

**Anti-corruption restrictions on persons performing public functions**

**-administrative and legal issues**

**-SUMMARY-**

The subject of the submitted doctoral dissertation was focused around selected administrative and legal issues in the sphere of anti-corruption transparency of persons performing public functions. The set of limitations expressed by the law as a necessary element of realizing transparency and honesty in the activities of public authorities should be understood on one hand as a depletion of certain freedoms and liberties, and on the other as an indication of actions that should be taken. Anti-corruption restrictions on persons performing public functions realize all these elements, creating a structure of extensive functional and axiological links.

All restrictions, prohibitions and orders (constituting a gradation of strictures) cannot be interpreted in isolation from their context, which in fact determines their essence. It is clearly visible in relation to acts of corruption, and therefore locating certain legal norms within its scope is a significant challenge for legislators. The context in question can be understood as the totality of conditions that have existed for centuries to foster corrupt behavior (the lack of tightness of legal norms, problems with law enforcement, slowness of law enforcement response, etc.), where only by eliminating them, attempts can be made to take care of the common good and the public interest. It is the common good and social interest, along with objectivity of both governmental and local governmental administration, which follows the principle of professionalism and honesty, that are the protected goods. These goods, in turn, translate into the protection of every individual, every citizen against the use of the common interest for the purpose of obtaining individual and undue benefits by those who, as a result of the duties entrusted to them, are in a place and time susceptible to betraying the principles of integrity.

The choice of topic for the dissertation was based on the desire to verify the timeliness and functionality of currently binding legal norms of anti-corruption, both those *generalis* and *specialis*.

Due to the fact that corruption manifests itself in a multidimensional way, i.e. can exist in various legal spaces, this dissertation (in Chapter 1) first presents corruption

activities through the prism of criminal law (which, however, do not constitute the essence of the dissertation), recognizing them as penalizing specific actions prohibited by law. This is only an introduction to administrative and legal issues, serving as a preparation of the ground for the latter and indicating the necessity of treating these two rigors separately - criminal and administrative. In the same Chapter, the retrospective nature of the work was emphasized by showing the importance of the international background, with reference to the conventions developed by the European Union, the Council of Europe, the United Nations and the Organization for Economic Cooperation and Development. However, this concerns the general outline of the formation of anti-corruption awareness. The historical background was also taken into account in various parts of the work in the analyses of the Polish legal system, which required presenting the premises for introducing legal changes and the circumstances that accompanied them.

The key for the submitted dissertation was precise identification of persons, together with their characteristics, to whom particular legal regulations are addressed, which was done in Chapter II. This concerns the sphere of local and state administration. The next step was the analysis of legal restrictions, by which the persons indicated earlier are bound. Appropriate references were also made to sanctions for non-compliance with anti-corruption regulations (Chapter III).

Kind of additional legal research (in Chapter IV) was devoted to the issue of the so-called asset declarations of persons performing public functions, as well as declarations supporting the demonstration of anti-corruption transparency (e.g. running a business, willingness to start one, etc.). The family *context* was also considered i.e., taking into account the reflexivity of norms involving the public official and, in some situations (in some spheres), *projecting* onto his family members some restrictions of freedom.

In Chapter V, a comparative analysis of solutions functioning in selected countries of the continental legal system (Austria, Germany, Switzerland) and the so-called common law system, including the United States and Great Britain, was carried out.

The result of these analyses is a conclusion confirming the previously stated thesis that the anti-corruption standards in force in Poland are not transparent and are subject to many interpretative doubts, so that there is no so-called *unified anti-corruption system*. Such a system can (and should) only be created through a comprehensive rewriting of the law, taking into account the many interrelationships and cross-references between laws,

and not just through amendments to individual regulations and modifications of editorial units.

Confirmation of the assumptions of the chosen thesis was possible thanks to the accompanying analyses, which were certain forms of assumptions. These were hypotheses about the non-functional mechanism of references between normative acts, and the fact that the legislator focused too much on the circumstances associated with economic activity, while exercising less caution with the threats arising from other forms of activity *around the economy*.

This dissertation consists of V chapters, relevant introductory comments, and lists of literature, case law, and legal sources.

Key words: Corruption; anticorruption; anticorruption restrictions; public official; public administration, local government.