive assets and is considered a "respectable" due to a position or high reputation in both government and the economic sphere. Researchers pointed out that the identification of those in the "corridors of power" as subjects of criminal offences, even if they do not make decisions themselves, is truly of great importance, since their behaviour undermines public confidence in public administration bodies, and constitutes a manifestation of the classic form of corruption.

For Ukraine, which ranked 117in the 2020 Corruption Perception Index, according to a rating published by Transparency International, the fight against corruption is certainly a top priority. At present, Ukraine needs to develop new methods and identify new ways to combat corruption. It is necessary to substantially expand the boundaries of perception of legal reality by identifying the priority elements in the practices of the European Union and other countries, through which to counteract representatives of the corruption network, including in relation to abuse of influence. This situation indicates that anti-corruption and prevention measures should be taken consistently and with the greatest possible effectiveness.

Considering the reasons and main opinions, as indicated above, to achieve this purpose, it is necessary to define the following tasks: to consider the main international regulations on the implementation of criminal liability for abuse of influence; to analyse the experience of countries that have achieved considerable success in implementing mechanisms for bringing to criminal responsibility for abuse of influence to consider the possibility of implementing some of their provisions in the legal system of Ukraine.

Materials and Methods

The methodological framework included the current provisions of the theory of cognition of social phenomena, as well as a systematic analysis of the legal, political, and social prerequisites necessary for understanding the development of the institution of accountability for abuse of influence. The general methodological framework of this study was formed by an integrated approach to cognition, in which all the main aspects of the subject matter were

investigated. The implementation of a comprehensive approach to research includes the use of such methods as the historical legal method (allowed studying the development of the institution of abuse of influence in historical retrospect, understanding its prerequisites, current state, and development trends); formal legal (analysis of the regulations of Ukraine and other states concerning the combat against abuse of influence and stricter responsibility); comparative legal (allowed comparing the legal institutions of several countries in the field of criminal law). The methodological basis of this study also included general scientific research methods, such as systematic, historical, statistical, and specific sociological. A descriptive analytical method was used for an accurate description and systematic analysis of the discovered facts.

The method of materialistic dialectics used provided insight into the emergence of such a phenomenon as abuse of influence at modern stages of development of various states, allowed investigating the causes and conditions of its emergence in society depending on such factors as low level of legal awareness and legal culture, ambiguity and uncertainty of legal provisions, "instability" of judicial practice, lack of its uniformity, etc. Furthermore, it is this method of research that enables the study of the specific features of positive socially useful behaviour in law as a criterion for the proper use of rights and freedoms by subjects of power legal relations in criminal law relations, wherein such relations exist and develop to the greatest extent.

Using the system-structural method, the authors established the presence of certain structural elements in abuse of influence, cognising which can facilitate the development of legal means to combat these types of abuse and design an effective mechanism for bringing the perpetrators to criminal responsibility. The system-structural method also allowed the authors to study the interrelation and interdependence of abuse of influence in the environment of other public relations in the sphere of activity of officials or persons providing public services, as well as some other special entities that ensure the proper performance of such persons' functions and compliance with the legislatively stipulated requirements, prohibitions, and restrictions.

Using the Aristotelian method, the study generalised law enforcement practices. The formal legal approach helped thoroughly investigate the regulations on the subject under study, identify the problems of applying provisions on abuse of influence, and propose measures to counteract criminal offences.

The authors also employed the method of interpretation of international and national legal acts regulating criminal liability for corruption offences. Methods of analysis and generalisation of the legal practice of judicial bodies provided an opportunity to evaluate the actual state of law enforcement practice in

the environment under study and to identify the most topical issues of criminal offences in official and professional activities relating to the provision of public services.The method of legal modelling was used in the search for necessary and urgent legislative innovations to ensure the greatest compliance of the national legal regulation of criminal law relations and measures to counteract abuse of influence, the latest trends of states and transformations of public relations.

All these methods allowed analysing and summarising previous research on this subject, investigating the regulatory framework.These methods made it possible to logically construct and systematise the results, examine statistical data, case law, expert opinions, andform the main conclusions and provisions.

Results

The United Nations Convention Against Corruption (2003) (UN Convention) is the only legally binding universal anti-corruption tool used at the international level. The large-scale approach of the Convention makes it a unique means of global influence on solving the global issue of combatting corruption. It covers preventive measures, criminalisation and enforcement of laws, international cooperation, asset recovery, technical assistance and information exchange. It also contains arrangements for the definition of abuse of influence, which clearly sets out every promise or offer to a civil servant or other person, directly or indirectly, that may provide unlawful benefits for civil servants (or a certain person) to use influence improperly or to procure an object or unlawful benefit from a civil servant in the interests of instigators or in the interests of others; a request or acceptance of unlawful benefits by civil servants or anyone, directly or indirectly, for an official or a person engaged in a professional activity relating to the provision of public services to have an intent from self-serving motives for receiving unlawful benefits.

The consequence of the corresponding law is that everything contained in the provisions of the Convention must be accepted and respected by the state as a subject of international law. The advantage of the UN Convention Against Corruption is that it contains both declarative promises and general measures(Ardestani, 2017; Canestraro, 2019). The main purpose of combatting corruption is the effective interaction of measures to prevent corruption and active direct anti-corruption means of influence. At present, states must establish and make provision for particular illegal acts in criminal legislation, since international cooperation is becoming a key element in the prosecution of corruption offences. Notably, Ukraine was one of the countries that took part in the ratification of this international legal act. It was an active participant in all international measures relating to overcoming obstacles to the implementation of this procedure Law of

Ukraine No. 251-V “On Ratification of the United Nations Convention against Corruption”(2006a).

In 1999, the Council of Europe established a new international organisation(About GRECO, 1999). It identified a group of states that actively combatted corruption, to effectively and systematically combat this phenomenon in their states and to monitor compliance with anti-corruption standards about the Group of States against Corruption (GRECO). A striking example of the fight against abuse of influence is the adoption of the Convention on Criminal Liability for Corruption by the Council of Europe (Criminal Law Convention…, 1999). This Convention also makes provision for additional measures of a criminal legal nature, which should be reflected in criminal legislation. TheConvention was ratified by the VerkhovnaRada of Ukraine in 2006 Law of Ukraine No. 252-V “On Ratification of the Criminal Convention for the Suppression of Corruption” (2006b).

The Civil Convention Against Corruption of the Council of Europe (Civil Law Convention…, 1999) was ratified by Ukraine in 2005 Law of Ukraine No. 2476-IV “On Ratification of the Civil Convention against Corruption” (2005). It requires contracting parties to stipulate effective remedies in their national law for persons who have been harmed due to corrupt practices so that they can remedy their rights and interests.

Ukrainemakes provision that all actions performed by persons with authority or any other persons must be governed based on laws or regulations to preserve legal certainty and the welfare of the population. The main legislative act concerning combatting corruption in Ukraine is the Law of Ukraine No. 1700-VII "On Prevention of Corruption" (2014). This regulation has no extraterritorial impact, but it has certain advantages. The most widely recognised achievements are the availability of public registers and information on public finances, the launch of an open register of property declarations for all government employees, and the transfer of all public procurement to a transparent online platform.

A consequence of proclivity for abuse of influencecan be carried out by civil servants as government administrators. Article 369^2 "Abuse of influence" was introduced in the Criminal Code of Ukraine (2001).According to it, punishment occurs for a provision of an unlawful benefit to a person who offers or promises (agrees) for such a benefit or for providing such a benefit to a third party to influence the decision-making for accepting such an offer and accepting an offer combined with extortion of such a benefit. The main direct object of the crime under Article 369^2 is public relations arising in connection with the actions committed by a person authorised to perform the functions of representatives of government or local self-government or holding positions in state authorities, local

self-government bodies, state or municipal enterprises, and performing certain functions that a person is vested in by authorised state authorities, a local self-government body, a central state administration body with a special status, an authorised body or an authorised person of an enterprise, institution, or organization, a court or a law. An additional direct object of the crime under Parts 2 and 3 of Article 369^2 of the Criminal Code of Ukraine includes legally protected rights and interests of a person, their property in case of extortion of illegal benefits relating to them.

The experience of combatting corruption in foreign countries is much greater than the Ukrainian one. In the United States of America, the Foreign Corrupt Practices Act (FCPA) was adopted in (1977). It became a serious obstacle to corruption in most developed countries of the modern world. Prior to this event, bribery and mutual provision of services for obtaining state benefits was considered absolutely normal practice and was rather commonplace. The FCPA is based on the anti-bribery provision, which prohibits U.S. issuers, businesses, or anyone in the United States from physically providing or promising anything of value to a foreign official with the intention of acquiring or retaining the business. 25 years later, in 2002, anti-corruption legislation was developed in the United States in the Sarbanes-Oxley Act (SOX) (2002). It tightened the requirements for financial documentation of organisations. It was through the latter that the main cash flow to budgets went(Sharova et al., 2015; Zhelik,2018; Kuzmenko et al., 2021). The specified regulation tightened the requirements of the FCPA concerning the provision on accounting and internal control, which requires American issuers to maintain accurate accounting records and apply effective internal audit systems, including to identify the facts of abuse of influence.

The first part of the FCPA contains provisions on countering bribery and prohibiting corrupt actions of officials abroad. The provisions of this part stipulate a prohibition on the promise or transfer of money or other items of material value to any foreign official for the purpose of obtaining or maintaining business opportunities or obtaining other unlawful benefits. The second part is entirely devoted to the rules for maintaining and providing accounting documentation of the company, as well as the procedure for conducting internal audits (inspections) in financial organisations. A special feature of the FCPA is that its provisions relate not only to particular payments of funds and the transfer of other resources to an official, but also directly relate to the promise to carry out such actions. That is, even if there was no fact of bribery, but a respective promise was made, there are grounds to initiate a criminal case on corruption. Notably, not all cash payments violate the provisions of the American anti-corruption legislation. What matters is the ultimate purpose for which the money is paid. The prohibition

applies only to the payments aimed at influencing the actions of the recipient of a bribe within the framework of their official powers to abet in obtaining or maintaining a business for themselves or third parties, or obtaining other unlawful preferences. US legislation establishes serious liability for corruption-related offences. The briber and bribee are subject to such a type of criminal punishment as imprisonment, and the organisation can be subject to sanctions in the form of a multimillion-dollar fine. Furthermore, a mandatory procedure for preventing corruption manifestations is used regarding a legal entity, and an internal control service is established, which is obliged to report to the authorities. The amount of fines for organisations under the FCPA can reach 25 million US dollars for each violation, and for individuals – up to 5 million US dollars and imprisonment for up to 20 years.

In many ways, the UK followed a similar path in combatting corruption, adopting the Bribery Act (UKBA) in (2010). This law almost completely replaced the previous UK legislation that governed anti-corruption activities, and seriously assisted in the fight against corruption in other countries. The above regulation has an extraterritorial impact. Thus, its regulations apply to organisations that operate or have their branches and representative offices in the UK. Therewith, it does not matter where exactly the corruption actions were committed. Article 7 of the UKBA defines inaction on the part of the anti-bribery organisation as a crime that largely corresponds to the provisions of the American anti-corruption legislation and is actively implemented in the legal systems of developed countries. Following the example of the United States, UK legislation imposes obligations on legal entities to take measures to prevent active and passive bribery. Thus, companies are creating special committees to counteract bribery, which forms an integral part of the national policy of compliance with anti-corruption legislation. Such divisions of organisations are aimed at taking preventive measures with employees regarding the inadmissibility of accepting "valuable gifts", cash for providing services and preferences to third parties in the form of trading in influence. The development of the British institution for auditing organisations and the creation of special committees is largely because of the adaptation of provision of the US Sarbanes-Oxley Act of 2002.

Nowadays, the French anti-corruption system has made considerable progress and comprises two main legal provisions. The first one if the criminal laws on corruption contained in the Criminal Code of France (Code pénal of France, 1992); and the uncodified part – the Law on Transparency, Anti-Corruption and Modernisation of Economic Life (LOI n° 2016-1691…, 2016). It imposes obligations on corporations to comply with anti-corruption requirements. The French Sapin II law on combatting corruption and protecting informants

brings the legal regulation of France in line with countries aspiring to meet global anti-corruption standards. Based largely on the FCPA and UKBA, the Sapin II Law defines rules for preventing and detecting trading in influence and corruption through increased corporate transparency, enhanced internal monitoring, and enhanced whistle-blower protection.

The strictest standards apply to larger companies that are based in France, with 500 or more employees, or to companies of the same size with headquarters in France. According to the Sapin II Law, both companies and individuals can be subject to fines, including up to 1 million euros for companies and up to 200,000 euros for managers who do not take measures to prevent and detect corruption. The French Anti-Corruption Agency (AFA) was also established under the Sapin II Law. All companies based in or affiliated with France should review their compliance programmes and ensure that they comply with Sapin II standards on combatting corruption and bribery. While the AFA initially pointed out that misconduct prior to a merger would only lead to criminal liability for the person directly creating that misconduct, and not for the new structure, in the new case law, the Court of Cassation defines the opposite. The Court Decision of November 25, 2020 may serve as an example (Thomas, 2021). It states that the company that supports the acquisition can now be held criminally liable for previous misdemeanours on the part of the acquired company.

Notably, at the end of 2021, the EU Directive on the protection of persons who report breaches of Union law will be implemented (2019). Although Sapin II provided France with the current system of protection of whistle-blowers, there are differences between the requirements of Sapin II and the specified Directive. This includes protection of non-employees, the ability to circumvent Sapin II's internal reporting requirements, and in some situations – the ability to report from the outside. The identity of the whistle-blower will remain confidential, and this person will be protected from persecution. The law sets out a penalty of up to one year's imprisonment and a fine of up to 15,000 euros if they take appropriate measures against whistle-blowers or attempt to prevent them from lodging an application. Those who disclose the identity of the whistle-blower face up to two years of imprisonment and a fine of up to 30,000 euros. While it has not yet been decided how France can update its corporate disclosure requirements, all French (and European) companies with 250 or more employees must have a hotline starting December 17, 2021.

On January 12, 2021, the AFA released an update to the rules that will apply starting from July 1, 2021. The updated principles now cover only crimes relating to corruption and trading in influence(Mukomela, 2020; Brunelle and Lecat, 2021). However, they also state that the organisation's anti-corruption

processes should consider risks that are not directly covered by the text, but are related to corruption and abuse of influence, such as falsification or abuse of the company's assets, as well as concealment and laundering of proceeds from corruption and trading in influence. Notably, the AFA does not have the authority to initiate criminal proceedings to investigate bribery cases or impose criminal penalties. In February 2014, the French National Financial Prosecutor's Office (PNF) commenced operation, which has since become the leading judicial body in the field of combatting bribery. The criminal penalty for influence trading applies only to transactions in France. They can only be applied to transactions made in the international arena in intergovernmental organisations or international courts, but not in foreign countries.

The analysis of these positions suggests that recent years have seen considerable progress in creating an effective international regulatory framework for combatting corruption and its manifestations such as abuse of influence. Numerous international agreements and initiatives aimed at addressing this issue have led to the development of a plan of action and a framework for cooperation among states in their collective efforts to combat this destructive phenomenon.The fight against abuse of influence in Ukraine is crucial both for achieving public confidence in state institutions and for achieving stronger and more sustainable economic growth (Matat, 2021). Due to anti-corruption legislation and partnership between civil society, politicians, civil servants, and international organizations, Ukraine is consistently taking steps to eradicate corruption and its manifestations such as abuse of influence.

Summarising the analysis of anti-corruption practices in the United States, the United Kingdom, and France, the authors of this study concluded that in these developed countries the fight against such a component of corruption as trading in influence occurs in all spheres of public life, with special attention paid to preventive measures in organisations, and a persistent zero tolerance to this phenomenon is developed in society.

Discussion

O. Dudorov(2019) and Dyurd(2019) noted that official Ukrainian translations of the term "abuse of influence" cannot be considered successful. This is due to the use of the term "trading in influence" in both English-language texts of the Conventions. When translated from English, the verb "to trade" means "to sell" and in none of the meanings is translated as "to abuse". Therefore, it would be more logical not to deviate from the meaning of the verb "to trade", denoting such acts as "trading in influence", and not as "abuse of influence", as it is currently worded in Article 369^2 of the Criminal Code of Ukraine. Furthermore,

the term "trading in influence" more accurately corresponds to both the meaningful characteristics of acts referred to in Article 18 of the UN Convention Against Corruption and Article 12 of the Criminal Convention on Combatting Corruption of the Council of Europe. The current wording of the article "Abuse of influence" is far from ideal, its application raises many questions that cannot be unambiguously resolved without the intervention of the legislator. There are problems with the ambiguity of determining the scope of persons whose influence is criminal, with the need to specify the form of influence on such persons (real or imaginary influence), and with the need to increase sanctions for committed criminal offences, etc. This approach was embodied in the dissertation research of M. B. Zhelik(2018). He investigated the criminal legal aspects of accepting an offer, promise, or receiving an unlawful benefit.

In general, at least seven opinions have been expressed in the legal literature regarding the person than can be criminally liable for "passive" abuse of influence. O. Dudorov(2019) concluded that the article of the Criminal Code on liability for abuse of influence requires the application of qualified efforts on the part of the Grand Chamber of the Supreme Court. Progress in the creation of new anti-corruption institutions in Ukraine is quite controversial: some of them are almost fully functioning and independent, while others are considerably behind schedule or subject to political pressure. A. Marusov(2016) noted that additional legislative measures are required to ensure the smooth implementation of the anti-corruption policy. It is critical that politicians who support reforms, civil servants, and international organisations focus their efforts on implementing international experience in the fight against corruption and its manifestations such as abuse of influence, and on implementing anti-corruption reforms.

The act of trading in influence constitutes corrupt behaviour that deviates from ethics and morals, since it is mainly aimed at obtaining unlawful benefits by using or abusing positive effects for public office or influence arising from political relations, kinship, friendship, or other relations. Corruption is also a rather complex phenomenon. It is based on many cognitive, emotional, social, and cultural factors, which complicates the development of an indisputable simple definition and metric of a given corrupt act; dishonest actions are more likely when people perceive themselves in the context of losses rather than benefits; another possible source of corrupt behaviour is over-confidence, which can encourage high-ranking professionals to ignore the influence of personal interests in their daily activities. Researchers(Kyrychko, 2015; Islamy, 2021; Byelov and Holonich, 2021; Muramatsu and Bianchi, 2021) emphasised that conflicts of interest, intuitive thinking, and ambiguity can also become fertile ground for corruption.In many circumstances the personal interests of ordinary people can

conflict with their professional honesty. In these contexts, full disclosure can backfire, making a person feel entitled to act self-serving, and transparency, control mechanisms, and very strict anti-corruption laws carry the risk of damaging the individual's internal motives for striving for their private and public integrity. As a result, too strict control over civil servants or private managers leads to unforeseen negative consequences, which are expressed in the manifestations of deviant corruption-oriented behaviour of these subjects.

Thus, policy-makers should be very careful when developing and implementing programmes that focus on external motives (Muramatsu andBianchi, 2021). Such a policy creates a high risk of displacing the internal motives of public integrity and honesty. Very vague interactions and excessive bureaucracy tend to punish (rather than encourage) adherence to high standards of honesty and professionalism. Proponents of good faith programmes and anti-corruption policies pay more attention to proposals for rethinking decision-making tasks or forming a social ideology associated with the presence of choice architectures that inform people of the high benefits of encouraging good faith, trust, and honesty over time.

M. Johnston (2005) called trading in influence one of the "corruption syndromes".It can be used to describe and explain corruption practices, along with official tycoons, clans, oligarchs, and cartel elites. The complexity of criminalising trading in influence, according to W. Slingerland (2010), is that the act of corruption is not obvious at the moment of "purchasing" the influence, and not a particular solution. It is quite difficult to prove the certainty of corruption influence, because the causation between the act of the person who directly makes the decision and the actions of the person who should influence this subject of power in many cases will not be evident. In turn, law enforcement agencies are forced to apply quasi-corruption qualifications for the actions of "merchants of influence", such as appropriating someone else's property by deception (Article 190 of the Criminal Code of Ukraine).

It is indisputable that Sapin II made France an advanced power in the world of combatting corruption (Mell et al., 2015; Short, 2016; Knapp, 2016; Carpenter et al., 2019; Spalding, 2021). The new tools available to the government, such as AFA audit powers, compliance with the requirements of the law and the ability to effectively enforce Sapin II through the settlement agreement negotiation procedure and significant fines, give the French enforcement regime the opportunity to use a flexible system for resolving corruption-related issues(Johnston, 2005; Gluck and Macaulay, 2017).Sapin II is intended as a civil preventive tool and inherently imposes positive obligations on

companies. With the AFA, France offers the world an excellent compliance strategy that is both radical and undeniably favourable.

Thus, it can be concluded that the current wording of Article 369^2 "Abuse of influence" of the Criminal Code of Ukraine requires further improvement, its application raises many issues that cannot be unambiguously resolved without the intervention of the legislator. This debatable problem is relevant in the context of adapting foreign positive practices of combatting abuse of influence, as evidenced by the positions of researchers outlined above.

Conclusions

The above analysis suggests that in recent years the international community has made considerable progress in creating an effective international regulatory framework for combatting corruption. Due to anti-corruption legislation and partnership between civil society, politicians, civil servants, and international organizations, Ukraine is consistently taking steps to eradicate corruption and its manifestations such as abuse of influence. In the United States and Great Britain, the fight against such a component of corruption as trading in influence takes place in all spheres of public life, special attention is paid to preventive measures in organisations, and a persistent rejection of this phenomenon is formed in society.

Following the entry into force of the Sapin II act of 2016, the scope of investigations in France has primarily been focused on compliance with anti-corruption requirements and ensuring their implementation. Nowadays, the focus is on the established French Anti-Corruption Agency (AFA), which currently provides both leadership and compliance control, conducting comprehensive inspections in large corporations. Although the AFA is not an independent administrative agency and therefore does not have the capacity to impose or seek sanctions for specific corrupt actions, it now fully assumes the role of assisting the authorities and others to prevent and detect trading in influence and other corruption-related crimes. Accordingly, French companies should implement a comprehensive regulatory compliance programme, which includes an anti-corruption code of conduct, a risk assessment mechanism, procedures for conducting comprehensive verification by third-party organisations, training of employees in regulatory compliance, that is, compliance programmes under Sapin II should be adapted to prevent acts of bribery and trading in influence.

Based on the results of discussion and analysis of current Ukrainian regulations, it can be concluded that: 1) the current wording of Article 369^2 "Abuse of influence" of the Criminal Code of Ukraine does not correspond to the present-day realities, its law enforcement and definition of terms raise many

questions that should be resolved by the legislator; 2) politicians who support the reforms of Ukraine, civil servants, and international organisations should focus their efforts on the implementation of international positive experience in the fight against corruption and such a manifestation as abuse of influence, the development of a mechanism for effective implementation of anti-corruption reforms; 3) it is extremely important to strive for a better understanding of trading in influence on the territory of Ukraine; 4) The influence of corrupt officials needs to be identified and highlighted not only in the context of severe punishments, but also in the more nuanced issues of people's daily experiences; 5) individual provisions of Sapin II and strategies already implemented in France to combat abuse of influence can be considered by Ukrainian legislators to further implement them as part of the development of a preventive anti-corruption mechanism.

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