

A. Frantsuz
Hero of Ukraine, Honored Lawyer of Ukraine
Doctor of Law, Professor,
Dean of the Faculty of Law,
«KROK» University

M. Liashchenko
Graduate Student,
«KROK» University

Countering Corruption: The Experience of the United Arab (part 1)

The article examines the experience of combating corruption in the United Arab Emirates on the background of socio-economic transformations that took place in that country during the years 1971-2017.

Keywords: *corruption, fight against corruption in the United Arab Emirates, anti-corruption legislation, bribery, nepotism.*

А.Й. Француз
Герой України, заслужений юрист України,
доктор юридичних наук, професор,
декан юридичного факультету,
ВНЗ «Університет економіки та права «КРОК»
М.М. Лященко
здобувачка вищої освіти ступеня «магістр»,
ВНЗ «Університет економіки та права «КРОК»

Протидія корупції: досвід Об'єднаних Арабських Еміратів (частина 1)

У статті досліджено досвід боротьби з корупцією в Об'єднаних Арабських Еміратах на тлі соціально-економічних перетворень, що відбулися в цій країні протягом 1971-2017 років.

Ключові слова: *корупція, боротьба з корупцією в ОАЕ, антикорупційне законодавство, хабарництво, непотизм.*

А.И. Француз
Герой Украины, заслуженный юрист Украины,
доктор юридических наук, профессор,
декан юридического факультета,
ВУЗ «Университет экономики и права «КРОК»

М.М. Лященко
соискатель высшего образования степени «магистр»,
ВУЗ «Университет экономики и права «КРОК»

Противодействие коррупции: опыт Объединенных Арабских Эмиратов (Часть 1)

В статье исследован опыт борьбы с коррупцией в Объединенных Арабских Эмиратах на фоне социально-экономических преобразований, которые произошли в этой стране в течение 1971-2017 годов.

Ключевые слова: коррупция, борьба с коррупцией в ОАЭ, антикоррупционное законодательство, взяточничество, nepotизм.

Challenge problem

Although there is no such country or political system where corruption is completely absent, successful experience in combating this negative phenomenon, and creation of modern mechanisms to prevent and eradicate corruption are some of the main features of developed democracies or countries trying to get closer to them. The United Arab Emirates in particular demonstrate successful anti-corruption fight in the last decade, but still scientific community for various reasons is not interested to study this experience in Ukraine. In general, research of Ukrainian scholars is limited to studying of the anti-corruption experience of countries which are geographically or historically closer to Ukraine, although the output data of the anti-corruption struggle in the UAE had many similarities with the current situation in Ukraine (economic backwardness at the time of the state's establishment, eastern traditions of nepotism and debauchery, strong centralization of power, etc.), with an increase of anti-corruption processes in Ukraine, studying of the successful UAE experience in this area become more relevant than ever.

A review of recent studies and papers

To cover the topic, articles and reports of international organizations such as Transparency International [1], the GAN Business Anti-Corruption Portal [2], World Economic Forum [3], Freedom House [4], Bureau of Democracy, Human Rights and Labor [5] and others were studied, analyzed and summarized; World Bank and UN commissions' data was used, as well as local and foreign press reports. In assessment of the provisions of local anti-corruption legislation, UAE federal laws and laws of individual emirates were reviewed.

Remaining challenges

The phenomenon of rapid economic growth of the UAE has been sufficiently studied by scientists, however anti-corruption component of the country's transformation process needs further research. The article attempts to fill this gap.

Draw the objectives of research

The article highlights the path that UAE has been undergoing for half a century in order to transform the country from the union of feudal tribes to a modern economically

developed nation, which has made significant progress in overcoming corruption and having zero tolerance for corrupt practices in society. Legal mechanisms for successful prevention of corruption and penalties for corruption-related offenses in traditional society were examined, including those that regulate activity of numerous foreign investors on the territory of the country in order to prevent them from corruption.

Discussion

The phenomenon of corruption is inseparable from any society; it exists and is evident in non-industrialized Third World countries, as well as developed democratic countries with a free post-industrial economy. The difference lies only in the scale, nature and dynamics of corruption in each country, degree of its impact on economic, political, legal and other social processes, ability of the nation to fight and overcome corruption in its society.

By example of Ukraine it can be said that corruption hinders the evolution of the administrative, political and legal systems of the country, making it impossible to bring it closer to nations with advanced standards of living. The absence of effective controls to combat corruption, spread of corruption-related risks to nearly all spheres of public life, and the loyal attitude of a portion of citizens to this phenomenon leads to the fact that corrupt relations are progressively replacing the legal, ethical relations between people, with anomalies gradually turning into the normal behavior, making it impossible to carry out reforms.

At the same time, this phenomenon is not the final verdict for a society, with an expert use of anti-corruption mechanisms, with presence of political will and systematic fight against any corruption manifestations, the country is gradually cured of this disgraceful achievement of a civilized society. Significant progress in such transformation is demonstrated through the data of «Transparency International», an international non-governmental organization that fights against corruption and analyses its level.

For example, over the past 10 years the spread of corruption in Ukraine has been in-

creasing, as a result of which, according to international researchers, our country's CORRUPTION PERCEPTIONS INDEX (CPI) rating has dropped from 99 (in 2006) to 130 (in 2017), standing alongside Iran, Myanmar, Sierra Leone and the Gambia. [6].

At the same time, the UAE is gradually, but steadily rising with its rank of CPI, seeking to take the leading positions among the developed countries of the world (31st place in 2006 and 21st place in 2017) [7]. In the latest CPI rating, the UAE shares a place with Estonia, nearby such advanced countries as the US (16th place), Ireland (19th place), Japan (20th place) and France (23rd place). This indicates the successful, systematic and committed fight of the government of the United Arab Emirates with the manifestations of corruption in the country. So, the experience of the UAE, a country that in the 1970s used to be economically, mentally and legally at least in the nineteenth century, and now, in just over 40 years of independence and reforms, is ranked 33rd in the world's GDP breaking the national cultural stereotypes, including in relation to corruption in society – such experience deserves attention and research.

It is impossible to fully understand achievements of the UAE in anti-corruption fight without brief excursion into the history of the country and without measuring the scale of economic changes which transformed it into the most affluent country in the Middle East in less than half-century.

United Arab Emirates is a federation of seven emirates, each representing an absolute monarchy: Abu Dhabi, Dubai, Sharjah, Ajman, Fujairah, Ras al-Khaimah and Umm al-Quwain with Abu Dhabi as its capital. In its present form, the UAE was formed in 1971 on part of the territories which at that time were called the «Trucial States of the Persian Gulf» and were part of the Omani contingent under the British protectorate. Until the 50's of the last century, the emirates used to be disparate territories where dozens of nomadic tribes lived in state of the Middle Ages.

In 1968, there was a problem of protection against external threats on the territories east of Suez, since the British, who guarded these

territories for more than 170 years from external threats, left them. Therefore, to avoid occupation by stronger neighbors, ruler of Emirate of Dubai offered other emirates to create a union. The task was not simple, because the region's uniqueness was that all the tribes had a mixed structure of society, different levels of development, cultural differences, and, moreover, ruthless resistance was carried out by the ruling elites of some tribes in order to keep own control, while others were skeptical concerning the success of the regarded plan. In spite of all, a compromise was reached and in 1971 United Arab Emirates was founded consisting of six emirates, and the seventh-Ras al-Khaimah, joined in 1972. Sheikh Zayed became president of the newly formed state.

Sheikh Zayed was an outstanding personality; he knew well the needs of his people and had ambitious plans to transform the newly formed state from the association of feudal tribes into a modern country. The history kept an interesting fact about the huge bribe of \$ 42 million, which he was offered to refuse from the armed fight for the oasis of Al-Buriyah by the Saudis, and which he rejected. [8, c.129].

For decades, when creating a country in the desert, Sheikh Zayed put interests of the UAE citizens on a first place, naming the ethnic residents of the Emirates "the main resource of the country and the bulwark of civilization." He said: "Wealth is not money. Wealth lies in men. This is where true power is, the power we value. This is what has convinced us to direct all our resources into building the individual, and to using the wealth which God has provided us in the service of the nation." [9].

Zayed knew well the needs of his people and cared about their well-being above all, and as a result he gained his people's trust and support for authority's actions. "The Ruler should not have a wall which separates him from his people." [10]. Due to a balanced and socially oriented policy, he was very popular and deeply respected by other citizens. As president of the UAE, Zayed was re-elected six times and ruled for 33 years un-

til his death at the age of 86. After his death in 2004, he left a country that had prospered from the country of twentieth century to the country of nineteenth century, from complete lack of electricity, water supply, and technology to advanced technologies. Zaid, being the Father of the Nation, created what the UAE is proud of today: well-being of citizens, weight at the international political arena, developed economy and security – something that was built on bare sand from scratch literally for several decades.

Thus the modern political and social system of the UAE still continues to preserve some of the traditional values typical for the Middle-Eastern nations, combining them with the elements of political structures of the modern world. Sheikhs carry out a double and sometimes contradictory role – they try to be both "up-to-date" rulers and protect historical and cultural heritage of the UAE at the same time. At the apex of the emirate-level governments there are private offices and courts of the seven rulers of both the rulers and crown princes. A hereditary dynastic family rule has local jurisdictional control over the state apparatus of separate emirates, as well as at the national level. In other words, politically, the UAE remains an authoritarian country with an absolute monarchy, which encompasses an (soft) autocratic rule, with the evolving idea of further development, flexible and efficient system of state apparatus, with active involvement in operation of the market and pragmatic (not ideological) approach to development which is reliant on the effectiveness of market mechanisms. Given that out of 9.7 million people, the UAE's native population makes up only 12% of it, the effectiveness and efficiency of public administration mechanisms is of supreme importance for this country.

The effectiveness of the management of the country's economy is demonstrated by the fact that from the moment of its independence in 1971 to the present day, economy of the UAE has grown by almost 231 times. An important financial basis for the rapid growth of economy was, of course, oil production, in terms of the volume of oil reserves, making

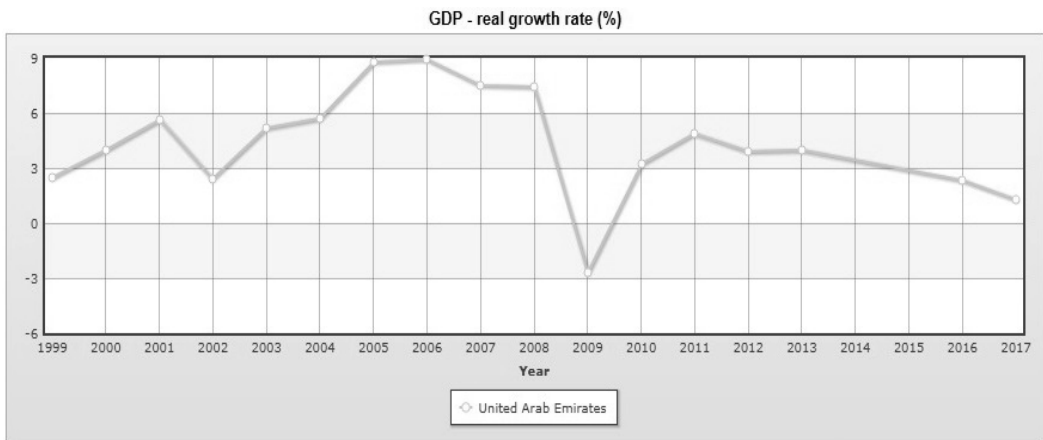
it to the 5-6 places in the world ranking. Oil extraction in the UAE began in the late 50s of last century, which, given the rise in oil prices in 1973, led to a significant economic growth and offered significant investment opportunities for both foreign and local businesses. In 1980-2000 the average annual GDP growth rate in the country was almost 2.4%, and in the first decade of the new century it was already 3.7% (Figure 1).

It should be noted that in the 60s of the 20th century, the main income from oil exports alone was received by the families of rulers of certain emirates, but over time equitable distribution of oil profits among citizens was done. The main instrument of such a distribution was the elimination of taxes, which also included delivery of social services and other benefits. Such state “distribution” provides an economic basis for maintaining the neo-patrimonial state structure.

However, oil reserves in the UAE are small in absolute and also relative terms and moreover, are expensive for mining, which made the rulers depend on other prevailing advantages of the UAE in order to create a developed and stable economy before oil deposits are exhausted. To this end, the

UAE authorities decided to gradually take the course of reducing the dependence of the state’s economy on hydrocarbon production (Figure 2), by choosing the so-called “ABS model” (attraction, branding, state) under the control and leadership of the state. The model implies the harmonious development of various sectors of economy and financial markets, creation of a transparent and attractive investment climate (low tax rates or the absence of taxes at all), legislative safeguards for saving investment and ensuring a low level of crime in the state.

The fairness of the chosen path was recognized by the events of a global crisis of 2008-2009, and especially the fall in oil prices, which started in 2015. Although government of the country was forced to cut costs, in particular for some social programs, introduction of excise taxes on certain types of goods and to imposition of VAT from January 1, 2018, further diversification of the economy, development of its separate industries (in particular, tourism, real estate, manufacturing and agriculture) along with improvement of the investment climate through introduction of modern management methods, give hope for the insignificance of crisis losses.



Country	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2016	2017
United Arab Emirates	2.5	4	5.6	2.4	5.2	5.7	8.8	8.9	7.5	7.4	-2.7	3.2	4.9	3.9	4	2.3	1.3

Definition of GDP - real growth rate: This entry gives GDP growth on an annual basis adjusted for inflation and expressed as a percent. The growth rates are year-over-year, and not compounded.

Figure 1

Source: IndexMundi [11]

The dependence of the UAE economy on oil production

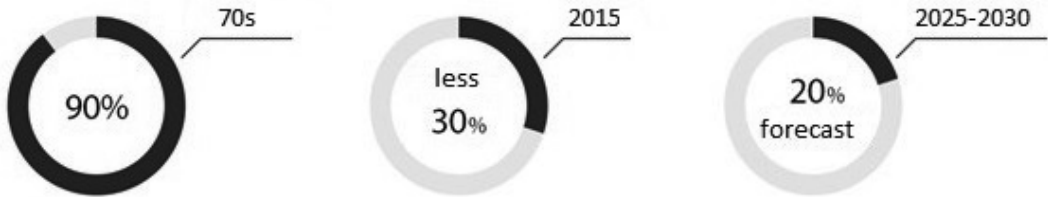


Figure 2

Source: Worldbank [12]

The government's economic and social policies are organically correlated with its anti-corruption aspirations, which were clearly outlined by the UAE Attorney-General of the Emirates in 2008, who expressed suspicion of financial malpractices by high-level managers of well-known companies: "The fight against corruption is one of the main priorities of our government," the state prosecutor said, "the Dubai government has created an ideal environment for the business in the emirate, supported by an appropriate legal structure based on best international experiences... Hence it is committed to openness and a clear policy in this direction. According to the guidelines of the manual, everyone who is accused of bribery, corruption or use of his/her official position for personal gain will be subject to the strictest penalties" [13].

It should be noted that while studying, analyzing and highlighting the manifestations of corruption in the UAE, the customs and traditions of the Middle-Eastern countries, the religious laws of Sharia play an important role and complicate the study of an anti-corruption subject: the lack of full transparency in political and economic life of the country, primarily for an outside observer who does not have access to information about making of the specific executive decisions of any level; controlled access to statistics on number of sentences for corruption offenses; limited communication with local media officials. Therefore, in assessment of the level of corruption in the UAE, researchers rely on official reports, indirect evidence and analysis of open sources.

A significant obstacle which obscures the

analysis of levels and specifics of corruption in the UAE, is also a lack of anti-corruption legislation in our usual sense. Anticorruption laws and restrictions can be found in numerous pieces of legislation, from the UAE Penal Code (Federal Law No. 3 of 1987) [14] to various codes of conduct that set standards of business practice, etc. Taking into account the preventive nature of the fight against corruption in the country, such approach not only complicates the analysis of anti-corruption measures, but also puts additional risks on activities of foreign companies and individuals in the UAE, which, due to lack of knowledge of the particulars of local legislation, are at risk of substantial fines or even imprisonment.

It is very important for foreigners who work or just reside in the UAE to be aware of the seriousness of the country's intentions to overcome corruption, as evidenced in particular by the fact that the struggle against this disgrace is attributed to the country under authority of the UAE National Supreme Security Council (established in 2006 year) and equates to the severity of terrorism. A large-scale discussion of problems of combating corruption in the financial sphere (thefts of budget funds, money laundering, bribes among high-ranking officials, etc.) in the world in general and among the Gulf countries in particular has forced the UAE leadership to ratify The United Nations Convention against Corruption in 2006.

In order to implement a strategic anti-corruption policy, a number of initiatives and steps have been taken by the authorities, such as:

1. The decision to create an Anti-Corruption

tion Unit to fight against corruption is considered one of the main foundations that will help limit the possibilities of dishonest citizens to have a negative impact on further development of the country. The main tasks of this body are:

- Ensuring effective, economic and ethical management of community objects, resources and funds;
- Ensure the accuracy of financial statements and compliance with relevant laws, rules, regulations and management guidelines in practice of public entities;
- Promoting accountability and transparency in activities of all public bodies;
- Investigation of the facts of financial irregularities and corruption;
- Identification of gaps in legislation and internal audit instructions;
- Audit of government's consolidated financial statements and financial statements of the entities.

2. Establishment of The Dubai Economic Security Center (DESC) in 2016 in accordance with Dubai Law No. 4 of 2016 [15]. DESC is a public authority which jurisdiction extends to public and private sectors of Dubai.

The DESC mandate includes but is not limited to fight against corruption, fraud, bribery, theft and money laundering, terrorist financing and other crimes that may be committed by individuals or organizations that fall under the jurisdiction of DESC. In fight against corruption, DESC can use "all available means" to oversee, investigate and collect information, audit, detect crimes and participate in information exchange.

3. In the UAE and, in particular, the emirate of Dubai, an "Intelligent Government Plan" project has been adopted, which will turn all government services into e-services. It should also help to narrow the sector and reduce chances of small-scale corruption crimes.

4. The UAE has the least complex rules for tax regulation in the region, greatly reducing the cost and corruption risks for companies when they register and operate in the country.

5. The procedures for obtaining operation licenses are simple and accessible to all emirates.

6. Legislation on combating corruption, battling money laundering and fraud is applied regularly, thus providing a strong preventive effect on potential unlawful activities.

7. Amendments to the Penal Code were made in 2016 clearly demonstrate intolerance of the lawmaker regarding any manifestation of bribery or unlawful appropriation of public funds. UAE being a business center supports policy of zero tolerance for any damage to public funds or property.

Strategically, anti-corruption measures in the UAE are aimed to prevent corruption in conjunction with disciplinary functions when it is detected, namely: clear, transparent and comprehensible economic legislation; detailed public services regulation which includes rights and duties of civil servants; preventive regulation, the main factor of which is unavoidability of punishment, and, finally, strict criminal law in respect of lawbreakers. That is, UAE legislation is focused first of all on combating corruption as a negative phenomenon, and not on fight with corruptio-

nists. The anticorruption efforts of the government led to a number of highly professional criminal prosecutions and prominent convictions that have contributed to strengthening public confidence in authorities, demonstrated transparency in actions of the country and law enforcement agencies, and clearly demonstrated the effectiveness of principle of inevitability of punishment for committed crimes, regardless of official's level. One of the most productive investigations conducted within anticorruption efforts of Dubai was the prosecution of Tamweel, one of the largest real estate developers in the Middle East.

– In August 2008, the Dubai Public Prosecution Office reported that the Emirate's police were investigating a case against the former executive director and head of the investment department for breach of laws. By May 10, 2010, authorities arrested four Tamweel executives and found them guilty of a group crime. Adel al-Shirawi, executive director of

Tamweel, was found guilty of obtaining a bribe for selfish motives. He was sentenced to 3 years in jail and was fined. Deputy of Al-Shivawi – Abdullah Nasser also received a three-year term. Fares Khaltoum, former head of the Tamweel Investment Division, received an annual term just as Saad Abdul-Razak, a member of the Board of Directors. Both of them were found guilty of wasting money. [16].

– The UAE Government effectively cooperates with anti-corruption authorities of other countries in cases of corruption:

– So, in September 2016, at the Saudi airport, a former executive director of the Emirate Investment Administration (RAKIA), Khater Massaad (citizen of Lebanon and Switzerland), was arrested on the basis of a judicial decision of the emirate of Ras al Khaimah, who for 5 years was responsible for the efficiency of investment funds abroad. The court found him guilty of stealing \$ 1.5 billion of public funds from the OAU in the exercise of his powers. Also, the prosecutor's office is preparing to bring Massa'd accusations of fraud and the injection of state funds into investment projects without proper legal expertise, in particular, the implementation of the project of a seaport in Georgia. [17].

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– In the continuation of this case the London High Court blocked accounts in the amount of 42.5 million of three companies of Gel Mikadze, a lawyer, businessman, deputy of the Georgian Parliament and “partner” of

Khater Massaad. He was accused of abuse of office in the process of implementation of the investment projects of the emirate Ras Al-Khayma in Georgia. In particular, in collaboration with Khater Massada, he transferred investment funds of the Emirate to the accounts of his own companies. [18].

The anti-corruption efforts of authorities are also aimed to overcome the traditional middle-eastern mentality, according to which corruption is not considered something that should be subject to condemnation and punishment. Not least this is enabled by rather harsh provisions of the UAE Penal Code, which provides for criminal liability for active and passive bribery offences, embezzlement and abuse of functions. Legislation on the fight against corruption and fraud works very effectively here, which, combined with preventive measures, allows to successfully eliminate corruption at the domestic level, among masses and middle-level public administration, and to create practically zero tolerance for bribe-makers and corruptionists in society. As a consequence, there is a very low risk of corruption in public procurement in the United Arab Emirates, the country offers a business-friendly environment where the burden of state regulation is low and public services are provided quickly and efficiently. Cases of petty corruption, in general, are unusual, and there is no evidence that corrupt acts of civil servants are a systemic problem.

Here are some examples from the press reports of the late 2016-2017 that confirm that the struggle to overcome corruption in the UAE is a systemic phenomenon rather than a short-term campaign:

– “A woman of Arab descent, who failed driver license test several times, offered chocolate sweets and 500 dirhams (\$ 136) as a bribe to the worker of Sharjah Traffic Department of Emirate's police. According to articles 237 and 238 of the Federal Penal Code, she was sentenced to six months in prison, was given a fine of 5 thousand dirhams (\$ 1.36 thousand) and was deported. The representative of the police service informed the incident of bribery, since attainment of a bribe

is against rules of labor ethics. According to Art. 237 of the Federal Penal Code, any offer of a bribe made to a public official or a civil servant, even if he or she has not accepted it, shall be punished with imprisonment. In Art. 238 it is highlighted that the offender must be fined at least 1,000 dirhams (\$ 272) for such an offense” [19].

– A 35-year-old UAE resident and police officer, was accused of receiving a bribe of \$ 30,000 dirhams (\$ 8.1 thousand) from the UAE emigration law violators to abolish the overdue fines of 445,000 dirhams (\$ 121.1 thousand). The policeman tried to give four Bangladeshi citizens, two Indians and three Pakistani citizens the right to unimpeded departure from the country, who are now also accused of giving bribes to a public officer, while another person is accused of mediation between bribe-givers and the police in exchange for a reward of 500 dirhams (\$ 136) [20].

– In August 30, 2017 policeman who had to send a detained Indian citizen to the police station did not do it, but agreed with relatives of the detainee on his release for a bribe of 3,000 dirhams (\$ 816). The fact was discovered due to appeal by a released Indian to the police with a statement of extortion of a bribe. After that, he was detained again, and a policeman admitted to committing a crime was dismissed from work and imposed a fine of 3,000 dirhams [21].

– In October 2016, seven people of different nationalities appeared in the first instance court for an attempt to give a bribe of 600 thousand dirhams (\$ 163.3 thousand) to

a customs inspector at the Jebel Ali port in Dubai. A bribe was offered to assist in clearance of containers for the import of goods from India which were prohibited in the UAE. Upon receipt of a bribe from intermediaries, the customs inspector pretended to accept it, and informed about the incident to his management and to the police. Although the lawsuit continues, all detainees involved in fraud and who attempted bribery are threatened with long terms of imprisonment, huge sums of fines and extradition of the foreigners, even though the act of giving a bribe did not take place [22].

The next section will address some provisions of the UAE anti-corruption laws, the most common types of corruption offenses committed in the UAE and penalties for these offences.

Conclusion

Corruption in modern conditions became a threat to a national security, economy and constitutional structure of any country; it affects various aspects of public life: economy, politics, governance, social and legal spheres, public awareness and international relations. Experience of combating corruption in the United Arab Emirates, is not only interesting, but can also be useful. Based on the analysis, including of the anti-corruption legislation of the UAE, especially in terms of preventive measures, it is possible to identify ways to improve legal mechanisms for combating corruption in Ukraine and make relevant proposals to improve Ukrainian anti-corruption legislation.

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