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PREVENTION OF POLITICAL CORRUPTION: UNITED STATES EXPERIENCE

The article analyzes the problems of political corruption on the example of US political process. It reveals the evolution of corruption abuses in politics and the progress of this country's anti-corruption mechanism. Attention is focused on two key areas, in which illegal corruption acts are found most often: funding of parties (their electoral campaigns) and lobbying. The author emphasizes the gaps in US legislation, which allow the implementation of "gray schemes" (partially legal operations), particularly during the electoral process. The problems of political corruption were considered in the context of lobbyists' actions. The article analyzes the US normative and legislative base in the sphere of counteracting political corruption, the subjects of which are foreign actors.

Keywords: political corruption, USA, party funding, lobbying

Political corruption exists both in the least successful states, as well as in the countries with developed democracy. So far there is no protective "vaccine" against it. Different countries represent various approaches to political corruption minimizations, the study of which is a research interest in the context of the search for domestic model of counteracting this phenomenon. Moreover, political corruption constantly evolves: its new national and global forms are fixed in conditions of information and communication challenged causes by globalization and they require analysis.

The United States are one of the countries that created a national system of political corruption counteraction. This system is not perfect (just like any other one), it has gaps, which are successfully used by "interested persons". But a number of effective corruption counteraction mechanisms made it possible that the US rank consistently high in anti-corruption rankings. According to the Corruption Perception Index the US got the following scores out of 100 possible: 2012 – 73, 2013 – 73, 2014 – 74, 2015 – 76, 2016 – 74. In the last measurement of 2016 it was 18th place among the studied countries of the world. The countries ahead of the US include some European (for instance, Denmark, Norway, Finland, United Kingdom etc.) and Asian ones (Singapore, Hong Kong), New Zealand, Canada and Australia. At the same time the position of the US in this anti-corruption ranking is stable and quite high, which serves as a motivation for research interest to study the peculiarities of the political corruption manifestations in this country, as well as the accumulated experience of counteracting it.

According to the American law corruption is direct or indirect solicitation or acceptance by a government (state) official of any advantage for themselves or for other persons in exchange for any action or limitation of public functions executions, offering or giving such advantages, actions or omissions regarding state functions taken in order to get such advantages, fraudulent use or concealment of property, acquired as a result of corruption¹.

The term "political corruption" was used for the first time in the US in the early 1970's², but we should note that the first scientific research on the manifestations of corruption in American political science date back to the beginning of the 20th century. The first concepts of "political corruption" were formed during the investigation of Watergate scandal. The UN also proposed defining political corruption and signs of this phenomenon. It is indicated by Ukrainian researcher, political scientist H. Kokhan in her research³. Since then researchers have fixed numerous cases of political corruption among elected officials

¹ *Materials on Investigation of Corruption* (1996). American Bar Association, Central and Eastern European Law Initiative (ABA/CEELI), United States Department of Justice, 111.

² Кохан, Г. (2008). Політична корупція як наслідок конфлікту між державою та суспільством. *Наукові записки Інституту політичних і етнонаціональних досліджень ім. І. Кураса НАН України*, 42, 179.

³ Кохан, Г.В. (2013). *Явище політичної корупції: теоретико-методологічний аналіз*. Київ: Національний інститут стратегічних досліджень, 45.

in the US government¹. On the other hand, the willingness of the state and civic society to control political corruption has been increasing. There is an increasing understanding of what exactly should be considered political corruption, since the range of actions covered by this qualification has been constantly expanding.

The topic of political corruption in the United States is actively studied by foreign and Ukrainian political science, since the research subject is permanently “fueled” by new political scandals. Among Ukrainian scholars we should highlight the works of H. Kokhan² and A. Tinkov³, although their research efforts are not aimed on political corruption in the US, but they use examples from the American political process to illustrate the problem. The works of American scholars allow broader understanding of various aspects of the political corruption issues. Already at the beginning of 20th century G. Haynes⁴, R. George⁵, S. Simons⁶, H. Ford⁷ and others analyzed corruption issues from the point of view of moralistic approach. According to this approach “corruption was first judged as a negative phenomenon of political life and later it was viewed as an institutional, behavioral or systemic problem of the society and political system”⁸. In general, the early studies were devoted to the complex aspects of corruption activities in politics. For instance, S. Simon searched for the reasons that lead to forming of political corruption system (on the example of China), G. Haynes researched the behavior of civil servants and their attitudes to bribery (on the example of western states of the US), R. George researched the government functions and the problem of government’s responsibility the spread of corruption etc.

Thus, already at the beginning of 20th century the American political scientists raised the issue of government’s responsibility for the spread of corruption, which affected the efficiency of civil servants and, consequently, lead to loss of voters’ interest in improving the work of government.

Yet in the 1920s the administration of US president W. Harding was shaken by a wave of corruption scandals. Harding was a paradoxical politician. According to public opinion he was a president who supported corruption; according to historians his role as a statesman was insignificant. On the other hand, he was highly popular among public during the years of his presidency (1921 – 1923). Harding appointed his friends to influential positions (not taking into account whether they had necessary qualifications) and later “did not notice” how they worked. Many of those appointees took bribes, entered into illegal contracts, and conducted unfair business using state resources. Such friends created problems for Harding, causing a series of resonant scandals. Two ministers from his administration were convicted of involvement in the Teapot Dome Scandal, which had to do with the development of oil and gas fields in Wyoming and California. The Supreme Court of the United States declared the contracts concluded under this operation fraudulent. In connection with this scandal, the researcher C. King⁹ drew attention to the need for cleaning the government from corruption. In general, American researchers at the beginning of 20th century viewed political corruption mostly as a result of imperfect legislation or ineffectiveness of the checks and balances mechanism. That is, they considered it to be only a legal problem that the government could solve through modernization of regulatory framework.

¹ Тіньков, А. (2010). Політична корупція в системі державного управління: українські реалії. *Вісник Національної академії державного управління при Президентіві України*, 1, 229.

² Кохан, Г. (2008). Політична корупція як наслідок конфлікту між державою та суспільством. *Наукові записки Інституту політичних і етнонаціональних досліджень ім. І. Кураса НАН України*, 42, 173–180; Кохан, Г. В. (2013). *Явище політичної корупції: теоретико-методологічний аналіз*. Київ: Національний інститут стратегічних досліджень.

³ Тіньков, А. Політична корупція в системі державного управління: українські реалії. *Вісник Національної академії державного управління при Президентіві України*. <http://nbuv.gov.ua/UJRN/Vnadu_2010_1_32> (2017, липень, 12).

⁴ Haynes, G. (1900). Representation in States Legislations. Iv. The Western States. *The ANNALS of the American Academy of Political and Social Science*, Vol. 16, 67, 79–90.

⁵ George, R. (1916). Increased Efficiency as a Result of Increased Governmental Functions. *The ANNALS of the American Academy of Political and Social Science*. Vol. 64, 77, 78–79.

⁶ Simons, S. (1901). Social Decadence. *The ANNALS of the American Academy of Political and Social Science*, Vol. 18, 63.

⁷ Ford, H. (1903). The Results of Reform. *The ANNALS of the American Academy of Political and Social Science*, Vol. 21, 69, 76–83.

⁸ Кохан, Г. В. (2013). *Явище політичної корупції: теоретико-методологічний аналіз*. Київ: Національний інститут стратегічних досліджень, 11.

⁹ King, C. (1924). Political and Governmental Tendencies in Their Relation to Increased Wealth. *The ANNALS of the American Academy of Political and Social Science*, Vol. 115, 8, 15–17.

In later studies, particularly in the work of H. Rogow and A. Lasswell “Power, Corruption and Rectitude” (1963), it was argued that American institutions were created to deter public and private abuse of power¹. However, these abuses took on new momentum, such as the already mentioned Watergate scandal. The word “Watergate”² itself became a symbol of immorality, corruption and crime in government circles.

One of the consequences of the Watergate scandal investigation was that the problems of political corruption during electoral campaigns were placed on agenda and the life of American statesmen began to be studied in detail.

In our analysis of political corruption in the US we will focus mainly on two key spheres, in which illegal corrupt actions are found most often: funding of parties (and, accordingly, their electoral campaigns) and lobbying.

There is constant search for ways to decrease corruption during electoral campaigns in the USA, but so far none of the methods has proven to be effective enough. The US authorities have been trying to disclose the donors and to impose restrictions on the total amount an individual can offer to a candidate. However, organizations can legally make unlimited donations.

In the USA parties are financed through membership fees, donations, their own income (selling books, souvenirs, organizing meetings etc.). The “After Party” party (formed from the “Occupy Wall Street” movement) serves as a symbolic example, because it receives income from selling a book about the mechanisms of politicians’ corrupt actions disclosure.

The financing of political forces by business representatives is not just legal, but, in fact, it is the main way to receive funding for development and activities for American political parties. Part of the funds is mobilized by political forces through political fundraising, political crowdfunding (especially during the presidential campaign).

During the primaries candidates from one political force compete not only for commitment of potential voters and party members, but also for money transferred to them by individuals and legal entities. “The American approach to funding of political parties is a part of a nationwide philosophy, where respect for private property, support of the initiative and self-reliance are the basis of everything”³.

The financial aspects of the political parties’ participation in elections are regulated by a single act adopted in 1974 – Federal Election Campaign Finance Act. Modernizing changes are being introduced into the Act, but researchers⁴ suggest that in the end the innovations only result in electoral campaigns financing going even more “into the shadow”.

American legislation has gaps which allow the use of “gray schemes”, especially during the electoral process. “Formally they do not violate the law, but in reality they turn elections from electoral process into a process or relocating financial flows into the right pockets and right candidates”⁵. The presence of such “gray zones” is caused by the fact that the US Constitution does not contain clear rules regulating the activities of political parties. In fact, they are equated with any other public organization. The legal term “party” does not even exist in the federal law. Just like any other non-profit organizations they are designated with by term “corporation”.

For example, the Clinton family charity foundation received millions of dollars from foreign governments, companies, individuals and non-governmental organizations from all around the world.⁶ Such foundations collect money for health and environmental programs, creating conditions for improving people’s economic well-being etc. But in 2015 it was speculated that those funds might be used for presidential campaign, which would be a direct violation of American electoral legislation. Donations from public servants, foreigners and persons who execute public orders are prohibited, as well as anonymous donations

¹ Lasswell, A.A., Rogow, H.D. (1963). *Power, Corruption, and Rectitude*. Westport: Greenwood Publishing Group.

² The word “Watergate” started being used in the political lexicon to denote a scandal that leads to collapse of the head of state’s career. The structural unit of this word (suffix –gate) is used while referring to new scandals (Irangate, Monicagate etc.)

³ *Політична корупція: як розпізнати та подолати* (2016). Київ: Ейдос, 14.

⁴ *Політична корупція: як розпізнати та подолати* (2016). Київ: Ейдос, 14.

⁵ Чаусов, А. Политическая коррупция по-американски. *Взгляд*. <<https://vz.ru/opinions/2016/2/1/791695.html>> (2016, February, 01).

⁶ Ситдииков, Р. Кто финансирует семью Клинтон. *Украина.ру*. <<http://ukraina.ru/analytics/20150912/1014271399.html>> (2017, July, 15).

of over 100 dollars. But it was difficult for law enforcement officers to prove those abuses, since in 2009 the US Supreme Court allowed any public associations to receive and spend funds on election campaigning in unlimited amounts and without the requirement to report on the source of financial revenues.

The problem of political corruption often arises in connection with the actions of lobbyists. In 1946, the United States adopted a law on lobbying, which regulated activities aimed at promoting certain business interests in political circles. Thanks to the legalization of lobbying this process became transparent. Voters in the US know interests of which business are supported by a certain politician¹.

Lobbying and political corruption are linked by the fact that they are both aimed at subordinating individuals who make decisions on behalf of the state to private interests. Therefore, quite often, lobbying is viewed as a legitimized form of public authorities' political corruption. However, in a democratic political system it is basically impossible to prevent the influence of different business groups and civic society on the government. In any circumstances, the interested groups may transfer money and other goods to the lawmakers and state officials.

It is impossible to forbid this process, but it is possible to control and minimize direct bribes, which is done in the US. For this purpose a regulatory and legal mechanism is created. It is aimed at: enabling maximal transparency of different interest groups influence on the government for the society; elimination of the possibilities of legal bribing of government representatives; preventing direct business contacts between the government and interest groups (only through professional intermediaries – lobbyists, who are rigorously controlled by the state); forcing lobbyists and their clients to abandon banal bribery in favor of legal methods of influence, which link private interests with the public good.

Gradual tightening and detailing of the legal regulation of lobbying is characteristic for the US:

– the Ethical Reform Act (1989) had banned high-ranking officials (including former US presidents) from trying to influence the government during one year after completing their duties. It also limited the opportunities for former civil servants, staff members of the US Congress and congressmen to lobby using their connections in the previous work (so-called revolving door practice);

– Lobbying Disclosure Act (1995) obliged lobbyists to disclose their clients and to inform about all the funds received and spent;

– in the late 2000s, after the resonant scandals of 2005-2006, involving the lobbyists J. Abramoff² and A. Kidan, who were charged with numerous violations of law, the lobbying legislation tightened again.

The regulatory framework in the United States is primarily aimed a counteracting the manifestations of political corruption of the country's territory, yet it applies not only to citizens, but also to foreign actors. The US Foreign Corrupt Practices Law³ is a federal law known for regulating the problems of foreign officials' bribery⁴. This law defines the purpose of corruption as: 1) an attempt to affect any act or decision of such a foreign official, political party or candidate for such position during the performance of their official duties; 2) the inclination of such a foreign official, political party or candidate for such position to take certain actions; 3) evasion from actions in violations of the legal duties of such an official; 4) obtaining any unjustified advantages; 5) the inclination of such a foreign official or political party to use their influence on a foreign government or its organs in order to exert influence or pressure or any action or decision of such government or its organs, to provide assistance in conducting economic activity.

We agree with V. Dovzhanyin⁵, who considers the adoption of codes on conducts for senators and members of the House of Representatives of Congress to be a progressive act in the context

¹ *Політична корупція: як розпізнати та подолати* (2016). Київ: Ейдос, 14.

² During the investigation of the case of lobbyist J. Abramoff, the then head of the Republican majority in the US Congress T. DeLay was also found guilty. The lobbyist funded several trips for DeLay, gave him tickets for sport events, paid for restaurants etc. All those activities are forbidden by the American anti-corruption law. The only legal exceptions are lobbyists' donations to politicians' electoral campaigns funds and using lobbyists' tools for media campaigns.

³ Тупчієнко, Д.Л. (2015). Закон США «Про боротьбу з практикою корупції за кордоном»: детальна характеристика, санкції та екстериторіальність застосування. *Право і суспільство*, 4, 117–121.

⁴ „Foreign official” in this Act means any official or employee or a foreign government or any of its ministries, agencies or organs, as well as of an international non-governmental organization, or any person who performs official functions for any government, ministry, agency or organ, including acting on its behalf, or performing official function for any specified international non-governmental organization, including acting on its behalf.

⁵ Довжанин, В.М. (2015). Правове регулювання запобігання та протидії корупції за законодавством США. *Науковий вісник Міжнародного гуманітарного університету*, 13 (1), 103.

of counteracting corruption in the USA. The members of parliament must annually submit a declaration detailing all incomes and expenses, including the following: full earning, dividends, interest on deposits, income from movable and immovable property; financial and other income received from non-governmental organizations; payment of transport and other related expenses; gifts received from any persons or organizations, in particular, in the form of covering the transport costs, meals, hotel accommodation, restaurant treatments, various entertainment; financial and other liabilities, debts related to them; agreements and arrangements with different organizations concerning possible work etc.

Of course, political scandals in the US caused by corruption actions of some politicians undermine the trust of citizens and confidence in government actions, but they did not ruin the country's democratic system. Political corruption has not been eradicated in any country yet. The US practice demonstrates how anti-corruption mechanism can be modernized reacting to new forms of illegal actions of the political actors.

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