

World Community Countries' Experience in Anti-Corruption Campaign

N.A. Beisenbin, Zh.N. Almukhanbetov, D.K. Kairzhanova, Zh.M. Aitkenova and T.G. Tusupova
Academy of Law-Enforcement Agencies at the Prosecutor General's Office,
Republic of Kazakhstan

Abstract: The corruption which is shown in various forms, is one of the oldest problems in the world scene. It has a negative impact on moral and psychological climate of society, promotes the emergence of ill-natured attitude to current political, economic and social reforms. Corruption forms a certain outlook, a mercenary orientation in consciousness of people and leads to spiritual degradation of the personality and society. The analysis of Foreign experience of lawmaking in the sphere of anti-corruption campaign allows the relieving of a similar process in native country. The use of a Foreign positive experience will allow to strengthen the functioning anti-corruption mechanisms in our country, so anti-corruption priorities have to get the state support for more effective resistance to corruption.

Key words: Constitutions, corruption, the anti-corruption legislation, effective mechanisms of anti-corruption campaign, a resistance to corruption

INTRODUCTION

Corruption as a negative factor in political life of society and state takes place around the world. The difference is that some countries successfully cope with this burning issue but for other countries, corruption still presents unsolvable difficulties. Most of the countries are rather successful concerning the issue of corruption. They created effective mechanisms of anti-corruption campaign to overcome this negative phenomenon. Therefore, the international legal experience of the countries which proved in practice the efficiency of anti-corruption campaign, has an important value for our country (Andrianov, 2011).

Now a days, the anti-corruption campaign is realized either by the governments of the certain countries or by various international, public and non-governmental organizations. The economic policy in many countries uses a wide arsenal of anti-corruption measures which deserve the closest attention and study.

The USA and Italy deployed the most uncompromising and large-scale anti-corruption campaign among industrialized countries throughout the 20th century. The study and the use of anti-corruption campaign experience of the least corrupted countries of the world such as Singapore, Sweden, Finland and Hong Kong deserve attention as well.

MATERIALS AND METHODS

The USA as one of initiators of active anti-corruption campaign within the country and on the international

scene is having considerable experience of fight against this phenomenon. In the constitution of the USA adopted in 1787, taking of a bribe belongs to the category of very grave crimes. According to the Constitution, the impeachment of the US President is possible for bribery. In the USA, the anti-corruption legislation is characterized by extreme rigidity. Definition of corruption and responsibility for it is stated in chapter 11 "Bribery, the Illegal Income and the Conflict of Interests" of Section 18 of the Code of Laws of the USA (Alexandrov, 2007).

The anti-corruption legislation of the USA has a systemic character. It also consists of the legal acts regulating lobbying, bank, exchange and other kinds of activities. However, it is not a guarantee of full eradication of corruption but the USA has a lower level of corruption in comparison with other countries.

Anti-corruption campaign in the USA is characterized by the absence of immunity for officials. Any official, congressmen, senator or president can be brought to special order trial after the discharge from a position. Other major direction of anti-corruption campaign of the USA is a prevention of corruption in the system of government service. It is based on the administrative morality representing ethical and disciplinary standards. For the first time, the code of ethics of government Service was adopted in 1958 in the form of the resolution of the congress (Salomatin, 2001). Though, the code had an advisory character, later it became a basis of a legal regulation of administrative ethics for government servants of the USA. In 1962, the congress of the USA accepted official standards of behavior for elected officials (members of both chambers of parliament) and

In 1965, the order of the President L. Johnson established the standards of behavior, ethical standards for officials. In 1978, these standards turned to be the Law of "Ethics of the Serving Government Bodies" (Etzioni, 1988).

In 1989, the congress of the USA adopted the law of reform "The Law of Ethics of the Serving Government Bodies" (Kobets, 2008) that facilitated essential changes of the norms, regulating ethics of behavior for officials and extending them to all branches of the federal authority-legislative, executive and judicial.

In October 1990, the Law was supported with the executive Order of the US President No. 12731 "Principles of Ethics of Behavior for Officials and Employees of Government" (Spitsnadel and Belova, 2008). These reasons were extended not only to officials of the highest rank but also to ordinary government servants.

One more major provision of anti-corruption campaign of the USA was the unified rule for all branches of the government limiting receiving gifts by the official from individuals and the organizations. We will underline and say that the USA "RICO Law" (Racketeer Influences and Corrupt Organizations) is the law about corrupted organizations and agencies which are under the influence of racket, came into a force in 1970 and appeared to be as one of the important and powerful acts. Originally, accepted as a federal one the RICO Law has been already applied in 29 states by 1999 as the most effective legal tool in fight against crime and corruption.

RESULTS AND DISCUSSION

In the USA, the independent prosecutor is engaged in investigation of criminal cases concerning the top officials. The USA accepts legislative initiatives not only concerning the corruption existing within the national borders but also in connection with practice of the international corruption. The USA became the first country adopted the law of "Foreign Corruption Practice" (1977) which forbids bribery of foreign officials.

This act defined the bribery of Foreign officials by the American citizens and the companies outside the law. The analysis of the USA anti-corruption legislation shows that effective system creating conditions for active campaign against corruption is built. The anti-corruption legislation of Finland deserves attention. The basic anti-corruption principles of Finland are enshrined in constitution: transparency of process of administration, law enforcement in public administration, responsibility and respectability of the state officials and employees.

The state policy of prevention and suppression of corruption was stated in the National Program of Fight

Against Crimes in the Economic Sphere of 1996 (Kudashkin and Kozlov 2010). Other specialized anti-corruption projects and special law-enforcement services are absent in the country.

Since 1999, the government of Finland within the frame of anti-corruption campaign provides access for citizens to develop acts and normative documents. The officials of Finland are obliged to keep the register of the preparing documents that are published in specific format in internet.

Openness of departmental systems, transparency of the operations in departments and appropriate civil non-bureaucratic control reduce the potential of corrupted actions. Consequently, almost ten years, Finland is included into top ten countries having the lowest level of corruption.

The analysis shows if the country is among the safest countries in a world rating of anti-corruption campaign such state has a high index of quality and efficiency of public administration and life quality of population accordingly. According to American Magazine "News Week" in 2010 Finland was recognized as "the best country of the world". According to polls of world agency which is annually defining the countries where the happiest people live, Finland took the second place after Denmark in 2010. Last 10 years, Finland is among the leading countries of the world according to competitiveness of national economy.

Japanese experience of anti-corruption campaign shows that the absence of one codified act does not interfere with the effective solution of this problem. A grate number of national laws contains the standards of anti-corruption character.

The legislation of Japan pays much attention to ethical behavior of politicians and employees. In the country since 2000, the Law of Ethics and Ethical Rules for government servants approved by government decree are acting and norms of administrative punishment for their violation are working. In ethical rules for the government servant, there is an extended definition of the interested person and the detailed list of unethical actions that exclude any arbitrary interpretation of provisions of the law.

In 2001 in Japan, the Law of Information Disclosure came into force. It guarantees the right of access to the official information available in government agencies and opportunity to set an appeal for Council of Control of Information Disclosure even if the Government refuses to declare it. These conditions allowed public groups to expose some cases of corruption (Mendel, 2003).

The Singapore Government is the first government in new industrialized countries tried to achieve the

impressive results of anti-corruption campaign. Very effective system of anti-corruption campaign and corruption eradication is created in the country. The main idea of anti-corruption campaign of Singapore is the minimization or exclusion of the conditions for the corrupted actions.

The central link of anti-corruption campaign of Singapore is an operating specialized body of fight against corruption, the Bureau on investigation of cases of corruption possessing political and functional independence. This independent body investigates and prevents corruption in the public and private sector of national economy. The legal foundation for anti-corruption campaign in Singapore was laid by the Act for Prevention of Corruption adopted in 1960.

The special government body, Agency Anti-corruption Campaign (AAC) was created, the director of which is subordinated directly to the prime minister of the country. There are three functioning departments in the structure of AAC: operational, administrative and informational. Later, the Singapore legislation was supplemented several times. In particular, in 1989 the form of punishment providing confiscation of property was entered. A number of measures was directed to increase the independence of judicial system. Since, the second half of the 1980th, the government of Singapore started to work seriously under the "quality" of bureaucracy.

In Singapore, policy of selection and arrangement of the high-ranking staff, the principle of a meritocracy is preached at the state level. The progress of Singapore in anti-corruption campaign is connected with policy of the former prime minister of the country Li Kuang Yu who made the significant personal contribution to eradication of this negative phenomenon.

As a result, now Singapore has one of the leading position in the world of the low level of corruption. The sociological research conducted in this country at the end of the last century showed that nearly 100% of the interrogated employees of public institutions believe that their chief never violated the law and did not take bribes.

The example of South Korea is interesting. After a series of corruption scandals in the upper class of South Korean society an understanding of necessity of complex measures of anti-corruption campaign is formed under the pressure of non-governmental and public organizations.

According to some analysts, one of the main reasons of distribution of corruption crimes in the Republic of Korea is an authoritarianism of the power. South Korean society developed the centralized political system and monopolistic economy based on big financial and industrial groups (chaebols). Such construction created favorable conditions for corruption prosperity.

In order to promote anti-corruption campaign, in July 2001, the parliament of the country adopted the Law of Anti-Corruption Drive, which came into force on January 1st and gained a wide international recognition (Chernega, 2002).

Within the frame of the law the special government body, Committee of Anti-corruption Campaign (CAC) was established which started its work in 25th of January 2002. The special attention deserves the experience of anti-corruption campaign in Seoul, the capital of the Republic of Korea. It is worth to notice the development and deployment of Seoul National Program of Anti-corruption Campaign which received the name OPEN-on-line system for monitoring the applications of citizens by officials of city administration which caused the sensation among national anti-corruption programs. It was an indicator of the realized political will directed to anti-corruption campaign.

The Seoul OPEN system was rather effective. According to experts, the implementation of this program since the beginning of its introduction in 1999 helped to decrease almost six times the corruption among officials in the capital of the Republic of Korea. The international recognition also testifies the effectiveness of the system. Seoul capital government together with UNO developed the special manual of work with OPEN system which was recommended for distribution in other UNO member countries.

In general, measures of the South Korean government for anti-corruption campaign, including introduction of OPEN system, make positive impact on the international image of the country. It indicates the improvement of the general index of corruption perception for the Republic of Korea which increased from 4.2 in 2000 to 5.4 in 2010. Hereby, the country moved from the 50-39th place among 180 surveyed countries of the world.

The experience of corruption overcoming in Hong Kong should also be recognized. More than 30 years was necessary for the state to achieve cardinal change of a situation.

At the beginning of the 1970, the corruption in Hong Kong had enormous scales. Drug traffic, racket and prostitution prospered under the supervision of the corrupted police. The radical measures of the fight against these crimes have been assumed by administration. In 1973, the anti-corruption department of the Ministry of Internal Affairs of Hong Kong was liquidated. Instead of the abolished department the special governing body, Independent Commission Against Corruption (ICAC) was established.

Alongside with power actions, the government conducted explanatory work, trying to involve civil

society to solve a complex problem. The special program of information support of the ICAC work was developed and realized. This program destroyed stereotype of the biggest part of Hong Kong population that corruption will exist forever. As a result, society elaborated a steady rejection and condemnation of this negative phenomenon and large-scale corruption in Hong Kong was gradually eradicated.

The transition from a planned economy to market one created in China the favorable conditions for corruption blossoming, it was something like a weed which was difficult to remove. The process of “capitalization of the power”, i.e., transformations of official position into the capital bringing huge dividends became a negative collateral consequence of economic reforms.

Lag of political reforms from the economic ones allows officials to hide management of the state property and natural resources from public control. It helps them to turn national wealth into personal property. Such abuse got in China different forms from the selling of export-import licenses and profitable state orders to fictitious bankruptcy of private enterprises. Thirty-year Chinese policy of reforms and openness is accompanied persistently with anti-corruption campaign. This permanent campaign against the bribery, penetrating the relations between officials and businesspersons, is as grandiose as a corruption.

Corrupt officials in China are severely punished. The criminal legislation specifies the possibility to deliver a sentence of death for this crime. Chinese Criminal Code in publication of 1997 in contrast to code of the first publication marked out separate, internally and internationally reasonable chapter “Corruption and Bribery” (Anonymous, 1997). The Chinese legislator could differentiate the concepts of corruption and bribery. For many years, rule making and punishment under the aegis of Party compensated the imperfect legislative base of anti-corruption campaign.

In 2010, the Chinese communists adopted the new moral Code of the Chinese Communism Builders, in which 52 points are intended for anti-corruption campaign.

In 2007, the State Department of Corruption Prevention was established within the system of the Chinese State Council in order to improve the effectiveness of anti-corruption campaign. Such specialized department in the system of executive power of China coordinates specific work in various organs of state power, broadens the sphere of anti-corruption campaign and possibility of the prevention of corruption. For anti-corruption campaign, the leadership of China revives and popularizes Confucian values, tradition and integrity, primarily the sense of duty before the state and society.

Italy has a very successful experience of large-scale anti-corruption campaign among industrialized countries, where in 1992-1993 the well-known operation “Clean Hands” was realized.

The state used all possible instruments for the realization of anti-corruption campaign against mafia. One of the first measures was the appointment of the special authorized prosecutor for anti-corruption campaign. Special department for anti-corruption campaign with three thousand employees was created in structure of executive power of the country. Moreover, the law of anti-corruption campaign against mafia was adopted. The law allowed the secret services to be infiltrated into the ranks of criminals; simplified the procedure of arrest and investigations; made a tough punishment for bribery of politicians and sanctioned the amnesty for those repented criminals who gave important evidences for investigation.

Amendments to criminal and procedural codes in a legislative order were adopted. The rights of judicial, law enforcement agencies and secret services are expanded. Particularly, investigating authorities got a permission to interrogate freely the members of parliament which promoted the “Clean hands” operation”. For this reason Antonio Di Pietro, the head and initiator of committee on anti-corruption campaign was not dismissed and could continue the work which complicated the life of powerful people. All information about actions against corrupt bureaucrats was available to mass media officially. The military divisions were sent to some provinces of the country for the fight against mafia.

Now a days, the corruption in Italy did not disappear but its scales and character underwent essential changes. The mafia phenomena in the form of regular murders of judges and prosecutors are in the past, the general atmosphere in society changed for the better.

CONCLUSION

Having analyzed the Foreign legislation and practice of anti-corruption campaign, it should be noted that various, exclusive, unique and original national legal systems of anti-corruption campaign were formed under the influence of a unitary complex of external and internal factors.

The analysis of Foreign experience of lawmaking in the sphere of anti-corruption campaign allows to facilitate a similar process in own country. Moreover, an approach of development of legal anti-corruption norms in the national legislation which is verified with achievements of the Foreign states in this area allows to attract the progressive, useful and approved by practice algorithms of anti-corruption campaign, to conciliate national anti-corruption legislations around the world.

Taking into account information stated above, it is possible to say that the use of Foreign positive experience will allow to strengthen the operating anti-corruption mechanisms in the country. We believe that the anti-corruption priorities specified in study will get the state support for effective anti-corruption campaign.

In this regard, the peculiarities of anti-corruption campaign in the USA, Japan, Singapore, South Korea and other countries will allow to form an idea of the advanced national anti-corruption strategy. Strategy of anti-corruption campaign and mechanisms of impact on it in the given examples are various according to the volume and the contents, they are differentiated depending on degree of a prevalence of such phenomenon in a society.

REFERENCES

- Andrianov, E.L., 2011. Corruption as global problem: history and present. *J. Eco.*, Moscow, pp: 45.
- Alexandrov, S.G., 2007. The development of the criminal legislation on corruption in the USA. *History of state and law*, 13: 19.
- Anonymous, 1997. The criminal code of the Chinese National Republic. It is adopted at the 5th session of the All-China meeting of national representatives of the 6th sixth convocation. <http://ukknr.ucoz.ru/index/0-13>.
- Chernega, Yu., 2002. To live in salary. *Kommersant-the Power*, 20: 33.
- Etzioni, A., 1988. *Capital corruption: The new attack on American democracy*. New Brunswick: Oxford, Transaction book, pp: 257-272.
- Kobets, L.N., 2008. The international experience of the prevention and suppression of corruption in government and possibility of its use in domestic legislative practice. *International Public and Private Law*, 5: 18.
- Kudashkin, A.V. and T.L. Kozlov 2010. Conflicts of Interest at the State and Municipal Service: Object, Subject, Subjects. <http://www.jk.ru/jur-polesno.html>.
- Mendel, T., 2003. The legislation of information freedom: problems and standards. *Global Corruption Report 2003*.
- Salomatin, Yu., 2001. Fight against corruption in the USA in the XX century and the state modernization. *Jurisprudence*. 3: 196.
- Shvets, E.V., 2002. Control of a property state, income and obligations of officials (international and private law aspects). *Prevention of organized and corruption crime by means of various branches of the law*, pp: 206.
- Spitsnadel, V.B. and K.V. Belova, 2008. International corruption and experience of fight against it. *Anti-corruptionist*, 1: 58.