

## **PRINCIPLES OF ADMINISTRATIVE AND LEGAL SUPPORT FOR THE COORDINATION OF ANTI-CORRUPTION ACTORS**

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### **INTRODUCTION**

The legal effectiveness of the mechanism of coordination of anti-corruption actors is ensured by establishing in the norms of domestic legislation the principles of its administrative and legal support, on the basis of and in accordance with which the activities of specialized anti-corruption institutions are directed. General guiding ideas become principles when they are enshrined in the norms and institutions of law, and therefore an important characteristic of the principles of administrative and legal coordination of anti-corruption actors is their normative enshrinement in legislation.

The principles are the basis and foundation of administrative and legal support for the coordination of anti-corruption actors, and their observance by all participants in the coordination is of great practical importance, as it allows to ensure its effectiveness.

The principles define the powers of the subjects of coordination, as well as guarantee its implementation, they are the basic guidelines of coordination and binding on all participants in coordination, they not only reveal its essence and meaning, but also serve to perform coordination tasks, directly embodied in each of the forms of coordination.

Principles are an important fundamental category on which the whole legal system is built, so the study of the principles of administrative and legal regulation of the coordination function of the state to combat corruption will allow a more thorough analysis of the studied category. They characterize the content of law and its structure, as they are an indicator of the connection of theoretical knowledge within the legal system and their interaction.

### **1. Concepts and features of the principles of administrative and legal support for the coordination of anti-corruption actors**

The degree of elaboration of principles and their implementation directly affects the stability of a particular institution, so the relevance of the study of principles of administrative and legal regulation of the

coordination function of the state to combat corruption should be formulated given that the degree of their scientific development and practical implementation has a direct impact on research and its functioning largely depends on guiding ideas. In the context of administrative and legal regulation of the coordination function of the state to combat corruption, the principles are reflected in the rules of administrative law, and with their help characterizes its content, structure and so on.

The principles of administrative and legal regulation of the coordination function of the state to combat corruption are the foundation on which the regulation of the implementation of this function in public relations is based, so proper coordination of actions between different elements of the state apparatus without them is impossible. This issue is not actually studied at the scientific level, so we note its theoretical novelty for domestic science. The principles of administrative and legal support for the coordination of anti-corruption actors are unexplored issues in the scientific literature<sup>1</sup>.

The coordinating role of the state in general is almost not considered through the prism of these categories. Given the extremely low level of scientific attention to the issue of administrative and legal coordination of anti-corruption actors, its essence, features and directions, one of the priority tasks should be to define the system of principles of this institution as the main and original idea of the whole system of state influence. public relations. Insufficient attention to the development of the principles of the research institute is due, on the one hand, to its general fragmentary level of study and, as a consequence, scholars' disregard for issues such as the principles of anti-corruption coordination function and, on the other hand, problems of theoretical perception. Even today, the principles of administrative and legal coordination of anti-corruption actors are not yet considered fundamental categories, as many scholars still perceive them in the abstract and separate from practice.

However, coordination is a complex phenomenon, so without establishing the most general ideas, it is impossible to establish either its essence or the essence of the functioning of the state as a whole. The understanding of the principles of the coordinating role is somewhat different from the generally accepted understanding of the principles. If in the general sense the principles are interpreted as the basis of legal

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<sup>1</sup> Лук'янова Г. Ю. Механізм адміністративно-правового забезпечення координації суб'єктів протидії корупції: змістовне наповнення поняття. Юридична наука. 2020. № 5. С. 172–178.

regulation in a particular area, the importance of the principles of the coordinating role is not limited to this.

In particular, P.M. Karkach under the principles of coordination interprets the general guidelines or means that determine the powers of the subjects of coordination, and is a guarantee of its implementation<sup>2</sup>.

That is, in addition to a general understanding of the principles as general guidelines, researchers point out that the principles can be used to identify certain important elements of the relevant legal relationship, as well as to ensure the functioning of the institution as a whole.

D.V. Sukhodubov defines the principles of coordination as a legal means of coordination, and recognizes that they are general guidelines for the coordination of law enforcement agencies in the fight against crime and are mandatory for all participants in the coordination<sup>3</sup>.

Principles are not just guidelines, but also a tool that helps to achieve the objectives of the coordination function. In this case, the task is to combat crime, and in the analysis of the coordination function of the state, such a task may be the coordination of actions between different elements of the state apparatus.

Therefore, on the basis of these definitions, the following features of the principles of coordination can be identified: 1) these are general guidelines for coordination; 2) their content defines the powers of the subjects of coordination; 3) is a guarantee of coordination; 4) contribute to the implementation of coordination tasks in the desired areas and results of coordination; 5) do not constitute advice or recommendation, but require mandatory and comprehensive implementation in the relevant legal relationship. The principles of administrative and legal support for the coordination of anti-corruption actors in general should not differ from the principles of administrative and legal regulation of the coordination role of individual institutions or other functions of the state. It cannot be a question of the character of the principle of legality for a certain branch – it must be fundamental and fundamental in all spheres of public life.

On the other hand, in the legal theory of our state there are a number of other intersectoral principles, such as the principles of the rule of law, humanism, democracy and so on. Therefore, it is not expedient, distinguishing among the principles of coordination of some common law,

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<sup>2</sup> Каркач П. М. Організація роботи прокуратури міста, району: метод. посіб. з організації роботи в міських, районних прокуратурах Харків: Право, 2008. 286 с.

<sup>3</sup> Суходубов Д. В. Координаційна діяльність прокуратури щодо боротьби зі злочинністю: дис. на здоб. наук. ступ. канд. юрид. наук: 12.00.10 Харків, 2012. 58 с.

to ignore others, also characteristic of the legal regulation of any sphere of public life.

## **2. Classification of the principles of administrative and legal support for the coordination of anti-corruption actors**

As for the classification of the principles of coordination, the scientist is not unanimous on this issue. In particular, V.S. Babkova, researching the principles of coordination of the prosecutor's office in the field of combating crime and corruption, singled them out on the basis and in accordance with the principles of organization and activities of the prosecutor's office, and included:

- 1) legality;
- 2) equality of subjects of coordination activities in identifying problematic issues related to the prevention and combating of crime and corruption, development of proposals for measures aimed at overcoming them;
- 3) independence of each law enforcement agency in the implementation of agreed decisions;
- 4) the responsibility of the heads of law enforcement agencies, within their competence, for the quality and timely implementation of agreed measures;
- 5) publicity on coordination activities, coverage of the results of the work in the media within the limits that do not contradict the requirements of the legislation on protection of human and civil rights, freedoms, state and other secrets<sup>4</sup>.

Some of these principles are purely special in nature and are derived from the essence of prosecutorial activity. In particular, the transparency of the coordination activities and the responsibility of law enforcement officials cannot be defined as the principles of the coordination function of the state, as they are derived from the functions of the prosecutor's office.

However, other principles are quite general. The principle of legality should be attributed to the principles of the coordination function of the state in combating corruption, as it is the basic principle of any activity regulated by law, and which has a cross-sectoral nature.

A similar classification is proposed by L.M. Davydenko and O.M. Bandurka, who distinguish the following principles of coordination in law enforcement agencies:

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<sup>4</sup> Бабкова В. С. Принципи координаційної діяльності прокуратури у сфері протидії злочинності та корупції Теорія і практика правознавства. 2013. Вип. 1. URL: [http://nbuv.gov.ua/UJRN/tipp\\_2013\\_1\\_27](http://nbuv.gov.ua/UJRN/tipp_2013_1_27).

- 1) legality;
- 2) equality of all participants in coordination in the preparation of issues, proposals, development of recommendations and measures;
- 3) independence of each law enforcement body within the powers granted to it by the legislation of Ukraine in the implementation of agreed decisions, recommendations and measures;
- 4) the responsibility of the heads of each law enforcement agency for the implementation of agreed measures<sup>5</sup>.

In another way, he proposes to classify the principles of coordination O.M. Litvinov, who divides them into two groups:

- 1) common law principles: legality, publicity, humanism;
- 2) special industry principles: management; criminological<sup>6</sup>.

In this context, it is worth noting: first, that the positive feature of such a classification is the division of principles into general and special, which has already been emphasized earlier; secondly, special branch principles, according to the researcher, are too narrowly specialized, ie correspond to the essence of this group; thirdly, the list of common law principles is supplemented by the principle of humanism, but in this case it is unclear why the author limited himself to it. According to M.M. Lytvyn and A.V. Makhnyuk, when considering coordination in combating cross-border crime, coordination should be based on the following basic principles:

- 1) strict observance of the rule of law, constitutional rights and freedoms of citizens by all subjects of interaction;
- 2) integrated use of forces and means of the subjects of interaction under the condition of clear delimitation of competence;
- 3) procedural independence of employees who participate in joint interagency activities, primarily investigators;
- 4) personal responsibility of authorized managers, who are entrusted with the function of coordinating efforts for the organization and consequences of activities, primarily joint operational and investigative and investigative actions; coherence when planning joint activities;
- 5) continuity in the organization of operational and investigative measures and proceedings in the detection of crimes;
- 6) active use of the latest scientific and technical advances in the prevention, detection and investigation of crimes;

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<sup>5</sup> Бандурка А. М. Преступность в Украине: причины и противодействие: моногр. Харків: Основа, 2003. 299 с.

<sup>6</sup> Литвинов О. М. Адміністративно-територіальна координація діяльності суб'єктів профілактики злочинів в Україні на місцевому рівні: дис. ... канд. юрид. наук: 12.00.07. Харків, 2002. 75 с.

7) the principle of information exchange in compliance with the rules of non-disclosure of data of preliminary investigations and operational and investigative measures<sup>7</sup>.

This classification is extremely special and is based on the tasks of combating cross-border crime and the competence of the subjects of such legal relations, so the institution of the coordinating function of the state to combat corruption can be characterized only by the most general principles such as legality or independence.

Referring to the works, which analyzed the principles of implementation of other functions of the state, it is appropriate to focus on the study of V.I. Vyshkovskaya, who analyzed the principles of implementation of the human rights function of the state. According to the scientist, they should be divided into two groups:

1) general – are determined by the level of development of society, which is the result of human achievement: the principle of humanism, the principle of democracy, the principle of social justice, the principle of equality before the law;

2) special – a kind of coordinate system, within which the human rights function of the state: this group includes the principle of the rule of law; legality; publicity; the principle of joint activity of state authorities of Ukraine with local governments, associations of citizens, the population; the principle of independence of the subjects of the human rights function of the state; the principle of professionalism and competence<sup>8</sup>.

The list of general legal principles in this position is more complete than in the previous ones, each of which is acceptable and relevant for the coordination function of the state to combat corruption.

As for special principles, a number of them are also general. The principles of the rule of law, legality and publicity have previously been noted in the works of other authors as common law. The principle of joint activity of state authorities of Ukraine with local governments, associations of citizens, the population was emphasized earlier in this work, as its content is also the basis for understanding the essence of the coordination function of the state to combat corruption.

Therefore, we can conclude that despite the generally specialized nature of this position, most of the principles are specific to the function under study. In addition, when studying the preconditions for the

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<sup>7</sup> Литвин М.М., Махнюк А.В. Координація діяльності у сфері інтегрованого управління кордонами Державне управління. 2011. № 1. 6 с.

<sup>8</sup> Вишковська В. І. Правозахисна функція держави сутність та механізм здійснення в Україні: дис. ... канд. юрид. наук: 12.00.01 Київ, 2014. 118 с.

emergence and current state of administrative and legal support for the coordination of anti-corruption actors, it was emphasized that the development of this institution was based on the principles of unity and cooperation.

Even today, these principles remain the guiding ideas of the state's anti-corruption coordination function. Thus, on the basis of the research and the analyzed author's positions, the following principles of the coordination function of the state are determined:

1. General:

- 1) the principle of legality;
- 2) the principle of humanism;
- 3) the principle of the rule of law.

2. Special:

- 1) the principle of equality of subjects of coordination activities;
- 2) the principle of independence of each subject in the implementation of agreed decisions;
- 3) the principle of joint activities of state authorities of Ukraine with local governments, associations of citizens, the population;
- 4) the principle of independence of subjects;
- 5) the principle of unity and interaction.

The principle of legality consists in strict observance and observance of the law by the subjects of coordination of the state, i.e. elements of the state apparatus and non-governmental subjects of the social system, i.e. – state authorities of Ukraine, local governments, associations of citizens, population, etc.

The subjects of coordination activities of the state may use all the rights granted to them by law to perform the tasks prescribed by applicable law, but provided that their activities do not go beyond the limits established by law.

This principle is constitutional and is enshrined in particular in the provisions of the Basic Law<sup>9</sup>, as well as in legislative acts governing the activities of the above entities and which clearly set out the requirements for compliance with the legislation of Ukraine. This principle is general, because legality is the basis of any activity regulated by law, and the requirements for the rule of law apply to all, without exception, the subjects of any legal relationship.

The principle of humanism is also constitutional and its content is associated with the recognition of human value, dignity, rights and so on.

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<sup>9</sup> Конституція України. Закон України від 28.06.1996 р., № 254к/96-ВР Відомості Верховної Ради України (ВВР). 1996. № 30. Ст. 141.

According to Article 3 of the Constitution of Ukraine<sup>10</sup>, a person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value.

Therefore, when implementing the coordination function of the state, it is important to take into account the humanistic principles as a criterion for the progressiveness of this institution. Having analyzed the scientific literature devoted to the analysis of the principle of humanism<sup>11,12,13</sup>, it can be stated that the principle of humanism in the implementation of the coordination function of the state, primarily consists in ensuring human rights in the process of coordination; in identifying violations, condemning them and restoring violated rights; in creating conditions for ensuring human rights in coordination activities; in the discussion of human rights by the subjects of coordination activities.

The principle of the rule of law follows from Article 8 of the Constitution of Ukraine<sup>14</sup>, according to which the principle of the rule of law is recognized and applied in Ukraine.

Recognition, observance and implementation of this principle in practice is an important condition for participation in legal relations of any subjects, including participants in the coordination activities of the state. Under other conditions, the existence of the rule of law is impossible.

At the same time, the constitutional enshrinement of such a principle indicates that it is one of the priorities. Special principles are more specific, although even those principles that have been emphasized and borrowed from the works of other scholars, in the context of the coordination function of the state to combat corruption are also characterized by specific features. In particular, the principle of equality of subjects of coordination means that coordination is carried out by the state on the basis

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<sup>10</sup> Конституція України. Закон України від 28.06.1996 р., № 254к/96-ВР Відомості Верховної Ради України (ВВР). 1996. № 30. Ст. 141.

<sup>11</sup> Чеботарьов С. С. Гуманізм як принцип права України Актуальні проблеми держави і права. 2012. Вип. 65. С. 205–210

<sup>12</sup> Гусарев С.Д. Гуманізм як основоположна ідея сучасного правового світогляду Альманах права. 2012. Вип. 3. С. 47–51. Бібліогр.: 4 назв. укр.

<sup>13</sup> Беньковський С. Ю. Принцип гуманізму, як загально соціальний принцип проваджень у справах про адміністративні правопорушення Форум права. 2007. № 3. С. 44–47.

<sup>14</sup> Конституція України. Закон України від 28.06.1996 р., № 254к/96-ВР Відомості Верховної Ради України (ВВР). 1996. № 30. Ст. 141.



of equality of all its participants, due to the legal status of each body involved in coordination<sup>15</sup>.

There are no subordinate relations between the subjects of coordination, different elements of the state apparatus and non-governmental subjects of the social system do not obey each other and do not depend on each other. The need to streamline their actions is due to the need to achieve a common result. At the same time, all parties to the coordination have the right to their own opinions, positions and proposals, as well as to non-discrimination.

The principle of independence of each subject in the implementation of agreed decisions is that the decision-making of the subjects of coordination does not require approval or approval by other participants. By implementing this principle, the subjects of coordination activities of the state are separated from each other, and the specific nature of each subject is taken into account (competence, structure, features of functioning, etc.). In other words, the participants in the coordination cannot interfere in the activities of other entities or give orders, and their relations are largely conciliatory or streamlining.

The principle of joint activity of state authorities of Ukraine with local self-government bodies, associations of citizens, the population is one of the conditions for ensuring the effectiveness of interaction between the subjects of coordination. The essence of the coordination function of the state to combat corruption is primarily to coordinate actions between the various elements of the state apparatus and to coordinate actions between the state apparatus and non-governmental actors in the social system. Joint activities are manifested in the fact that the actions of all subjects of competence are coordinated on the basis of common interests and / or competence, in order to achieve maximum results.

In other words, unity as a principle of the state's coordinating function in combating corruption is, first of all, a close connection between the elements of the state apparatus and the state apparatus and non-governmental subjects of the social system, as well as their cohesion to achieve common goals. Instead, interaction is the interrelationship between objects in action<sup>16</sup>.

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<sup>15</sup> Бабкова В. С. Принципи координаційної діяльності прокуратури у сфері протидії злочинності та корупції Теорія і практика правознавства. 2013. Вип. 1. URL: [http://nbuv.gov.ua/UJRN/tipp\\_2013\\_1\\_27](http://nbuv.gov.ua/UJRN/tipp_2013_1_27). Р. 6

<sup>16</sup> Великий тлумачний словник сучасної української мови з дод. і допов. Уклад. і голов. ред. В. Т. Бусел. К.; Ірпінь: ВТФ «Перун», 2005. 1728 с. Р. 125.

It is not just a close static connection between the elements of the state apparatus and the state apparatus and non-governmental subjects of the social system, as subjects of the same legal relations.

Unity is the principle of the subjects of the state's anti-corruption coordination function, which enter into relevant legal relations, while interaction is the principle of the subjects of the state's anti-corruption coordination function, which are already their active participants. With this in mind, it is advisable to proceed to the analysis of the principles of administrative and legal coordination of anti-corruption actors. In particular, domestic scholars, studying the principles of coordination of anti-corruption actors, often refer to the content of the Regulation on the coordination of law enforcement agencies in the fight against crime and corruption<sup>17</sup>.

Therefore, in the study of the principles of administrative and legal support for the coordination of anti-corruption actors, we focus primarily on the content of the Regulation on the coordination of law enforcement agencies in the fight against crime and corruption<sup>18</sup>.

Paragraph 3 sets out the following principles of anti-corruption coordination: legality; equality of subjects of coordination activities in identifying problematic issues related to the prevention and combating of crime and corruption, development of proposals for measures aimed at overcoming them; the principle of independence of each law enforcement agency in the implementation of agreed decisions; the principle of responsibility of the heads of law enforcement agencies, within their competence, for the quality and timely implementation of agreed measures; the principle of publicity for coordination activities, coverage of the results

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<sup>17</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

<sup>18</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

of the work in the media within the limits that do not contradict the requirements of the legislation on protection of human and civil rights, freedoms, state and other secrets. Given that in accordance with Part 2 of Article 25 Law of Ukraine «On the Prosecutor’s Office» of 14.10.2014 № 1697-VII [96], the Prosecutor General, heads of relevant prosecutor’s offices, their first deputies and deputies in accordance with the division of responsibilities, coordinate the activities of law enforcement agencies in the field of crime prevention, it can be stated that the principles of coordination enshrined in the Regulation on the coordination of law enforcement agencies in the fight against crime and corruption<sup>19</sup>, should be considered as principles of administrative and legal coordination of anti-corruption actors. However, it is important to note that after the repeal of the Order of the Prosecutor General of Ukraine of January 16, 2013 № 1/Ігн «On coordination of law enforcement agencies in combating crime and corruption»<sup>20</sup>, the Office of the Prosecutor General of Ukraine adopted a new Order of 8 February 2021 № 28 «On approval of the Procedure for coordination of law enforcement agencies in the field of crime prevention»<sup>21</sup>, which also defined the principles of coordination of law enforcement agencies in the field of crime prevention and corruption. In particular, paragraph 7 of the Order referred to the following principles: the rule of law; legality; independence and equality of subjects of coordination activities in identifying problems in the field of combating criminal offenses, initiating, developing, coordinating and implementing measures aimed at solving them; the principle of mandatory implementation of agreed measures and control over their implementation; the principle of systematic and complete use of various forms of coordination; the principle of

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<sup>19</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

<sup>20</sup> Про координацію діяльності правоохоронних органів у сфері протидії злочинності та корупції: Наказ Генерального прокуратури України від 16.01.2013 № 1/Ігн. URL: <https://cutt.ly/Hj4xyYz> (Дата звернення: 27.01.2021).

<sup>21</sup> Про затвердження Порядку координації діяльності правоохоронних органів у сфері протидії злочинності: Наказ Генерального прокурора від 08.02.2021 № 28. URL: <https://zakon.rada.gov.ua/laws/show/v0028905-21#Text> (дата звернення: 17.09.2021 року).

publicity, openness and openness of coordination measures, publication of their results in the manner prescribed by law within the limits that do not contradict the requirements of legislation on protection of human and civil rights and freedoms, state secrets and other information with limited access. In general, analyzing the list of these principles, it can be argued that it is comparable to that enshrined in the Regulation on the coordination of law enforcement agencies in the fight against crime and corruption<sup>22</sup>, and this is logical, given that both regulations take into account the same social relations.

Differences are observed only in the formulation of the content of the principles, as well as in some principles – for example, according to the content of the relevant rules, the principle of mandatory implementation of measures and control over their implementation is the basis of coordination of law enforcement agencies in combating crime. However, it is not a basis for coordinating the activities of law enforcement agencies in the field of combating crime and corruption in relation to activities in the fight against crime and corruption of law enforcement agencies, security services.

These basic ideas are not limited to the vision of some domestic authors of the system of principles of administrative and legal support for the coordination of anti-corruption actors.

In particular, O.S. Pronevych supplemented the list of principles based on the principle of the rule of law enshrined in the Regulation on Coordination of Law Enforcement Bodies in the Sphere of Combating Crime and Corruption<sup>23</sup>, substantiating this by the fact that this fundamental implementation of coordination activities, which is

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<sup>22</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

<sup>23</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

manifested in the «coherence» and «limitation» of the activities of all its actors with basic human rights<sup>24</sup>.

The approach to supplementing the list of principles of coordination of anti-corruption actors with the principle of the rule of law finds support in the works of other scholars.

In particular, I.S. Kurbatova, analyzing the principles set out in paragraph 3 of the Regulations on the coordination of law enforcement agencies in the fight against crime and corruption<sup>25</sup>, concluded that the rule of law is paramount, given the content of the Constitution of Ukraine<sup>26</sup> and the Criminal Procedure Code of Ukraine [198], because the court or any state body can not apply the provisions of the legal act, if its application infringes on the rights guaranteed by the Basic Law and freedoms of man and citizen<sup>27</sup>.

Therefore, the need to supplement the list of principles of administrative and legal support for the coordination of anti-corruption actors with the principle of the rule of law is quite acceptable.

Thus, on the basis of the study of the principles of coordination function of the state, analysis of the content of regulations and works of domestic scientists, the principles of administrative and legal support for the coordination of anti-corruption actors include:

- 1) the principle of legality of coordination of anti-corruption entities;
- 2) the principle of the rule of law in the process of coordination of anti-corruption actors;
- 3) the principle of publicity of coordination of anti-corruption entities;
- 4) the principle of equality of subjects of coordination activities;

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<sup>24</sup> Проневич О.С. Координаційна діяльність прокурора: управлінсько-правова природа, легітимізація і проблеми реалізації. Право і Безпека. 2015. № 3(58). С. 51–57. Р. 54.

<sup>25</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/lj4vNtl> (Дата звернення: 27.01.2021).

<sup>26</sup> Конституція України. Закон України від 28.06.1996 р., № 254к/96-ВР Відомості Верховної Ради України (ВВР). 1996. № 30. Ст. 141.

<sup>27</sup> Курбатова І.С. Роль органів прокуратури України в координації діяльності правоохоронних органів щодо протидії економічній злочинності. Прикарпатський юридичний вісник. Випуск 1(16). Том 2. 2017. С. 116–121. Р. 119.

5) the principle of independence of each anti-corruption entity in the implementation of agreed decisions in the coordination process;

6) the principle of responsibility of anti-corruption entities for high-quality and timely implementation of measures agreed in the coordination process.

Legality is considered in the scientific literature as a general and main principle of any activity regulated by law, and therefore the requirements for the strict implementation of the rule of law apply to all government agencies, officials and citizens<sup>28</sup>.

The legitimacy of the coordination of anti-corruption actors means that the actors, objects, levels, forms, various procedural and organizational principles of coordination must be defined in the provisions of current legislation, and coordination itself must be carried out in strict compliance with them.

P.M. Karkach and V.L. Sinchuk note that the principle of legality is clearly expressed in legislative acts regulating the activities of law enforcement agencies, which set requirements for the need to comply with the laws of Ukraine<sup>29</sup>.

When it comes to coordination of anti-corruption entities, the legislative basis for its implementation are the provisions of the Constitution of Ukraine<sup>30</sup>, the Law of Ukraine «On Prosecutor's Office» of 14.10.2014 № 1697-VII<sup>31</sup>, Regulations on coordination of law enforcement agencies in the field Anti-Crime and Corruption [144], Order of the Prosecutor General of Ukraine of February 8, 2021 № 28 «On approval of the Procedure for coordination of law enforcement agencies in the field of crime prevention»<sup>32</sup> and other regulations.

That is, both the domestic legislator and the Prosecutor General of Ukraine have adopted a number of norms, the importance of which is to

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<sup>28</sup> Суходубов Д. В. Координаційна діяльність прокуратури щодо боротьби зі злочинністю: дис. на здоб. наук. ступ. канд. юрид. наук: 12.00.10 Харків, 2012. 215 с. Р. 59.

<sup>29</sup> Каркач П. М. Координаційна функція прокуратури України: навч. метод. посіб. Харків: Право, 2005. 96 с. Р. 26.

<sup>30</sup> Конституція України. Закон України від 28.06.1996 р., № 254к/96-ВР Відомості Верховної Ради України (ВВР). 1996. № 30. Ст. 141.

<sup>31</sup> Про прокуратуру: Закон України від 14.10.2014 р. № 1697-VII Відомості Верховної Ради (ВВР). 2015. № 2-3. Ст. 12.

<sup>32</sup> Про затвердження Порядку координації діяльності правоохоронних органів у сфері протидії злочинності: Наказ Генерального прокурора від 08.02.2021 № 28. URL: <https://zakon.rada.gov.ua/laws/show/v0028905-21#Text> (дата звернення: 17.09.2021 року).

establish the rule of law and strengthen law and order in legal relations, which enter into an entity that coordinates anti-corruption entities (e.g., prosecution) and Coordinated entities (e.g. the National Anti-Corruption Bureau of Ukraine and the State Bureau of Investigation).

The next principle of administrative and legal support for the coordination of anti-corruption actors is the rule of law. The inclusion of this basic idea in the list of principles of administrative and legal support for the coordination of anti-corruption actors is quite controversial. In particular, it is missing from the list of principles set out in the Regulation on the Coordination of Law Enforcement Bodies in the Sphere of Combating Crime and Corruption<sup>33</sup>.

In addition, some researchers, such as V.S. Babkova, concluded that the rule of law is common law and in the field of coordination only acquires certain specifics, but this specificity does not allow to clarify the legal nature of such activities<sup>34</sup>.

Legality and publicity are also common law principles, but they are characteristic of the administrative and legal support for the coordination of anti-corruption actors.

The principle of public coordination of anti-corruption actors is noted by V.S. Babkova as one that is also more general than other principles of coordination, as evidenced, for example, its enshrinement in Article 6 of the Law of Ukraine «On Prosecutor's Office» of 14.10.2014 pp. 97 1697-VII<sup>35</sup>.

However, in the field of coordination of anti-corruption actors, it acquires its own specifics, because in this case it is a question of publicity of coordination activities and coverage of their results in the media<sup>36</sup>.

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<sup>33</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

<sup>34</sup> Бабкова В. С. Принципи координаційної діяльності прокуратури у сфері протидії злочинності та корупції Теорія і практика правознавства. 2013. Вип. 1. URL: [http://nbuv.gov.ua/UJRN/tipp\\_2013\\_1\\_27](http://nbuv.gov.ua/UJRN/tipp_2013_1_27). Р. 4

<sup>35</sup> Про прокуратуру: Закон України від 14.10.2014 р. № 1697-VII Відомості Верховної Ради (ВВР). 2015. № 2-3. Ст. 12.

<sup>36</sup> Бабкова В. С. Принципи координаційної діяльності прокуратури у сфері протидії злочинності та корупції Теорія і практика правознавства. 2013. Вип. 1. URL: [http://nbuv.gov.ua/UJRN/tipp\\_2013\\_1\\_27](http://nbuv.gov.ua/UJRN/tipp_2013_1_27). Р. 7.

In particular, referring to the legal framework for coordination, the Regulation on the coordination of law enforcement agencies in the fight against crime and corruption<sup>37</sup>, the principle of transparency is defined as one of the principles of coordination of law enforcement agencies in the fight against crime and corruption. In addition, Part 3 of the Regulation stipulates that information on coordination activities should be covered in the media, if it does not violate the rights, freedoms of man and citizen, legislation on state or other secrets.

That is, the participants in the coordination should be in contact with the media, and information on measures to coordinate anti-corruption actors should be disseminated through various briefings, press conferences, published on official web resources, in the media and disseminated in any other, the method is not prohibited by law, taking into account the need to comply with state, investigative, official, commercial or other secrets protected by law. We also refer to the content of the Order of the Prosecutor General of Ukraine of February 8, 2021 № 28 «On approval of the Procedure for coordination of law enforcement agencies in the fight against crime»<sup>38</sup>, which among the principles of coordination of law enforcement agencies in the fight against crime openness of coordination measures, publication of their results in the manner prescribed by law within the limits that do not contradict the requirements of the legislation on protection of human and civil rights and freedoms, state secrets and other information with limited access.

The Office of the Prosecutor General of Ukraine considers the content of this principle somewhat more broadly, as publicity, as a basis for coordinating the activities of law enforcement agencies in the field of combating crime, is considered along with the principles of publicity and openness. The term publicity is defined in the Great Explanatory Dictionary of the modern Ukrainian language as something that happens in the presence

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<sup>37</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

<sup>38</sup> Про затвердження Порядку координації діяльності правоохоронних органів у сфері протидії злочинності: Наказ Генерального прокурора від 08.02.2021 № 28. URL: <https://zakon.rada.gov.ua/laws/show/v0028905-21#Text> (дата звернення: 17.09.2021 року).



of people<sup>39</sup>, publicity of coordination of law enforcement agencies in the field of combating crime can be interpreted as the implementation of coordination openly, in conditions where everyone can get acquainted with its implementation. Therefore, if we interpret the meaning of this principle literally, it is not acceptable that it is inherent in the administrative and legal support for the coordination of anti-corruption actors. The results of the coordination of anti-corruption actors should be public, but the coordination itself should be public and there is no need for publicity. In addition, the analysis of the content of the Order of the Prosecutor General of Ukraine of February 8, 2021 № 28 «On approval of the Procedure for coordinating the activities of law enforcement agencies in combating crime»<sup>40</sup> failed to establish how publicity is coordinated crime in practice. As for the openness of coordination measures, we will also question the nature of this principle in the administrative and legal support of coordination of anti-corruption actors. In particular, the openness of state power is defined in the scientific literature as ensuring the possibility of free access of citizens to the management of public affairs<sup>41</sup>.

According to this understanding, the openness of the coordination of anti-corruption actors should involve the participation of citizens in their coordination, which is obviously not true. Coordination of anti-corruption entities is carried out by a limited number of entities, among which, according to the provisions of the Order of the Prosecutor General of Ukraine of February 8, 2021 № 28 «On approval of the Procedure for coordination of law enforcement agencies in combating crime»<sup>42</sup>, the leadership of the prosecutor's office. In other words, participation in the coordination of anti-corruption actors is not a question.

Therefore, based on the analysis, we conclude that the principle of publicity is the principle of administrative and legal coordination of anti-

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<sup>39</sup> Великий тлумачний словник сучасної української мови з дод. і допов. Уклад. і голов. ред. В. Т. Бусел. К.; Ірпінь: ВТФ «Перун», 2005. 1728 с. Р. 1187.

<sup>40</sup> Про затвердження Порядку координації діяльності правоохоронних органів у сфері протидії злочинності: Наказ Генерального прокурора від 08.02.2021 № 28. URL: <https://zakon.rada.gov.ua/laws/show/v0028905-21#Text> (дата звернення: 17.09.2021 року).

<sup>41</sup> Квітка Я. М., Гусева К. А. Принцип відкритості та прозорість у діяльності поліції. Вісник Луганського державного університету внутрішніх справ імені Е. О. Дідоренка. 2016. Вип. 1. С. 164–173. Р. 165.

<sup>42</sup> Про затвердження Порядку координації діяльності правоохоронних органів у сфері протидії злочинності: Наказ Генерального прокурора від 08.02.2021 № 28. URL: <https://zakon.rada.gov.ua/laws/show/v0028905-21#Text> (дата звернення: 17.09.2021 року).

corruption actors, which is confirmed both in the provisions of domestic law and confirmed by domestic scholars. The principle of equality of subjects of coordination activity means that administrative and legal support of coordination of subjects of anti-corruption is carried out taking into account that the bodies participating in coordination are not subordinated.

Independence in this context means that each subject of anti-corruption activities can independently choose the forms and methods of combating corruption, solve the tasks set in the coordination process, in the way that is inherent in its legal status. Instead, equality is not the same as independence, and the independence of the subjects of coordination does not mean that they are equal.

Therefore, equality should be considered as a separate principle of administrative and legal support for the coordination of subjects of coordination. In particular, Article 216 of the Criminal Procedure Code of Ukraine<sup>43</sup> defines the jurisdiction of certain anti-corruption entities. Each of them carries out its anti-corruption activities within the framework of this jurisdiction, and none of them is subordinate to the other.

However, the equality of the subjects of coordination activities is not limited to the framework of their procedural equality. V.S. Babkova notes that they are equal not only as bodies involved in coordination activities, but also as direct participants in coordination in the process of formulating proposals, discussing them, making decisions, etc.<sup>44</sup>.

The subjects of coordination activities are equal when discussing issues related to coordination, decision-making, making proposals. The position or will of another subject cannot be imposed on any of the subjects of coordination activity, the interests of one of them cannot be satisfied at the expense of the interests of the other. All issues – identification of problematic aspects, tactics, forms of activity, planned activities, procedures, sequence of their implementation, time frame, etc. are agreed by all subjects of coordination activities without exception. The principle of independence of each anti-corruption entity in the implementation of agreed decisions in the coordination process means that each anti-corruption entity is independent in choosing the forms and methods of cooperation within the joint implementation of anti-corruption activities.

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<sup>43</sup> Кримінальний процесуальний кодекс України: Закон України від 13.04.2012 № 4651-VI. Відомості Верховної Ради України. 2013. № 9–10, № 11–12, № 13. Ст. 88.

<sup>44</sup> Бабкова В. С. Принципи координаційної діяльності прокуратури у сфері протидії злочинності та корупції Теорія і практика правознавства. 2013. Вип. 1. URL: [http://nbuv.gov.ua/UJRN/tipp\\_2013\\_1\\_27](http://nbuv.gov.ua/UJRN/tipp_2013_1_27). P. 5.

The Order of the Prosecutor General of Ukraine of February 8, 2021 № 28 «On approval of the Procedure for coordinating the activities of law enforcement agencies in the fight against crime»<sup>45</sup> one of the principles of coordination of law enforcement agencies in the fight against crime considered as two separate principles. However, it is more accurate to outline this principle as the principle of independence of each anti-corruption entity in the implementation of agreed decisions in the coordination process. Independence means disobedience, independence in behavior and actions<sup>46</sup>.

That is, an independent body makes independent decisions that are subject only to its competence and its interests, in its activities do not follow external instructions and orders. Therefore, an entity whose activities are coordinated by other entities is not independent. But at the same time, he can be independent in the implementation of agreed decisions in the coordination process, because independence is not subordination and subordination to others, the ability to make independent decisions, separation from others<sup>47</sup>.

Therefore, independence, which as a principle is enshrined in the Regulation on the coordination of law enforcement agencies in the field of crime and corruption<sup>48</sup>, is the principle of administrative and legal support for the coordination of coordination activities. In order to substantiate the essence of this principle, for example, the National Anti-Corruption Bureau of Ukraine does not need to agree with the State Bureau of Investigation and other participants in the coordination of its activities, is completely separate from them and cannot be affected by them. was agreed in the coordination process.

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<sup>45</sup> Про затвердження Порядку координації діяльності правоохоронних органів у сфері протидії злочинності: Наказ Генерального прокурора від 08.02.2021 № 28. URL: <https://zakon.rada.gov.ua/laws/show/v0028905-21#Text> (дата звернення: 17.09.2021 року).

<sup>46</sup> Великий тлумачний словник сучасної української мови з дод. і допов. Уклад. і голов. ред. В. Т. Бусел. К.; Ірпінь: ВТФ «Перун», 2005. 1728 с. Р. 760.

<sup>47</sup> Великий тлумачний словник сучасної української мови з дод. і допов. Уклад. і голов. ред. В. Т. Бусел. К.; Ірпінь: ВТФ «Перун», 2005. 1728 с. Р. 1291.

<sup>48</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

Each subject of anti-corruption activity has specific competencies, structure, conditions of functioning, and each of the listed aspects should be taken into account when carrying out administrative and legal support of coordination of subjects of anti-corruption. The last highlighted principle of administrative and legal support for the coordination of anti-corruption actors is the principle of responsibility of anti-corruption actors for the quality and timely implementation of the measures agreed in the coordination process.

This principle is directly enshrined in the content of paragraph 3 of the Regulation on the coordination of law enforcement agencies in the fight against crime and corruption<sup>49</sup>, and its essence is to make the entity coordinating anti-corruption entities accountable to each head of the entity anti-corruption for ensuring proper implementation of coordination measures.

According to V.S. Babkova, it is the leaders of anti-corruption entities who carry out operational management of the implementation of agreed measures and departmental control over their implementation, and therefore they, not the prosecutor, should be responsible for them<sup>50</sup>. At the same time, it should be taken into account that the current legislation does not provide for specific legal liability of the head for improper.

## CONCLUSIONS

These fundamental ideas should not be limited to these fundamental ideas. Many domestic scholars in their work point out that such a list of principles is not complete.

Therefore, in the framework of this study, the existing approaches were analyzed and a system of principles of administrative and legal support for the coordination of anti-corruption actors was formulated, which optimally reflects the specifics of this phenomenon.

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<sup>49</sup> Про затвердження Положення «Про координацію діяльності правоохоронних органів по боротьбі із злочинністю та корупцією»: Наказ Генеральної прокуратури України, Міністерства внутрішніх справ України, Служби безпеки України, Державної податкової служби України, Міністерства оборони України, Державна ситна служба України, Адміністрація Державної прикордонної служби України, Державної пенітенціарної служби України від 26.04.2012 № 43/375/166/353/284/241/290/236 URL: <https://cutt.ly/Ij4vNtl> (Дата звернення: 27.01.2021).

<sup>50</sup> Бабкова В. С. Принципи координаційної діяльності прокуратури у сфері протидії злочинності та корупції Теорія і практика правознавства. 2013. Вип. 1. URL: [http://nbuv.gov.ua/UJRN/tipp\\_2013\\_1\\_27](http://nbuv.gov.ua/UJRN/tipp_2013_1_27). P. 7.

The principles of administrative and legal support for the coordination of anti-corruption actors are:

- 1) the principle of legality of coordination of anti-corruption actors;
- 2) the principle of the rule of law in the process of coordination of anti-corruption actors;
- 3) the principle of publicity of coordination of anti-corruption entities;
- 4) the principle of equality of subjects of coordination activities;
- 5) the principle of independence of each anti-corruption entity in the implementation of agreed decisions in the coordination process;
- 6) the principle of responsibility of anti-corruption entities for high-quality and timely implementation of measures agreed in the coordination process.

The principle of independence of each anti-corruption entity in the implementation of agreed decisions in the coordination process means that each anti-corruption entity is independent in choosing the forms and methods of cooperation within the joint implementation of anti-corruption activities.

For example, the National Anti-Corruption Bureau of Ukraine does not require the consent of the State Bureau of Investigation and other participants in coordination, is completely separate from them, and cannot be affected by them other than those agreed in the coordination process.

Each subject of anti-corruption activity has specific competencies, structure, conditions of functioning, and each of the listed aspects should be taken into account when carrying out administrative and legal support of coordination of subjects of anti-corruption.

An important principle of administrative and legal support for the coordination of anti-corruption actors is the principle of responsibility of anti-corruption actors for quality and timely implementation of the measures agreed in the coordination process.

This means that the actors in the fight against corruption must be held accountable for the amount of work that has been entrusted to them during the coordination in accordance with their competence.

## **SUMMARY**

The research is devoted to the analysis of the classification of principles and understanding of their legal content of administrative and legal support for the coordination of the activities of anti-corruption actors.

It is noted that the principles are the basis and foundation of administrative and legal support for the coordination of anti-corruption

actors, and their observance by all participants in the coordination is of great practical importance, as it allows to ensure its effectiveness.

The domestic legislator and the Prosecutor General of Ukraine have adopted a number of norms, the importance of which is to establish the rule of law and strengthen the rule of law in legal relations entered into by an entity that coordinates anti-corruption entities coordinated (for example, the National Anti-Corruption Bureau of Ukraine and the State Bureau of Investigation).

Anti-corruption activities can be effective only if the principles of coordination of anti-corruption entities are established at the regulatory level, as well as their legal consolidation of administrative and legal support for coordination of anti-corruption entities due to the need for rapid and complete coordination tasks. and its effective implementation. It is established that the principles of administrative and legal support for the coordination of anti-corruption entities should be provided: streamlining of procedures for coordinating the activities of anti-corruption entities; guaranteeing the continuity and coordination of the activities of the subjects of counteraction; maintaining the effectiveness of counterparties.

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