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**TÍTULO:** Problemas de definición y consolidación de los principios de la política de anticorrupción en el mundo moderno.

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**RESUMEN:** Este artículo especifica problemas teóricos de definición y consolidación de principios de política anticorrupción en el mundo moderno, que requieren una consideración detallada y más precisa. Se define el concepto, estructura y contenido de la política de anticorrupción, las formas de manifestación, la comprensión de sus principios como un tipo de contenido concentrado del derecho, se estudia el sistema de principios del derecho y principios de la política de anticorrupción. Se utilizan métodos legales dialécticos y comparativos. La novedad científica se manifiesta en un intento de considerar objetivamente los problemas que surgen en el proceso de formación de la política de anticorrupción, atendiendo principios de la política de anticorrupción en documentos legales internacionales con posible implementación en la legislación nacional y la vida legal.

**PALABRAS CLAVES:** corrupción, política anticorrupción, lucha contra la corrupción, prevención de la corrupción, factores de corrupción.

**TITLE:** Problems of definition and consolidation of the principles of anti-corruption policy in the modern world.

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**ABSTRACT:** This article specifies theoretical problems of definition and consolidation of the principles of anti-corruption policy in modern world, requiring detailed and more precise consideration. The concept, structure, and content of anti-corruption policy, forms of its manifestation, understanding of its principles as a kind of concentrated content of law are defined, the system of principles of law is studied, and the principles of anti-corruption policy are separated. Dialectical and comparative legal methods are used. The scientific novelty is manifested in an attempt to objectively consider the problems arising in the process of formation of anti-corruption policy with an eye on the principles of anti-corruption policy in international legal documents with possible implementation in national legislation and legal life.

**KEY WORDS:** corruption, anti-corruption policy, fight against corruption, prevention of corruption, corruption factors.

## **INTRODUCTION.**

The modern progressive scientific and political community, both domestic and international, is seriously concerned about the significant increase in the level of corruption, which remains steady, despite the efforts of the international community.

As one can see, one of the reasons for this situation is in the concentration of efforts of individual states on combating the direct manifestations of corruption, the focus "not on the treatment of the disease, but on the fight against symptoms". Here it should be mentioned that corruption is still a kind of "social disease", because in its pure form, it cannot be called only a legal problem. Still, the assessment of the level of corruption in different countries suggests a certain dependence of the level of corruption on the quality of life and the level of social tension in the state, and sometimes in separate regions (Frimpong, Lazarova, Gyamerah, 2019). In countries with a high level of quality of life (not to be confused with the level of financial prosperity, although it is of significant importance), that is, first of all, with a high level of social protection of the population, the level of corruption is insignificant (Warf, 2019).

In this regard, the attention of scientists and the world community, as it seems, should be focused both on the problems of legal policy in general and on anti-corruption policy in particular (Sampson, 2010).

## **DEVELOPMENT.**

### **Methods.**

The methodological basis of the present study is a wide range of modern research methods, both general scientific and specific scientific ones, since it is hard to achieve the goal in the study of such a multiple-aspect phenomenon of anti-corruption state legal policy and its principles with the help of only one approach. The methods of the system-functional approach are central for the study of special institutions created in the field of anti-corruption regulation.

The use of proper legal (formal legal, comparative legal, interpretative) methods makes it possible to develop a methodology for collecting data for corruption assessment: review of international research in the field of combating corruption; compilation of case studies in the human sciences and legal sciences; analysis of the investigation and judicial cases against corruption; analysis of crime statistics in the area of corruption; analysis of legislative provisions on anti-corruption; development and implementation of monitoring of corruption; creation of an international database in the area of corruption under the aegis of the UN and the Council of Europe.

From the point of view of the study of the assessment of the implementation by states of international obligations in the field of combating corruption, the principles of anti-corruption policy and the problems of their consolidation in national legislation are of undeniable interest.

### **Results.**

Previously, an interpretation of anti-corruption policy was already proposed (Klyukovskaya et al., 2016; Navasardova et al., 2015; Klyukovskaya, 2004), as a kind of systematic, ideologically and scientifically based activities of public authorities at various levels in cooperation with public institutions, which was manifested in the systematic and consistent implementation of certain measures of social and legal control over public activities in order to minimize (and ideally prevent) corruption manifestations.

The structure of the content of the anti-corruption policy is traditional in general. Forms of its manifestation are the following ones:

- Human rights.
- Lawmaking.
- Law enforcement.
- Legal support of functioning of subjects of anti-corruption activity.
- Law protective.

– Scientific and doctrinal.

Unfortunately, the law was "thrown under the bus of the fight against corruption" without any significant economic, information, ideological or other support.

The existing set of anti-corruption legislation is still not formed into a single industry, but it is impossible not to recognize the sufficient consolidation of anti-corruption rules in various branches of law, in regulatory legal acts of various levels. The basis for this system of regulations is the actual purpose of anti-corruption activities and the tasks arising therefrom. The legal bases (principles) of the analyzed regulations are fixed in the existing domestic and international regulations-principles.

For the Russian legal doctrine, it is traditional to understand the principles as a kind of concentrated content of the law. Legal scholars, while attempting to show the importance of legal principles, call them "clots of legal matter", "key ideas secured in the law", etc. (Alekseev, 1999; Solovieva, 1967; Yakovlev, 1974; Baitin, 2001; Lazarev, 2002; Babaev, 2003; Isakov, 2004; Velikanova, 2006).

Any scientific development of the law a priori begins with those legal principles that stand out the entire system of legal relations in the state, ensuring respect, protection, and security of universally recognized human and civil rights and freedoms. Let us say that the principles should not be abstract statements, immutable postulates of a declarative nature. Ideally, each of them should have a specific basis of reality, giving it regulatory significance.

It is undeniable that, like the principles of common sense, legal principles shall mutually determine in themselves both theoretical and empirical origin. It is assumed that in the development of any bill, the legislator should determine in the motivational part what legal principles formed the basis. Ignoring this requirement in domestic lawmaking practice has led to the fact that most subjects of law perceive legal regulations as inadequately reflecting their real needs and interests, i.e., there is no interdependence between theoretical and empirical principles. Still, there remains the question about the resolution of legal disputes "according to law or in equity", no certainty on the issue that "all are

equal but some are more equal than others" is achieved, etc. Sometimes, the reform of legislation is carried out "on demand" in the interests of time or circumstances, without an in-depth comprehensive study of existing social problems, on political request, in the absence of a consistent scientific study of the concept of state policy in a certain area of legal life, sufficient legal validity.

In this regard, the practice of making regulatory decisions remains, as a result of which "the law does not achieve its goal because of a false attitude" (Shuvalov, 2006), which of course, "does not contribute to the increase in the regulatory prestige of the current legislation, does not cultivate healthy legal feelings in society, complicates the implementation of genuine legal reforms" (Chernobel, 2010).

This statement allows considering the principles of anti-corruption policy as a kind of logically ordered system of normative fixed fundamental scientific ideas and provisions that form the basis of its formation and functioning.

The system of anti-corruption principles as a direction of state activity in the field of public administration requires clarification. The system of anti-corruption principles (principles of anti-corruption policy) in Russia is represented by two levels:

*General legal principles of anti-corruption.*

It is unconditionally clear and recognized that the general legal principles are considered the main ideas, principles, requirements on which the legal policy is based in general, and the anti-corruption legal policy – in particular. These include the constitutional principles, as well as the special legal principles contained in the ratified international legal regulations in the field of combating corruption "United Nations Convention against corruption" adopted in New York on October 31, 2003; "Criminal Law Convention on Corruption" (ETS No. 173) adopted in Strasbourg on January 27, 1999, ed. May 15, 2003), "ICC Anti-Corruption Clause" together with "Comment to ICC Anti-Corruption Clause", "Part I of the ICC Anti-Corruption Rules 2011", "Article 10 of the Rules...", "Selected

Publications of ICC, International Chamber of Commerce (ICC)", the Resolution No. (97) 24 of the Committee of Ministers of the Council of Europe "On the 20 Guiding Principles for the Fight against Corruption" adopted on November 6, 1997 at the 101st session, the Decision of the Council of Heads of CIS States "On the concept of cooperation of states – participants in the Commonwealth of Independent States in Combating Corruption" adopted in Sochi on October 11, 2017, etc., and major special domestic anti-corruption regulations (Federal Law of December 25, 2008 No. 273-FZ (as amended on December 28, 2017) "On Combating Corruption", the Decree of the President of the Russian Federation of April 13, 2010 No. 460 (as amended on March 13, 2012) "About the National Strategy of Counteraction of Corruption and the National Plan of Counteraction of Corruption for 2010-2011" and other).

The complex of these regulations creates a coherent system and represents an ideological and theoretical basis for the definition and consolidation of legal policy in the field of combating corruption in the Russian Federation, which is secured in Article 3 of the Framework Federal Law No. 273-FZ.

Among the general constitutional principles, the following should be mentioned:

- The principle of recognition, maintenance, and protection of fundamental human and civil rights and freedoms. In the context of the fight against corruption, this principle is considered in connection with the fact that, corruption, being, of course, a socially negative legal phenomenon, has significant impact on human rights, since it prevents the observance of the conditions of normal economic activity, freedom of competition, discredits the institution of state and municipal service, undermines the influence of the authorities, etc.
- The principle of legality. Within the framework of the anti-corruption legal policy, the essence of this principle is the strict observance and qualitative execution of the legislation by public servants and officials, which minimizes (and ideally excludes) corruption manifestations; strict compliance

with the anti-corruption legislation by citizens and organizations, which means intolerance to corruption manifestations in their behavior; as well as in the qualitative and effective work of law enforcement and judicial bodies in the process of combating corruption.

- The principle of openness and transparency of the activities of public authorities. Its implementation should contribute to the openness of data on the state, level, and dynamics of corruption in the state and the world, the availability of information on the activities of public authorities, the availability, and clarity of plans and results of anti-corruption activities of public authorities. In addition, the publicity and transparency of the activities of public authorities, local governments, state and municipal officials serve to implement the principles of democracy, involving the participation of the population in public administration through both direct and indirect control of the authorities by the society.
- The principle of inevitability of responsibility. Certainly, the main purpose of this principle, which is closely related to the principle of equality and the principle of justice, is that everyone, regardless of their social status and official (official) position, is aware of the inevitability of legal responsibility for the committed corruption offense.

In addition, among the general legal principles of anti-corruption legal policy, it is possible to include:

- The principle of scientific validity. As it seems, the anti-corruption policy of any state should be adequate to the political and legal realities, correspond to the world trends, and correlate with the achievements of science and technology, the experience of states in the fight against this negative phenomenon. This makes it necessary to take into account this principle of anti-corruption legal policy.
- The principle of compliance with international standards. The modern picture of the world presupposes the unconditional integration of states into the world community. In the context of anti-corruption activities of states and the international community as a whole, this principle



acquires a special meaning and requires from the Russian Federation and other states the adoption of national legal acts in accordance with international law and the establishment of measures to counter corruption manifestations that correspond to international standards and obligations undertaken by states.

There are special principles of anti-corruption policy. These include:

- The principle of integrated use of political, organizational, outreach, socio-economic, legal, special and other anti-corruption measures. This principle guarantees the integrity of the efforts of all structures, bodies of the state, civil society, the individual, their consolidation in the fight against corruption, and minimizing its consequences.

This principle structurally includes several other principles:

- *The principle of consistency and complexity* requires the coordination of the relationship of anti-corruption policy with the general state and legal policy, as well as with certain types of legal policy, primarily aimed at preventing economic, organized and other types of crime. Moreover, the complexity is manifested in a systematic, interrelated consideration of all stages and indicators of anti-corruption policy.
- *The principle of socio-economic feasibility, economic assessment or efficiency* is referred to the necessity to take into account the possibility of financial support for the implementation of anti-corruption policy at the expense of budgets of all levels of the budget system of the Russian Federation. It is important that the developed anti-corruption policy should make significant changes in the crime situation in this area, and the amount of financial costs should be proportionate to the goals and objectives.
- *The principle of social conditionality* is referred to a mandatory dialectical relationship between anti-corruption activities performed in the state and the social needs of society and the state in its implementation.

- The principle of priority application of measures to prevent corruption. Measures to prevent corruption are provided for in Article 6 of the Federal Law as of December 25, 2008 No. 273-FZ "On Combating Corruption". It is assumed that the implementation of this principle is possible when achieving intolerance to corruption in society, that is, a certain level of legal awareness in society, in which such behavior is unacceptable to citizens and public authorities not under penalty or under threat of liability, but because of awareness of the need for lawful behavior; and the state's task should be the prevention of the existence in national legislation of potential corruption factors that could jeopardize the implementation of the relevant rule of law in accordance with the procedure established by law. Thus, this principle creates the preconditions for the predicted activities of the state aimed at the early application of preventive anti-corruption measures, both preventing the spread of corruption and aimed at the determinants of corruption crime. Let us say that, as in any other preventive activity, the important point is the systematic and long-term nature of such activities, as well as the consideration of the characteristics of the sphere of life and activities in which specific preventive measures are to be applied.
- The principle of cooperation of the state with civil society institutions, international organizations, and individuals. When setting this principle as the foundation of the fight against corruption, the state emphasizes the need for common concerted efforts of states, of the world community in preventing the spread of corruption, the creation of artificial legal barriers, preventing the pathogenic environment for corruption.

Despite the fundamental nature and volume content of the principles for countering corruption, established in Article 3 of the Federal Law of 25 December 2008 No. 273-FZ "On Combating Corruption", the President of the Russian Federation in Article 7 of the Decree of March 31, 2010 No. 396, as of July 1, 2010 No. 821 "About the National Strategy of Counteraction of Corruption and

the National Plan of Counteraction of Corruption for 2010-2011" establishes the main principles of the National Anti-Corruption Strategy. They are:

- a) Recognition of corruption as one of the systemic threats to the security of the Russian Federation.
- b) The use in combating corruption of a system of measures, including measures to prevent corruption, to prosecute persons who have committed corruption crimes, and to minimize and (or) eliminate the consequences of corruption, with a leading role of measures to prevent corruption at the present stage.
- c) Stability of the main elements of the system of anti-corruption measures established in the Federal law of December 25, 2008 No. 273-FZ "On Combating Corruption".
- d) Specification of anti-corruption provisions of federal laws, the National Anti-Corruption Strategy, the national anti-corruption plan for the corresponding period in legal regulations of federal executive authorities, other state bodies, public authorities of constituent entities of the Russian Federation and municipal legal regulations.

All the principles are organically interrelated and interdependent. They reflect the essence of anti-corruption policy, the content and direction (forms) of its implementation. The principles of anti-corruption policy considered in interrelation give unity and integrity to the activity of its subjects necessary for its successful, effective functioning.

As mentioned by Yavich, the legal principles allow determining "how much a specific normative regulation is legal, whether it is really a form of expression of the law" (Yavich, 1976). In other words, they make it possible to build an integrated system of legislative activity that corresponds to the principles that are laid down in the state legal policy in a particular area of social relations, in legal life; determine the order and procedures for its implementation; have an integrating property.

Domestic lawyers rightly note the negative impact of the lack of consolidation of legal principles in the domestic legislation on their regulatory potential (Davydova, Luchikhina, 2009). This gives an obvious character to the necessity to develop the methodological recommendations for the formation of legal principles in the development of legislative regulations at various levels, in particular, in the field of combating corruption, as well as their semiotic (sigmatic) structuring through not only a clear definition of "legal principles" but also the identification of their essential and paradigmatic characteristics and ideological role in the system of legal regulation. Turning to the legacy of ancient and medieval lawyers, it should be noted that such a call is not new to the jurisprudence of all times and peoples. Thus, Plato pointed to the need to create laws aimed not only to govern, but also to convince (Losev, Asmus, 2007), Jellinek urged to keep an eye on the fact that the legal regulation worked if it had the ability to motivate, to determine the will (Jellinek, 1903). This allows recognizing as the axiom the need for a close relationship between legal principles and social reality and the impact on the effectiveness of legal principles of their compliance with specific regulations.

Returning to the analysis of the principles of anti-corruption policy in modern Russian legal science, it should be mentioned that despite a large number of publications on anti-corruption issues in the last two decades, the principles of anti-corruption policy in the vast majority of them have not received any attention.

The issue of the principles of anti-corruption policy was considered quite extensively by the team of authors of the draft Federal Law "Fundamentals of Anti-Corruption Policy in the Russian Federation" (Lopatin, 2001). The following principles have been highlighted:

- "... - The partnership of subjects of anti-corruption policy.
- The priority of measures to prevent corruption and moral principles of the fight against corruption.
- Inadmissibility of setting anti-corruption standards below the level defined by federal laws.

- Inadmissibility of combining the functions of development, implementation, and control over the implementation of anti-corruption policy measures.
- Maintaining an optimal level of the number of persons holding public office and serving in the public and municipal service.
- Targeted budget financing of anti-corruption policy implementation measures.
- Recognition of the increased public danger of corruption offenses committed by persons holding positions provided for by the Constitution of Russia, federal laws, constitutions or statutes of the constituent entities of the Russian Federation.
- Inadmissibility of establishing privileges and immunities that limit the liability or complicate the procedure for bringing to justice of persons holding public office, positions of state, municipal and other employees who have committed corruption offenses; inadmissibility of restricting access to information about corruption, corruption factors and measures for the implementation of anti-corruption policy" (Lopatin et al., 2001).

The legal principles on which a state-legal policy against corruption should be built are successfully analyzed from the position of formal logic and common sense by Gladkikh, who calls them "the prerequisites of the anti-corruption program" (Gladkikh, 2001). The scientist highlights:

"1. Absolute victory over corruption is impossible. Moreover, according to a number of scientists and political scientists, in the normal state of power and society, corruption is a technologically useful signal of problems in the methods of work of the government.

2. Limiting corruption cannot be a one-time campaign. The end of any campaign can always be followed by a new, more powerful loop of corruption. The fight against corruption is successful if it is all-inclusive and comprehensive and is ongoing.

3. Corruption cannot be limited only by legislative means and the fight against its manifestations.

Moreover, when corruption has reached a large scale and climbed to very high levels of power, the

fight against the conditions that give rise to corruption is more effective than an unprepared attack on its manifestations".

Some of the above principles have been adapted to the legal realities and the state of social reality and introduced into domestic legislation. In particular, the state has recognized at the legislative level the effectiveness of the fight against the causes and conditions that determine corruption, the need to focus the state's activities on the preventive fight against corruption.

The analysis of the international anti-corruption legislation should be limited to the document adopted in 1997, which is fundamental in this sense – the Resolution on 20 Guiding Principles in the Fight against Corruption (1997).

In the preamble to the Resolution, the Committee of Ministers of the Council of Europe appeals to the public authorities of all states in order to promote the effective prevention and fight against corruption, to apply the adopted guidelines in their national legislation and law enforcement practice. Some of them were logically reflected in the current Federal Law of December 25, 2008 No. 273-FZ "On Combating Corruption", which positively affected the anti-corruption policy of the state, contributed to the achievement of compliance of national legislation with generally recognized rules and principles of international law in the field of combating corruption.

### **Discussion.**

The following points should be mentioned:

Anti-corruption policy is a kind of systematic, ideologically and scientifically based activities of public authorities at various levels in cooperation with public institutions, which is manifested in the systematic and consistent implementation of certain measures of social and legal control over public activities in order to minimize (and ideally prevent) corruption manifestations.

The main task of any state in the context of anti-corruption activities is achieving intolerance to corruption in society, that is, a certain level of legal awareness in society, in which such behavior is unacceptable to citizens and public authorities not under penalty or under threat of liability, but because of awareness of the need for lawful behavior. The state's task should be the prevention of the existence in the national legislation of potential corruption factors that could jeopardize the implementation of the relevant rule of law in accordance with the procedure established by law. Thus, this will create the preconditions for the predicted activities of the state aimed at the early application of preventive anti-corruption measures, both preventing the spread of corruption and aimed at the determinants of corruption crime. Let us say that, as in any other preventive activity, the important point is the systematic and long-term nature of such activities, as well as the consideration of the characteristics of the sphere of life and activities in which specific preventive measures are to be applied.

It is necessary to develop methodological recommendations for the formation of legal principles in the development of legislative regulations at various levels, in particular, in the field of combating corruption, as well as their semiotic (sigmatic) structuring not only through a clear definition of "legal principles" but also through the identification of their essential and paradigmatic characteristics and ideological role in the system of legal regulation.

## **CONCLUSIONS.**

As a result of this study, it is considered necessary to mention the most important elements that make up the main conclusions on this topic.

The following levels of anti-corruption principles (principles of anti-corruption policy) in Russia are proposed general legal principles of anti-corruption:

Special principles of anti-corruption policy. These include the constitutional principles, as well as the special legal principles contained in the ratified international legal regulations in the field of combating corruption and the main special anti-corruption domestic regulations.

Among the general constitutional principles, the following should be mentioned:

- The principle of recognition, maintenance, and protection of fundamental human and civil rights and freedoms.
- The principle of legality.
- The principle of openness and transparency of the activities of public authorities.
- The principle of inevitability of responsibility.
- The principle of scientific validity.
- The principle of compliance with international standards.

✚ Special principles of anti-corruption policy include:

- The principle of integrated use of political, organizational, outreach, socio-economic, legal, special and other anti-corruption measures. This principle structurally includes several other principles:
  - *The principle of consistency and complexity.*
  - *The principle of socio-economic feasibility, economic evaluation or cost-effectiveness.*
  - *The principle of social conditionality.*
- The principle of priority application of measures to prevent corruption.
- The principle of cooperation of the state with civil society institutions, international organizations, and individuals.



With regard to the principles of anti-corruption policy in international legislation, the Resolution on 20 Guiding Principles in the Fight against Corruption should be highlighted, the preamble of which specifies the call for all states to apply the adopted guiding principles in their national legislation and law enforcement practice.

The Committee of Ministers of the Council of Europe, in the preamble to the Resolution, addresses the public authorities of all states with a view to promoting effective prevention and combating corruption. A part of the obligations on the implementation of these principles in domestic legislation have been fulfilled through the inclusion of these principles in the relevant national framework legal regulation. It is believed that the issues posed and resolved in part in this study seem timely and relevant, having a multidimensional nature, and, as a result, require further research by scientists from various fields of science, since the problem of corruption is interdisciplinary and transnational in its nature.

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