

THE FEATURES OF E-DECLARATION AS AN EFFECTIVE TOOL TO PREVENT CORRUPTION

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ABSTRACT

The article defines international legal documents, the provisions of which are aimed at regulating relations in the field of prevention and counteraction to corruption. On the example of European countries (in particular, the Federal Republic of Germany, Great Britain, Poland) the features of the system of declaration of incomes of civil servants are considered. The main provisions of the United Nations Convention against Corruption and the Criminal Law Convention on Combating Corruption of the Council of Europe on measures to overcome and counteract corruption, including by introducing a system of compulsory declaration of incomes by civil servants are highlighted. The historical aspects of the formation and formation of anti-corruption legislation of Ukraine in accordance with European standards are analyzed, as well as the analysis of the norms of the current legislation of Ukraine, which regulates the peculiarities of electronic declaration. On the basis of the analysis of the norms of legislation on prevention of corruption, electronic declarations have been classified.

Keywords: E-Declaration, Corruption.

INTRODUCTION

One of the global problems of the modern world determines corruption, and therefore considerable attention must be paid to the struggle against it in any country, and effective measures should be developed to counter this negative phenomenon. This, above all, is confirmed by the adoption in a number of European countries of certain normative legal acts regulating this sphere. Among the international organizations whose efforts are aimed at creating and consolidating anti-corruption provisions, it is important to highlight the United Nations, the special body of the European Union, the Council of Europe on anti-corruption monitoring. The competence of the said authorities allows for the adoption of legal acts that are both imperative and recommendatory. At the same time, it is important to note that their activities are characterized by a common goal, which consists in the formation, adoption of unified standards for combating corruption, and ensuring the implementation of the rules of anti-corruption laws at

the national level. One of the effective tools for preventing corruption was the electronic declaration of incomes of civil servants and local self-government officials (Kulish et al., 2018).

Problem Statement

Taking into account the European integration processes of the present, one of the requirements of the European Union for the introduction of a visa-free regime with regard to Ukraine, the introduction of legislation in the field of prevention of corruption in a number of changes in 2016 was determined. The introduction of a system for the submission and disclosure of electronic declarations of persons authorized to perform functions of the state or local self-government has become a novelty in this area. The positive experience of European countries has shown that electronic declaration is an effective mechanism for combating corruption, and therefore its implementation is characterized by high prospects for using it as a powerful tool that will help to overcome the manifestations of corruption both at the state level in general and at the level of local self-government, in particular.

LITERATURE REVIEW

In Germany, the deputies of the Bundestag are obligatory subjects of declaration. It should be noted that, in accordance with the provisions of the Bundestag Code of Conduct, deputies fill out a declaration form, which provides an appropriate explanation for incomes received outside the parliament. In this case, the amount of income on the results of work part-time or on contracts is indicated as if the total income of one contract: (1) or exceeds 1000 euros per month; (2) or exceeds 10,000 euros per year. An important fact in the process of such a declaration is that the deputies of the Bundestag do not declare property. The official website of the Parliament publishes information on the income of deputies in a simplified form, which provides only indication of the category of income, and not its amount (Parliament: Geschäftsordnung).

The declaration system in the UK, which is regulated by the Code of Conduct for the members of the House of Lords, is quite interesting. Code of conduct for members of the House of Commons; The Ministerial Code, etc. Among the civil servants who must declare their interests are deputies and members of the government. Members of the House of Commons and the House of Lords are required to register their interests and provide information on external employment. The electronic declarations on the interests of members and members of parliament are public and are openly accessible in the Register of the interests of the House of Commons and the House of Lords (The Register of Members' Financial Interests, 2017; Register of Lords' Interests, 2010). Thus, civil servants declare information about the conflict of interest and income received outside the ministry.

In Poland, the entities of public declaration of incomes are only those civil servants who are obliged to perform the functions of the state on key positions at the regional and national levels. This includes members of the government, deputies, and heads of local authorities. The declarations are filled in electronically and made public in a special Register on the official site of the National Electoral Commission, whose support and updating is attributed to its authority. (Register Benefits, 2016).

METHODOLOGY

The methodological basis for the study of e-declaration as a tool for preventing corruption is the historical and comparative legal methods, as well as the method of structural and functional analysis. Thus, the historical method has allowed to highlight aspects of the formation and formation of anti-corruption legislation of Ukraine in accordance with European standards. With the help of the comparative legal method, the legal and regulatory framework for regulating relations in the field of prevention and counteraction to corruption was determined on the international level, as well as the peculiarities of the regulation of this issue at the level of legislation in Ukraine. The method of structural and functional analysis is used for the classification of electronic declarations in accordance with the norms of the current Ukrainian anti-corruption legislation, submitted by persons authorized to perform functions of the state or local self-government.

FINDINGS AND DISCUSSION

Today, in a context of rapid development of public relations, corruption has become one of the threats to the realization of constitutional human rights, social justice, normal functioning of society, democratic development of the state and national security of any country. In spite of the negative social, economic and political nature of the widespread phenomenon, corruption is aimed at satisfying selfish interests (both personal and group) and can be carried out in various ways, including bribery, bribery, abuse of power, etc.

In the history of the formation of the international legal framework for the regulation of relations in the area of prevention and counteraction to corruption, it is important to note the 2004 United Nations Convention against Corruption (hereinafter referred to as the United Nations Convention against Corruption), the adoption of which was an important step in the fight against corruption not only at the international level, but also introduced some changes to the national legislation of several countries. The norms of international anti-corruption legislation have been implemented in the national legislation of many countries in the form of consolidation at the state level of the list of corruption acts and the range of persons who can act as subjects of corruption offenses in accordance with anti-corruption legal acts. On behalf of Ukraine, the UN Convention was signed on December 9, 2003 in Merida (The United States of America) (The Law of Ukraine on the Ratification of the United Nations Convention against Corruption, 2006).

When examining the issue of e-declaration as an effective tool for preventing corruption, it is important to pay attention to the content of Art. 8 of the UN Convention against Corruption, which regulates the codes of conduct of public officials. So, in accordance with Part 1 of Art. 8 of the aforementioned document for the purpose of combating corruption, each State Party shall, inter alia, promote the integrity, integrity and accountability of its public officials in accordance with the fundamental principles of its legal system. At the same time Part 5 of Art. 8 states that each State Party shall endeavor, where appropriate and in accordance with the fundamental principles of its domestic law, to introduce measures and systems that oblige public officials to make declarations, inter alia, on non-governmental activities, occupations, investments, assets and about substantial gifts or profits in connection with which there may be a conflict of interest in relation to their functions as public officials. In Part 6 of Art. 8 contains provisions on the liability of officials: Each State Party is considering, in accordance with the basic principles of its

domestic law, to apply disciplinary or other measures against public officials who violate codes or standards established in accordance with Art. 8 of the UN Convention against Corruption (United Nations Convention against corruption, 2004).

Among the international instruments in the fight against corruption, the Criminal Law Convention on the fight against corruption of the Council of Europe occupies an important place. The second chapter, "*Measures taken at the national level*", identifies the measures that each state must implement in order to overcome and counteract corruption. Among them are legislative and other measures that may be necessary to ensure the possibility of confiscation or other means of extraction of means of committing criminal offenses and proceeds from criminal offenses (Criminal Law Convention on Corruption, 1999).

Turning to the history of the adoption of anti-corruption legislation in Ukraine, it should be noted that in 1994, the Partnership and Cooperation Agreement between Ukraine and the European Communities and their member states was signed (currently not valid), which, in the framework of the integration process, included the bringing of Ukrainian legislation to the standards of the European Union, including in the field of prevention of corruption. In 1995, 2009 and 2012, the Verkhovna Rada of Ukraine adopted specialized laws on combating corruption.

Today, the current law that contains the legal and organizational foundations for the functioning of the corruption prevention system in Ukraine is the Law of Ukraine "*On Prevention of Corruption*" of October 14, 2014. In accordance with the norms of the said law, the formation and implementation of state anti-corruption policy is entrusted to a specially created central executive body with a special status-the National Agency for the Prevention of Corruption (hereinafter-the National Agency).

Ukraine's cooperation in the fight against corruption is being carried out within the framework of the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their member states, ratified by the Verkhovna Rada of Ukraine on September 16, 2014. According to clause d) of Part 2 of Art. 22 The cooperation agreement between the parties in the fight against crimes is aimed at solving the problems of corruption in the private and public sectors. (Association Agreement between Ukraine, 2014).

In Ukraine, the introduction of a system for the submission and disclosure of electronic declarations of persons authorized to perform functions of the state or local self-government took place precisely with the adoption of the Law of Ukraine "*On Prevention of Corruption*" (hereinafter-the Law). Legal norms regulating the particulars and the procedure for submitting declarations by persons authorized to perform functions of the state or local self-government are contained in Section VII of the Law. According to Part 1 of Art. 45 of the Law states that the submission of declarations of persons authorized to perform functions of the state or local self-government is carried out by filling them on the official website of the National Agency annually before April 1 in the last year and in the form determined by the National Agency (Law of Ukraine on Prevention of Corruption, 2014).

The peculiarities of verifying the declarations of persons authorized to perform functions of the state or local self-government are established by the Procedure for the control and full verification of the declaration of the person authorized to perform the functions of the state or local government, approved by the decision of the National Agency for the Prevention of Corruption of February 10, 2017. In clause 12 of Section III of the Procedure, the period for full verification of declarations is 60 calendar days from the date of the decision on the verification

and only if necessary can be extended, but not more than for the aggregate term of 30 calendar days (The Decision of the National Agency, 2017).

It is important to note that the Law does not contain the types of e-declarations to be submitted by persons authorized to perform state or local government functions. However, the analysis of Art. 45 allows to distinguish: the annual declaration (submitted before April 1 of the current year for the last year); a declaration before the termination of activity-for a period not covered by previously submitted declarations; a declaration after the termination of activity submitted next year for the last year; the candidate's candidacy for the past year.

Accounting of the said electronic declarations is carried out by including in the Unified State Register the declarations of persons authorized to perform functions of the state or local self-government, which is being formed and maintained by the National Agency. The Law establishes the principle of openness of round-the-clock access to the Unified State Register of Declarations on the official website of the National Agency, which consists of the ability to view, copy and print information, as well as a set of data (electronic document) organized in a format that allows it to be automated electronic processing for reuse (Law of Ukraine on Prevention of Corruption, 2014).

CONCLUSION

Taking into account the study of the features of electronic declaration as an effective tool for preventing corruption, it can be concluded that the introduction in Ukraine of the procedures for submitting e-declarations by persons authorized to perform state or local government functions has opened public access to information on declarants. By acting as an instrument for combating the shadow economy of the state, electronic declaration can be considered as an effective mechanism for combating corruption in Ukraine in the context of European integration processes.

RECOMMENDATIONS

The Ukrainian legislation sets a very short deadline for such inspections. The problematic issue is that after the expiration of the term (a total of 60 days, or extended 90 days), persons authorized to check submitted e-declarations who have not received the necessary information will be deprived of this possibility. Completing the verification of information on e-declarations in connection with the expiration of the given term makes it impossible to re-start on the general grounds. That is why the prosecution of offenders is impossible. In this regard, ensuring timely verification of the accuracy of information in e-declarations is relevant and requires the improvement of e-declaration in Ukraine in accordance with European standards.

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