

**Corruption manifestations as a threat to national security:
new challenges and problems of counteraction in the
Ukrainian realities**

Manifestaciones de corrupción como amenaza para la seguridad nacional: nuevos desafíos y problemas de contrarrestar la realidad ucraniana

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Abstract

The purpose of the article is to focus on the current state of anti-corruption in Ukraine, as well as possible ways to improve this situation. The article uses a systematic approach as a general scientific method, logical-semantic methods, mixed methods of data collection, methods of theoretical analysis and systematization, a method of generalization. Corruption has been considered as a social phenomenon recognized in many instances as one of the main negative factors for Ukraine. Unfortunately, the stigma of a corrupt state for Ukraine is a negative factor, first of all, its economic attractiveness. The corruption background is not only an indicator of serious problems within the country, but also creates a significant obstacle to Ukraine's international image and reputation, which impairs the quality of potential interaction with the outside world. All this allows



researchers to call corruption one of the most dangerous threats to Ukraine, as the most serious internal problem, which is a threat to Ukraine's national security. On the other hand, granting corruption in Ukraine to the status of a threat to the "national security of the state" is a useful tool, as it allows to sharpen considerable public attention on this issue.

Keywords: Corruption; effective counteraction; national security.

Resumen

La corrupción se considera un fenómeno social, en Ucrania es reconocido como uno de los principales factores negativos. El estigma de un estado corrupto para Ucrania es desfavorable, en primer lugar, por su atractivo económico. Que además de ser un indicador de problemas graves dentro del país, también crea un obstáculo significativo para la imagen y reputación internacional de Ucrania, lo que, perjudica la calidad de la interacción potencial con el mundo exterior. El propósito del artículo es centrarse en el estado actual de la lucha contra la corrupción en Ucrania, así como en las posibles formas de mejorar esta situación. Se utilizó un enfoque sistemático como método científico general, que incluye los métodos lógico-semánticos, de análisis teórico y sistematización, y de generalización. Todo esto permitió a los investigadores de estos procesos, tanto nacionales como extranjeros, calificar a la corrupción como una de las amenazas más peligrosas para Ucrania, y el problema interno más grave que califica a la corrupción en Ucrania el estatus de amenaza a la "seguridad nacional del estado", lo que permite acentuar una considerable atención pública sobre este tema.

Palabras Clave: Corrupción; contraataque eficaz; seguridad nacional.

Introduction

Nepotism, Bribery, Patronage, Collusion... The list of categories in the murky sphere of corruption appears to be a bottomless pit. The obstinate prevalence of corruption has, for the longest time, been one of the most perturbing thorns in the flesh of nation states all around the globe. While decisive measures in the fight against corruption have been implemented in numerous states, others are still struggling to overcome the multifaceted nature of what has been generally defined as 'the misuse of entrusted power for private benefit or personal gain' (Abjorensen, 2014, p. 1).



Anti-corruption efforts are required where corruption prevails. Corruption this is global problem that requires urgent attention, yet there is no universally accepted definition of corruption. Corruption is most often defined as the abuse or misuse of public office for private gain (Ulain & Fighting, 2020).

Corruption in modern Ukraine is one of the obstacles to effective economic, political and socio-cultural development. It prevents the proper improvement of Ukrainian education, science, the level of medical and other socially important services to the general population. One of the difficulties is that the majority of the population, due to the living of many generations of Ukrainians under the oppression of authoritarian regimes in the past, are used to the fact that the entire state system, as well as society as a whole, is riddled with diverse corruption. Citizens, being misled by false promises of politicians many times, have mostly lost hope for qualitative changes in Ukrainian society.

As you can see, corruption is an evil that leads to mass uprisings and protests, which can be observed in different countries of the world. For example, mass protests in Guatemala against corrupt practices have led to high-profile resignations, and much of the discontent is underpinned by deeper concerns about equity and societal disparities. The prerequisite for this was seen corruption scandals, extensive tax evasion, and one of the lowest rates of tax compliance in the world (Open Budget Survey, 2019).

The successful experience of effective and fruitful life of developed countries demonstrates that any society can get a period of its political, social and economic prosperity. Overcoming corruption, as well as the threats it brings, is a key and priority task for both the leaders of the state and the entire domestic society. After all, without achieving this goal, the implementation of most other useful reforms for the state will be involved in the system of corruption.

The issue of effective anti-corruption is more relevant today than ever before, as it is recognized as the most important internal problem of the vast majority of states. Considerable attention is paid to study it.

The purpose of the article is to focus on the current state of anti-corruption in Ukraine, as well as possible ways to improve this situation. Examples of successful overcoming of corruption manifestations will be the methods and techniques used in developed countries.



Currently, any research should be based on the use of appropriate scientific methods, the application of which allows you to achieve the goal, scientifically substantiate the conclusions and propose appropriate solutions to the problem under study. The methodological base includes a set of general and specific methods of scientific knowledge.

As the methodological basis of the research, the author identified an interdisciplinary approach, in which the theoretical and methodological component is based on the fundamental provisions of the theory of public administration.

The systematic approach as a general scientific method made it possible to identify problematic issues related to the use of electronic government.

Logical-semantic methods within the framework of this study allowed us to consider the essence of the concepts of "corruption", "national security" and "counteraction to corruption".

Mixed methods of data collection were utilized which enabled the researchers to collect both primary and secondary data. For a secondary source of data literature was consulted for the study. The information and analytical basis of the scientific research was the legal and regulatory framework governing relations in the field of counteracting such a negative phenomenon, such as corruption. Also, scientific achievements and applied developments of scientists and practitioners from Ukraine and abroad were used.

In the study scientists used methods of theoretical analysis and systematization to identify and specify the author's position within the studied issues. When preparing conclusions and recommendations based on the results of the study, the method of generalization was used.

Results and Discussion

Corruption as a phenomenon is one of the most widespread problems of the modern world; it negatively affects the normal development of the state. That is why any country that has chosen the path of democracy seeks to eradicate corruption in all spheres of the functioning of the state apparatus and society as a whole (Makarenko, 2020).

This notion of corruption has notoriously difficult to assess because of its elusive nature. Researchers consequently resort to analysing the perception of corruption, rather than its concealed manifestations. Due to corruption variety, perception is most broadly assessed through a survey of a country's citizens. The most notable indicator is the Corruption Perception Index (Botrić, 2020).



The issue here is that the concept of corruption has been considered by many as a common human challenge, making it difficult for culture is truly free from the effects of corruption. Corruption is part of the history of human culture creation and is the oldest crime that has a major effect on the economic development of a country (Firmansyah *et al.*, 2020). It is known that corruption and its negative consequences have existed since ancient times. In particular, this problem was covered in ancient times, in the polis states of ancient Greece and in ancient Rome. However, it should be noted that corruption in the countries that existed or exist in Western Europe, although it took place, but in most cases was limited to certain thresholds. On the other hand, in the historical aspect, corruption has reached the most serious proportions in Asian state formations.

Researchers associate this phenomenon with differences in political regimes between most European and Asian countries in the past. Thus, of course, historically in both European and Asian states, monarchies functioned in the overwhelming majority, which were mostly absolute (Goel & Nelson, 2010). At the same time, scholars claim that in European states, even those classified as absolute monarchies by form of government, the power of the monarch has never been absolute. This is explained by the fact that the monarchy was constantly limited to certain traditions of the state or laws, which even for the absolute monarch set the appropriate limits of his activities.

At the same time, in most Asian countries there was a political regime in which the power of the ruling person was not subject to any restrictions, characterized by strong despotism. That is, in contrast to European countries, where even under an absolute monarchy there were laws that protected the private property of individuals, their lives, in Asian countries the power of the monarch (or leader) was absolute. It is the last feature of despotic states that allowed the rulers, or officials close to them, to carry out the theft of public and private property, to form their own wealth of unlimited amounts. In this context, the Manchu statesman of the Chinese empire of the Qing dynasty, Mr. Nyhuru Heshen (1750–1799), could be taken as an example (Chan & Laffargue, 2016). This ruler became famous because, having become a favorite of the Chinese emperor at one time, he made himself the richest man in China through his corrupt activities. Researchers consider Heshen the biggest corruptor in human history in terms of the amount of money, jewelry and property misappropriated. Experts agree that it was the political regime of China at the time that allowed him to commit such an unlawful theft of state property and was a despotic form of absolute monarchy, according to which the emperor or persons close to him could do whatever they wanted with their subjects and their property.



Thus, summarizing the above statements, we can state that the reform of the political regime in the state, making it more liberal and democratic is one of the essential conditions for overcoming corruption manifestations (IBAC annual report 2019/20). Nowadays, the more transparent and efficient the functioning of the state system, the more difficult it will be for unfair entities to commit corruption acts. Also, a developed political system guarantees greater dynamism of state bodies and constant change of the ruling elite.

Opposition and ruling parties often and quickly change places, usually having opposite political positions. This factor makes it possible not to constrain the potential development of the country by the presence of the same ruling class of people with the same views (Okonjo-Iweala, 2019). On the other hand, openness and transparency as key elements of the political system will ensure a more diverse development of the society and the state, and guarantee timely changes and reforms.

Issues concerning the sphere of legal regulation of anti-corruption bodies of the state arise separately. Most jurists agree that the current legislative support for the activities of the National Anti-Corruption Bureau of Ukraine, the Specialized Anti-Corruption Prosecutor's Office as law enforcement agencies and the High Anti-Corruption Court as a judicial body is not sufficiently effective and rational. Not least, this applies to issues related to the jurisdiction of anti-corruption bodies, as in Ukraine different law enforcement and judicial bodies often had jurisdiction over the same cases, which harmed national justice, economic development and sustainable society in general (Christensen, Maffett & Rauter, 2019).

The successful experience of international countries has proved that the creation of transparent and competent law enforcement agencies, which will have a significant level of autonomy (independence) in making daily operational and tactical decisions that would specialize in specific groups and types of offenses, is an effective tool for successful solution of the above tasks (Colonnelli & Prem, 2017). Overcoming corruption in the state and society as a whole requires clear and coordinated work of anti-corruption state bodies, establishing close cooperation with foreign partners and civil society (Fishman & Swenson, 2007).

The level of corruption perception is one of the key ratings used by foreign governments and international investors to determine how reliable and effective their cooperation with the state will be. The essence of this rating is that it covers and analyzes the existing level of corruption perception by the population of this country, as well as



the attitude of citizens to the consequences of corruption in the country. It is also important to take into account the own opinions of citizens about what exactly and to what extent the manifestations of corruption influence in the state (Hombach & Sellhorn, 2018).

Interaction with public organizations is no less important than interaction with developed foreign countries. According to the statements of foreign researchers studying the problematic aspects of the emergence and functioning of corruption manifestations, the reporting of the competent anti-corruption bodies or the whole society about specific cases of corruption in a particular sphere of public life is one of the main elements of eliminating or reducing corruption (Zeume, 2017). At the same time, it should be noted that for the implementation of a system, within which manifestations of corruption will become completely unacceptable, it is necessary that the subjects of this system have a reliable opportunity to report an independent competent anti-corruption body about the facts of specific corruption (Rauter, 2019). It is important that the means of reporting corruption is reliable and does not pose a potential future danger for the person reported the corruption. After all, this factor (for example, fear of abuse, possible revenge on the part of corrupt officials) is decisive in this area (Kaufmann, 1997). In this regard, today it is no coincidence that it is proposed to introduce a kind of protection system for persons who have information about the committed corruption act. Such a protection system has already been created and has been functioning for many years in the developed countries of Western Europe and North America. This is especially true in the United States, where this system is widely used. This is partly due to the fact that several such effective witness protection programs already exist in parallel in the country. Moreover, some of these programs are well known for their portrayal in popular culture products (movies, literary works), etc. In particular, the American "witness protection program" is world famous, which operates both at the federal level and at the level of many states (Bajpai & Myers, 2020).

Among other things, it should be noted that it was the federal program of the American government, which was adopted by an act of Congress in 1970 (Organized Crime Control Act of 1970, 1970), that allowed law enforcement officers, starting in 1971 and as at 2021, that is, over 50 years of active operation, protect over 19,000 witnesses (Organized Crime Control). Among them, there are usually a large proportion of people who provided American justice with useful testimony about the disclosure of corruption cases, because corruption manifestations were quite often closely related to other crimes.



We believe that the introduction of a similar witness protection program in Ukraine will provide serious assistance aimed at overcoming systemic corruption. Numerous independent reviews and studies conducted by reputable international agencies and institutions have found that the vast majority of criminal acts, especially those committed by criminal organizations, are directly related to corruption. It is about many cases of bribery of officials who have as their end result abuse of power, coverage of criminal actions by the state, obstruction of the implementation of real justice, and so on. It should be added that identifying corruption manifestations as one of the main threats to the national security of Ukraine can currently be extremely useful in the context of the implementation of the above programs. Certainly, such government programs will help to attract a sufficient level of public support. At the same time, this will be possible only if the authorities effectively dispose of the socio-political instruments provided to them.

Moreover, in order to achieve real positive results in this direction, it is proposed to act in active cooperation with Ukraine's allies at the international level. First of all, it is about the developed democracies of the EU, Canada, the United States and the United Kingdom. This can be done only if the government refuses to cover corruption within the country and under the condition of real, and not imitation, implementation of key socio-political and economic-social reforms (Transparency International Report, 2017). That is, only due to the fulfillment of the above conditions, the political leaders of Western countries will understand the seriousness of the intentions of the Ukrainian authorities in the field of overcoming corruption and will take actions that will decisively help our country. Instead, foreign experts only state the existence of distrust of political forces and point out the extremely serious danger posed by the facts of blatant abuse in the judicial system of Ukraine.

Symbols of the corruption prosperity in the Ukrainian judicial system are the decisions that have been adopted over the past few years by the District Administrative Court of Kiev, which, according to foreign observers, should have long been disbanded due to the fact that its existence discredits the judicial system. The decision of the Constitutional Court of Ukraine to declare unconstitutional a number of legislative norms adopted to strengthen criminal liability in the field of corruption crimes also caused considerable public response.

Western analysts agree that the problem of overcoming corruption in the judicial sphere often faces with the problem of the independence of the judiciary, which is no less important for the stable existence of society. The latter, according to experts, should not



be destroyed or damaged in favor of the former. Therefore, in order to address these difficult issues facing society, we propose to pay attention to the experience of the leading countries of the world in their actions taken to protect the judicial system from corruption manifestations. In particular, experts from USAID (the leading structure of the US government) suggest using the US experience in this area (Michel, 2009). This experience is based on two main principles, namely: 1) non-interference in the independent activity of the judicial system; 2) personal responsibility of judges for making unlawful decisions.

It is important to pay attention to the fact that in addition to the personal criminal liability of a judge, which is not always the main focus in such cases, he also has public (reputation) responsibility, which in developed countries is no less a serious factor for a public person. A situation when a judge, having issued an unlawful court decision, thereby causes an increase in public indignation by his decision could be taken as an example. Given the close attention of society to this case, it is referred to the appeal instance. If the court of appeal establishes and proves that the judge of first instance made an unlawful decision that is contrary to the rules of law and the principles of the administration of impartial justice, his reputation will be significantly damaged and his professional career will be destroyed.

Corruption in Hungary poses a significant risk to business, especially in the tax administration and public procurement sectors, which suffer from its high level. The public procurement process and the tendering process are insufficiently protected from irregularities at the local level due to strong informal relations between business and representatives of government at the local level. Public opinion polls on general and specific corruption issues show that a third of Hungarians consider corruption and abuse of power to be widespread in Hungary's public administration system (Makarenko, 2020).

Nowadays, one of the most effective ways to combat corruption is anti-corruption strategies. At the same time, the state should translate into real life the most effective strategies that will show their practical effectiveness. For example, as noted by scientists from Pakistan, behind their research «harsher punishments for corrupt persons and legal protection for whistleblowers informing about persons involved in corruption are the strategies that had the highest mean scores of 4.07 and 4.04 respectively. The typology "Political, legal and judicial strategies" was the most effective, with the highest mean value of 3.90. A holistic approach is required in Pakistan to eradicate corruption from governmental offices» (Ulain & Hussain, 2020).



However, gradually, but still, corruption can be overcome. To achieve this goal, it is necessary to take into account the methods and ways of combating corruption, which are currently successful in developed countries. That is why close cooperation with Western partners is one of the key foundations to overcome corruption in Ukraine. However, no less important is the will and readiness of the Ukrainian authorities to create such conditions under which it will be very difficult or impossible to commit corruption crimes.

A collective action approach must be adopted by the government and concerned anti-corruption bodies to overcome corruption. Sensitising people to the evils of corruption, punishments for engaging in corrupt activities, and giving protection to whistleblowers are the first steps. A fair judiciary must gain public trust and there should be no discrimination while investigating and prosecuting corruption cases against any high profile officials. For these strategies to be properly implemented, an independent body should be responsible for keeping an eye on the efforts made by anti-corruption agencies to undermine corruption (Ulain & Hussain, 2020).

Conclusions

Corruption can be overcome in a particular society only if several key factors of its counteraction are effectively combined. The key and most important elements of combating corruption and its manifestations within the state system should include: transparency of the state system functioning; an independent competitive approach to the appointment of persons to public office; active interaction with international partners of Ukraine; functioning of really independent anti-corruption bodies.

It is also important to implement effective methods of the judicial system functioning, in particular, this applies to the described principle of personal responsibility of judges for their unlawful decisions. The example of the functioning of this principle and related techniques demonstrates that it can be actively and effectively used without affecting or violating the principle of judicial independence. Today, in countries with real rule of law, a competitive political system and transparent state structures, the principle of inevitability of legal responsibility must be strictly observed. Therefore, the immunity or inviolability of some individuals should be reviewed today.

Interest conflict

The authors affirm that they do not present any conflict of interest in this research.



References

- Abjorensen, N. (2014). *Combating corruption: implications of the g20 action plan for the Asia-Pacific region*. Tokyo, Japan: Konrad-Adenauer-Stiftung.
- Bajpai, R., and Myers, B. (2020). *Enhancing government effectiveness and transparency: the fight against corruption (English)*. Washington, D.C.: World Bank Group. <https://bit.ly/3pwhNQB>
- Botrić, V. (2020). Managers' Perception of Corruption in Croatia, Serbia and Slovenia. *Croatian and comparative public administration*, 20(4), 699–731.
- Chan, K. S., and Laffargue, J. P. (2016). A dynamic model of taxation, corruption, and public investment in the dynastic cycle: The case of Imperial China. *Macroeconomic Dynamics*. Cambridge University Press, 20(8), 2123–2147.
- Christensen, H. B., Maffett, M. G., and Rauter T. (2019). Policeman for the World: US Enforcement of Foreign Corruption Regulation and Corporate Investment Policies. *SSRN Electronic Journal*. <http://dx.doi.org/10.2139/ssrn.3349272>
- Colonnelli, E., and Prem, M. (2017). Corruption and Firms: Evidence from Randomized Audits in Brazil. *Working Paper*. <https://stanford.io/2T6Q5Om>
- Firmansyah, Santoso, T., Febrian and Nashriana. (2020). Reconstruction to Prove Elements of Detrimental to State Finances in the Criminal Act of Corruption in Indonesia. *JURNAL CITA HUKUM (Indonesian Law Journal)*, 8(3), 671-692. <http://dx.doi.org/10.15408/jch.v8i3.18295>
- Fishman, R., and Swenson, J. (2007). Are corruption and taxation really harmful to growth? Firm level evidence. *Journal of Development Economics*, 83(1), 63-75, May.
- Goel, K., and Nelson, M. (2010). Causes of Corruption: History, Geography and Government. *Journal of Policy Modeling*, 32(4), 433–447, July–August.
- Hombach, K., and Sellhorn, T. (2018). Firm Value Effects of Targeted Disclosure Regulation: The Role of Reputational Costs. *Working Paper*. <https://bit.ly/3fXqgcs>
- IBAC annual report 2019/20 extract of Victoria police information. <https://bit.ly/3z24trE>
- Kaufmann, D. (1997). Corruption: the facts. *Foreign Policy*, 107, 114-131. <https://bit.ly/3cHrBCv>



- Makarenko, V. S. (2020). General Principles of Anti-corruption in V4 Visegrad Countries: Experience of Hungary. *Law and Safety*, 2(77), 126-132.
- Michel, J. (2009). *Reducing Corruption in the Judiciary – USAID Program Brief, Office of Democracy and Governance*. June.
https://pdf.usaid.gov/pdf_docs/Pnadq106.pdf.
- Okonjo-Iweala, N. (2019). *Strategies for winning the fight against corruption*.
<https://brook.gs/3gvMEJl>
- Open Budget Survey. (2019).
https://www.internationalbudget.org/sites/default/files/2020-04/2019_Report_EN.pdf
- Organized Crime Control Act of 1970. Public law 91-452. October 15, 1970.
- Rauter, T. (2019). Disclosure regulation, corruption, and investment: evidence from natural resource extraction. *Working Paper*. <https://bit.ly/3fWtNb0>
- Transparency International Report. (2017). The 15 ways people can fight corruption. August. <https://bit.ly/3prTJyy>
- Ulain, N., and Hussain, F. (2020). Fighting Governmental Corruption in Pakistan: An Evaluation of Anti-Corruption Strategies. *Croatian and Comparative Public Administration*, 20(3), 439–468. <https://doi.org/10.31297/hkju.20.3.2>.
- Zeume, S. (2017). Bribes and firm value. *The Review of Financial Studies*, 30(5), 1457–1489, May.