






ARTICLE

Fight against Corruption-Related Crimes in Wartime in Ukraine

Bohdan M. Holovkin¹, Mykola Semenyshyn², Oleksii V. Tavolzhanskyi¹,
Oleksandr V. Lysodyed¹ and Nataliia V. Smetanina³

¹Department of Criminology and Criminal and Executive Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, ²Main Department of the National Police in Odesa Region, Odesa, Ukraine and ³Department of Criminology and Penitentiary Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine

Corresponding author: Bohdan M. Holovkin; Email: holovkin8020@edu-knu.com

(Submitted 31 August 2023; revised 27 September 2023; accepted 7 October 2023)

Abstract

The article aims to provide a comprehensive theoretical and practical analysis of the issues in the legal regulation of corruption prevention, study the state of the fight against corruption and the legalization of proceeds of corruption-related crimes under martial law, determine new corruption risks during a war, and suggest recommendations for their minimization. The authors of this article established the main problems that cause the emergence and spread of corruption in society and ways to overcome this phenomenon. The study's results established that independent anti-corruption agencies and authorized law enforcement agencies have continued preventive and law enforcement activities even under war conditions, their purpose being to ensure the normal State functioning, the country's defence capacity, and society's security. In law-making and law enforcement activities, this research work can help to improve international relations between Ukraine and foreign countries in the context of the development of bilateral relations regarding the provision of assistance to Ukraine for post-war recovery, the attraction of investment, the fight against corruption, and possible accession to the European Union.

Keywords corruption; martial law; bribery; anti-corruption activities; security

INTRODUCTION

Even though there was some progress in reducing the level of corruption-related crimes at the national level before the war, corruption affected the following areas the most: justice; energy and energy saving; government regulation of business; law enforcement; customs and taxation; transport infrastructure; State and local procurement; construction and land relations; health care; and the defence sector. Systemic problems that give rise to political, administrative and domestic corruption are still unresolved. Furthermore, Ukraine still needs to implement a part of the Group of States against Corruption (GRECO) recommendations and fulfill the

international obligations under the framework of Ukraine's participation in the Organisation for Economic Co-operation and Development (OECD) Anti-Corruption Network. The following factors prevented the implementation of structural reforms and assurance of sustainable development of the State and society in the pre-war period: low standards of living of citizens; non-transparent administration of State assets; the large scale of the shadow economy; imperfect legislation; problems with the protection of human rights; opposition of oligarchs and political elites; obstruction of the work of the newly created anti-corruption agencies; acceptable attitude of a particular sector of society and business to corruption practices.

However, the war of the Russian Federation against Ukraine generated more openness and trust in relations between the government, business and society, intensified democratic processes and self-organization of people, and provoked a request for social justice and integrity of power. Even though the level of corruption in Ukraine decreased during the war, martial law has led to new manifestations of this phenomenon. Currently, corruption comes out in the form of bribery and abuse associated with assistance in draft evasion during mobilization, the illegal sale of humanitarian assistance, charitable donations, or free assistance. Its second manifestation is the bribery of customs officers for the unhindered removal of illegally received money by public officials and their families while crossing the State border (National Agency on Corruption Prevention 2022b; TI Ukraine 2022b). In peacetime, studies predominantly considered corruption a threat to military security (Lutsenko 2019) and cybersecurity (Holovkin, Tavolzhanskyi, and Lysodyed 2021). However, given Russia's military aggression against Ukraine, this phenomenon should be studied as a threat to the national economy, public security and the defence capacity of the State.

Ukraine failed to demonstrate a significant result in reducing the level of corruption in the pre-war period. Progress was notable only during the first stage of anti-corruption reform from 2014 to 2018. In recent years, Ukraine has consistently scored 30–33 out of a possible 100 in the Corruption Perceptions Index, indicating a slowdown in the fight against corruption. So far, it has not been possible to fully implement international anti-corruption standards, norms of conventions, directives, regulations of the Council of Europe and the United Nations (UN), and numerous acts of legislation in the field of anti-corruption and fraud (Orlovskiy, Shapoval, and Demenko 2018). Ukraine still needs to implement the UN and the European Union (EU) recommendations on criminalizing organized corruption-related crimes (Vozniuk et al. 2020). There needs to be more political will to overcome corruption (Kvasha 2020). In this regard, it is no coincidence that sectoral corruption was organized and threatened national security before the war (Kolb and Dumchynska 2020).

The imposition of martial law had several positive consequences: stronger State power; more effective provision of public services; decreased bureaucratic barriers; faster managerial decisions; consolidated civil society; and increased social responsibility of business. However, the war has led to the ongoing depletion of material and financial resources of the State, the destruction of critical infrastructure, high inflation, the loss of work, steady sources of income and housing, and the forced resettlement of millions of Ukrainians. This worsened the socio-economic situation of people and critically complicated the life support of the population, both in the territory controlled by the

Government and in the temporarily occupied territories of Ukraine. The war and the acute economic crisis caused by it have increased the dependence of businesses and people on the material and financial assistance of the State, international humanitarian missions and volunteer organizations (Grynchak *et al.* 2022). Public authorities and local governments, international funds and volunteer organizations currently distribute scarce energy resources, medicines, daily necessities and monetary assistance to the regions suffering from Russia's military aggression. Furthermore, there is the distribution of multi-billion macro-financial assistance of foreign partners allocated to support the economy under the conditions of war and the allocation of funds from the State budget to help businesses. As far as is known, the monopoly position of public authorities over the distribution of scarce material goods creates favourable conditions for the spread of corruption practices.

In addition, the State's defence and national security are the primary focus of public authorities during the war, including those competent on relevant issues. Such a situation poses a risk that the fight against corruption will temporarily weaken in the country, but its negative impact on the economy and the security of society will only increase. The above makes it possible to argue that the detection, prevention and counteraction of corruption-related crimes during the war is a particularly relevant problem that needs to be solved for the preservation of the State sovereignty of Ukraine and ensuring peace and stability on the European continent.

METHODS

In the course of the study, the authors applied a system of general scientific, philosophical and special methods, which provide the reliability of the results obtained and the achievement of the set aim of the article. The formal legal method was the leading technique used to compile this article. This method allowed the authors to analyse the concept of "corruption" under the legislation of Ukraine. The formal legal method also helped to examine the anti-corruption legislation of Ukraine, the Criminal Code and by-laws, in particular, Draft Law No. 7348, "On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Corruption Acts under Martial Law" (Verkhovna Rada of Ukraine 2022b). Furthermore, the authors resorted to this method to analyse the international and European legal acts on counteracting cross-border crimes, legalization of proceeds of crime, corruption, etc. In addition, the authors applied the above method to study the following legal documents: the Law of Ukraine "On the Legal Regime of Martial Law (Verkhovna Rada of Ukraine 2022d)"; the Decree of the President of Ukraine on the imposition of martial law in the State (Verkhovna Rada of Ukraine 2022a); the explanations of the National Agency on Corruption Prevention (2022a) on the application of particular provisions of the Law of Ukraine "On Prevention of Corruption" concerning financial control measures under the martial law (filing a declaration); the Resolutions of the Cabinet of Ministers of Ukraine on the implementation of defence and public procurement of goods, works and services under martial law (Cabinet of Ministers of Ukraine 2022a); the Resolutions of the Cabinet of Ministers of Ukraine on the implementation of State financial control under the martial law (Cabinet of Ministers of Ukraine 2022b).

The system–structural method provided an opportunity to consider the anti-corruption legislation of Ukraine as a unified system of rules of law, the content of which is determined by the need to counteract bribery and responsibility for it. The system–structural method allowed the authors to generalize and systematize the controversial information about corruption activities in the countries of Europe and counteraction to them. This method also provides generalization and systematization of approaches to ensure the functioning of the State without bribery and to strengthen the level of trust of citizens and society in the State. The systematic method makes it possible to conclude that even though there is active work to combat corruption at the legal and practical levels in Ukraine, the relevant problem still exists and is particularly dangerous under martial law.

Moreover, the system–structural method helped to determine the following core aspects of the fight against corruption in the EU: measurement of corruption; reduction of ways for bribery; and proper punishment under criminal law for such crimes. The functional method is another important method used for writing this article. This method allowed the authors to distinguish separate groups of legal rules depending on their functional focus.

The comparative method provides an opportunity to analyse various anti-corruption activities in foreign countries and Ukraine to apply the most effective approaches. In particular, the authors determined anti-bribery factors, including transparency and openness of public authorities, effective mechanisms for controlling and combating corruption, freedom of speech and independence of the media.

In the framework of the research, the authors applied methods of scientific cognition to study the features of corruption following doctrinal approaches, the history of the formation of appropriate legal regulation, and criminal liability for such offences. The results of scientific and cognitive activities using the above method determined the need to clarify ways to improve the liability for bribery in Ukraine and to counteract this phenomenon, reflected in the conclusions of this article.

The authors resorted to the method of analysis and synthesis to study theoretical information, international legal acts, and national legislation of Ukraine and define the problems existing in the studied area on their basis and ways of their solution. This method provided the general study of the legal framework of anti-corruption activities and changes caused by the imposition of martial law on the State's territory.

LITERATURE REVIEW

The domestic scientist Zaika (2015) drew important conclusions on the anti-corruption legislation of Ukraine, particularly the Law of Ukraine “On Prevention of Corruption” (National Agency on Corruption Prevention 2022a), as the fundamental principles of such legislation. The scholar provides a detailed and extended analysis of the law, characterizes all its fundamental provisions on a case-by-case basis, and highlights the most progressive norms or those to be improved. Zaika (2015) distinguishes three categories of persons subject to the law, which are as follows: authorized persons of public authorities; local self-government and equal-status persons; persons who hold positions related to the performance of organizational and

administrative or administrative and economic duties. The scientist also stressed and considered in detail the amendments to the Criminal Code of Ukraine (CCU) and other legislative acts adopted in accordance with the law, such as the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Defining Final Beneficiaries of Legal Entities and Public Figures” (Verkhovna Rada of Ukraine 2022b). Moreover, the scientist considers amendments to the CCU as the most crucial element in the anti-corruption mechanism (Zaika 2015).

The work of domestic scientists Pishchanska and Pavlovysh-Seneta (2016) represents a great interest in the context of general anti-corruption issues and international experience in combating bribery in different countries. The scientist analysed the international experience and practice in combating corruption and noted that their analysis could be useful for constructing effective mechanisms for eliminating this phenomenon. They emphasize that economic efficiency is sharply reduced in the countries affected by corruption; poverty and social inequality are exacerbated, the gap between society and the authorities widens, politics becomes a sphere of distribution of national wealth, and moral principles are destroyed. In addition, the scientists emphasize that corruption testifies to the complete indifference of officials to public benefit, the law, people and every citizen.

Corruption undermines State power, moral principles and values of society, and leads to the fragmentation of the population in terms of real income. The practice of law enforcement agencies of foreign countries in this direction proves that one of the main conditions for successfully overcoming this problem is the perfection of regulatory and legal support of countermeasures and the presence of an effective anti-corruption system at the national and international levels. Numerous countries take organizational measures to combat corruption. These countries establish specialized institutions and organizations and develop special regulatory acts to introduce appropriate legislative and functional content strategies, tactics and preventive measures (Pishchanska and Pavlovysh-Seneta 2016).

The work of Buriak (2020) is also worth considering since the author systematically analyses the process of the anti-corruption fight in European countries. The researcher analyses corruption factors in the EU and emphasizes that the EU Member States have significant differences in the level of corruption and the methods for combating it. Buriak (2020) considers that the critical problem in the difference of approaches among the EU Member States is unharmonious legislation in the relevant field caused by significant differences in the traditions of its formation and the historical origins of this phenomenon. The researcher determines that the efficiency of anti-corruption mechanisms depends primarily on the transparency of the activities of authorized persons, the specifics of their anti-corruption policy, and the model of anti-corruption institutions (Buriak 2020).

The authors of this article believe that the work of Ukrainian researchers Dudorov *et al.* (2019) is fundamental. Their work reveals the general theoretical features of corruption in Ukraine, and anti-corruption approaches in the context of anti-corruption reform. The researchers analysed the administrative and criminal framework for conceptualizing anti-corruption reform in Ukraine. Based on this analysis, they identified numerous problems, especially related to the qualification and delimitation of unlawful acts. The authors also analysed foreign approaches to combating corruption crimes and examined the main problems in law enforcement

practice and ways to overcome them. In addition, the researchers paid special attention to establishing a scientific basis and maintaining relevant studies according to the requirements of modernity to form updated anti-corruption legislation in Ukraine (Dudorov et al. 2019).

Foreign researchers Hall and Fleming (2022) emphasize in their article for the *Financial Times* that Ukraine currently needs significant funds for the reconstruction of the infrastructure destroyed by the war and economic recovery. Many EU Member States and private Western companies are interested in providing financial assistance or investment to Ukraine; however, its high level of corruption and imperfect pre-war legislation prevent them from doing so. The researchers emphasize that Ukraine must effectively oppose corruption and targeted use of funds to interest Western partners in assistance and build a strong reputation among the EU Member States and other foreign countries (Hall and Fleming 2022).

In the context of the analysis of the anti-corruption mechanism from the point of view of international law, the practice of States, and Ukraine, it is worth paying attention to the work of Kovalchuk (2019). The researcher conducted a comparative legal description of Ukrainian and foreign anti-corruption bodies. Furthermore, Kovalchuk (2019) highlighted the international legal principles of combating this phenomenon and comprehensively examined the international experience in identifying cases of corruption and countering it. The researcher also emphasizes that the competence of anti-corruption bodies is an integral part of law enforcement officers (Kovalchuk 2019).

Even though scientific works provide an in-depth study of anti-corruption issues and the legislative basis for fighting against this phenomenon, it still needs more regulation in the legal aspect. In addition, Ukraine has recently found its way into martial law; therefore, there has yet to be a relevant formed scientific doctrine on this issue, despite its high relevance. Thus, studying the features of legal opposition to corruption during the war requires a more detailed analysis at the research level to find the most favourable ways to solve it.

Notably, the previously mentioned UN Convention against Corruption (United Nations Office on Drugs and Crime 2004) contains a list of measures to prevent corruption, which are also effectively implemented in the territory of the EU. These measures (Council of Europe 1999) are as follows:

- To establish a coherent policy, namely, to develop and implement effective practices for preventing and combating corruption, which are periodically reviewed;
- To ensure the existence of a body or bodies for preventing corruption that develop and implement such a policy;
- To form an honest civil service, which includes transparent tenders, sufficient financial support, and orientation to such criteria as impeccable work, fairness and ability;
- To establish ethical standards of conduct in the civil service, such as encouragement for conscientiousness, honesty and responsibility among civil servants;
- Transparency in public procurement and financial management, which implies public dissemination of information on procurement procedures, clear

and transparent criteria for participation and selection, and effective control mechanisms;

- Accountability, which allows the public to receive information about the State decision-making mechanism, simplification of administrative procedures, and publication of information on corruption risks in the public sector;
- Independence of the judiciary and authorities of the prosecutor's office, provision for independence, strengthened conscientiousness, and prevention of corruption among officials;
- The integrity of the private sector expressed in the cooperation of business and law enforcement agencies, the development of standards for the integrity of the business, and the prevention of conflicts of interest in the event of the entry of former civil servants into the business;
- Publicity, which involves strengthening transparency and engaging citizens in the decision-making process, accessing information, creating an atmosphere of corruption rejection, and respecting, promoting and protecting the freedom to seek and disseminate information about corruption;
- Anti-money laundering means monitoring and regulating banks and non-bank financial institutions to prevent all forms of money laundering.

Corruption threatens the economy, the defence sector, Ukraine's rule of law, public administration, and post-war recovery during peacetime and war. The Director of the Europe Programme of the Centre for Strategic and International Studies notes that "the level of corruption has now reached a point where it is an existential threat to the democratic integrity and national security of the EU Member States as well as the unity of the EU itself" (Blanche, Depardon, and Gros 2019:4).

The EU has already undergone a long and effective path in the fight against corruption. The authors of this article hold that it is possible to apply such general approaches in Ukraine to overcome corruption. It is possible to achieve efficiency through specific policies in related areas such as financial regulation, anti-money laundering and public procurement. Efficiency also depends on procedural tools aimed at improving cooperation and punishing crimes. The innovative and coherent nature of the European measures provided their high efficiency.

For a more detailed understanding of the EU anti-corruption legislation, we should pay attention to the role of the European Commission in its creation. First of all, it should be noted that the European Commission has the right to initiate new draft laws and develop EU anti-corruption policy. It can propose new directives, regulations and other normative acts to fight corruption and improve anti-corruption legislation.

In addition to legislative initiatives, the institution is empowered to monitor and evaluate Member States' compliance with their anti-corruption obligations. The European Commission can provide recommendations on how to improve anti-corruption legislation and practices. There have also been some recent updates on the issue of combating corruption at the EU level. In 2022, Commission President von der Leyen declared the intention to revise the EU's legal framework regarding anti-corruption, aiming to enhance the prevention and combat of corruption throughout the EU in the upcoming years in her State of the Union Speech (European Commission 2023).

On 3 May 2023, the Commission proposed a fresh proposal for addressing corruption through criminal law. While bribery continues to be a central focus of the new legislation, various other manifestations of corruption pose threats to citizens and undermine the strength of our societies. The revised legislative framework, among other measures, will: strengthen corruption prevention by increasing awareness of its negative impact on citizens and society, to mitigate corruption risks before they arise or intensify, while also promoting a culture of integrity, expanding the definition of criminal corruption offences beyond traditional bribery, encompassing activities such as misappropriation, abuse of influence, abuse of office, as well as obstructing justice and illicit enrichment linked to corrupt misconduct; introduce minimum criminal penalties and sanctions for various offences to ensure a level playing field across all Member States; extend the statute of limitations for prosecuting corruption cases in courts; ensure that law enforcement agencies and the prosecution have the necessary tools and resources to combat corruption effectively (European Commission 2023). It is worth emphasizing that such steps are quite justified. Moreover, they can be implemented effectively in Ukraine to counter its corruption challenges.

Grubiša (2013:9) provided the example of Croatia, where the launch of an anti-corruption programme and strategy was one of the benchmarks for the preparation and opening of negotiations in the field of justice. The European Commission and the intergovernmental negotiating committee have chosen a holistic, systematic approach to judicial power, although the benchmarks seem to be formulated in a rather neutral way. However, the efficiency indicators will be absolutely specific and have to play a catalytic role in launching a more systematic anti-corruption fight in Croatian society if they are consistently implemented. The above allows the authors to assume that political corruption is an endemic and even a systemic affliction of Croatian society and politics (Grubiša 2013:9).

The opinion of foreign experts Hall and Fleming (2022) is also worth noting since they underline the importance of combating corruption in wartime in Ukraine. The experts justify their opinion by the fact that the war is causing much damage in Ukraine, and the reconstruction demands significant funds that foreign partners can provide to Ukraine. However, the problem of corruption can cause significant obstacles to aid and investment.

First, partners worry that the funds provided will not be used properly and will not go to the necessary reconstruction. Second, the EU States and private investors have issues with the domestic legal system, which was far from exemplary even before the war. Third, misuse of funds will be a barrier to the effective post-war reconstruction of the State (Hall and Fleming 2022). These opinions precisely reflect the sentiments of the European governments, concerned about the fate of the funds to be transferred to Ukraine. Therefore, the possibility of receiving assistance from partners to rebuild the State and strengthen its position in the international arena makes the issue of combating corruption even more significant for Ukraine.

Among the corruption challenges facing Ukraine during martial law are illegal weapons trade, customs regulation, and misappropriation of humanitarian aid. These issues have a catastrophically destructive impact on defence capabilities, national security, social security and the receipt of partner assistance. Let us take a closer look at these three pressing issues. Let us start with the weapons trade. This

issue has become relevant for Ukraine since the beginning of Russian aggression in 2014 when civilians gained extensive access to weapons brought from the war zone. However, it should be emphasized that Ukraine faces the problem of illegal firearms trafficking due to the conflict and corruption schemes that allow criminals to avoid responsibility and gain access to weapons. This situation arises when corrupt practices include illegally transferring weapons to persons not authorized to possess them. The issue is quite complex. Weapons are manufactured and sold both legally and illegally, making it difficult to track the identification of illegally manufactured weapons. In addition, a significant proportion of firearms are manufactured legally but then illegally enter the black market. According to the UN Global Firearms Trafficking Survey (United Nations Office on Drugs and Crime 2020), a significant proportion of these weapons originate from official sources but end up on the black market after being legally exported (United Nations Office on Drugs and Crime 2020). Arms trafficking, like other aspects of illegal activity, uses new distribution channels, which leads to an increase in illicit trafficking and makes it more difficult to control. Globalization contributes to the spread of international crime, including arms trafficking, and reinforces other negative phenomena, such as drug trafficking, human trafficking, terrorism and extremism, which can affect national security.

It is worth emphasizing here that illegal weapons trafficking, smuggling and corruption often take on the character of cross-border crimes and can spread rapidly across international borders and affect several countries simultaneously. Countering such offences helps to reduce their spread. Therefore, it is now very important for Ukraine to counter this problem to protect its society and prevent the flow of weapons to other countries. In this context, it is possible and necessary to apply EU practices and the latest approaches proposed by the European Commission to overcome corruption schemes that lead to the illegal proliferation of weapons. International cooperation and information exchange between countries and international organizations are needed to combat cross-border crimes. This helps to establish common standards and increase the effectiveness of combating such offences.

There are also many questions about corruption at customs control, which, among other things, causes the problem of smuggling. This is a serious problem, and martial law only exacerbates it because such things affect the economy and trust in State institutions. Some customs officials may extort money or throw obstacles in the way of importing and exporting goods to gain illegal benefits. Such illegal actions can lead to large financial losses for businesses and create unclear conditions for entrepreneurs. Moreover, similar “demands” were often made to foreigners and persons who transferred humanitarian aid, care and assistance to the armed forces of Ukraine. It is unnecessary to emphasize the damage this does to the defence system and national security in general. The government and anti-corruption authorities are working on measures to combat corruption at customs, such as introducing electronic customs control systems and increased transparency of processes. It is also important to promote public awareness and engage citizens in cooperating in detecting and preventing corruption at customs.

This also raises the issue of illegal receipt and disposal of humanitarian cargo. Corruption leads to the fact that humanitarian resources, such as food, medicine and other necessary equipment, are used by unscrupulous individuals or

redistributed for personal enrichment rather than for those who actually need help. Starting from 3 April 2022, when the amendments to the CCU related to the criminalization of the illegal use of humanitarian aid, charitable donations or free aid for profit came into force, law enforcement officers were able to open relevant criminal proceedings. Thus, part one of Article 201-2 of the CCU provides for punishment for the sale of humanitarian aid goods (items) or the use of charitable donations, free aid or the conclusion of other transactions for the disposal of such property for profit, committed in a significant amount (Shevchuk and Bodnaruk 2022). In this way, the State is trying to counteract such crimes, which harm the entire national security and defence system.

During martial law, the impact of corruption in the defence sector becomes particularly dangerous and critical. Corruption can seriously undermine the efficiency and functioning of the military machine and defence infrastructure. In addition, corruption can cause leakage of strategic information and important defence data. In addition, dishonest actions by military leaders that result in the procurement of inadequately prepared or even low-quality weapons and equipment can significantly impair defence capabilities and military operations. All this requires significant efforts to counteract.

Given the above, the authors of this article can assume the country represented by authorized bodies continues to fight not only on the battlefield but also within the State, trying to prevent corruption or punish crimes already committed. Currently, the State's hard times only contribute to the importance and relevance of this fight, which requires both legal regulation and implementation in practice.

RESULTS AND DISCUSSION

Liability for Corruption-related Crimes under the Legislation of Ukraine

The terms “corruption-related crimes” and “corruption offences” are often used interchangeably, but there can be subtle differences in their meanings depending on the legal system and context. First, corruption-related crimes refer to criminal activities that are directly linked to acts of corruption or involve corrupt practices. These crimes are typically defined and penalized under criminal law. Examples of corruption-related crimes include bribery, embezzlement, money laundering, fraud, extortion and abuse of office. These crimes are often considered more serious and can result in severe legal consequences, such as imprisonment or substantial fines. The CCU (Verkhovna Rada of Ukraine 2001) defines the following crimes as corruption-related offences:

- Article 191 about misappropriation, embezzlement, or the unlawful seizure of property through the abuse of one's official position;
- Article 262 about theft, misappropriation, or extortion of firearms, ammunition, explosives, or radioactive materials, as well as their acquisition through fraudulent means or the abuse of one's official position;
- Article 308 about stealing, misappropriation, or extortion of narcotic drugs, psychotropic substances, or their analogues, or obtaining them through fraudulent methods or the abuse of one's official position;

- Article 312 about stealing, misappropriation, or extortion of precursors, or obtaining them through fraudulent means or the abuse of one's official position;
- Article 313 about extortion of equipment intended for the production of narcotic drugs, psychotropic substances, their analogues, or any actions involving such equipment through fraudulent means or abuse of official position;
- Article 320 about the breach of the established regulations governing the circulation of narcotic drugs, psychotropic substances, their analogues, or precursors;
- Article 357 about theft, misappropriation, extortion of documents, stamps, seals, their acquisition by fraudulent methods or abuse of official position, or causing damage to them;
- Article 410 about the theft of weapons, ammunition, explosives, or other munitions, vehicles, military and specialized equipment, or other military property by a serviceman and their acquisition through fraudulent means or abuse of official position.

Second, corruption offences are a broader category encompassing various acts, behaviours, or actions considered corrupt. They may not always result in criminal charges but can still violate ethical, administrative or regulatory standards. Corruption offences can include minor or less severe transgressions, such as conflicts of interest, unethical conduct, or violations of administrative or professional codes of conduct. While corruption offences may not always lead to criminal prosecution, they can still lead to disciplinary actions, loss of employment, or civil penalties.

Among them (Verkhovna Rada of Ukraine 2001):

- Article 210 about unlawful use of budgetary funds, budget expenditures, or the provision of budget loans without established budgetary purposes or in excess of it;
- Article 354 about bribery of an employee of an enterprise, institution, or organization;
- Article 364 about the misuse of power or official position;
- Article 364-1 about the misuse of authority by an official of a private law legal entity, regardless of its organizational and legal form;
- Article 365-2 about the misuse of authority by individuals providing public services;
- Article 368 about acceptance of a proposal, promise, or receipt of an unlawful benefit by a public official;
- Article 368-2 about illicit enrichment;
- Article 368-3 about bribery of an official of a private law legal entity, regardless of its organizational and legal form;
- Article 368-4 about bribery of a person providing public services;
- Article 369 about offering, promising, or giving an unlawful benefit to an official;
- Article 369-2 about misuse of influence.

It is important to note that these terms' exact definitions and classifications may vary from one jurisdiction to another. In some legal systems, certain acts classified as corruption offences might still lead to criminal charges, while in others, they may not. Therefore, understanding the specific legal framework and terminology in a given jurisdiction is crucial for a precise interpretation. In order not to confuse the reader, when using the term corruption-related crimes in this article, the author means both categories of corruption.

Ukraine has launched a systemic fight against corruption since the Revolution of Dignity. First of all, anti-corruption legislation was developed in this area. In its system, the new special law, amendments to the legislation in counteraction to crime, by-laws, and the norms of international conventions implemented in national legislation play a key role. The Law of Ukraine "On Prevention of Corruption" as of 2014 (National Agency on Corruption Prevention 2022a) establishes the legal and organizational grounds for the functioning of the anti-corruption system in Ukraine, defines a list of preventive anti-corruption mechanisms and measures to prevent corruption, regulates the procedure for their application, and determines rules for eliminating the consequences of corruption-related offences. According to this Law, corruption is the use by a particular person of granted official powers or related opportunities to obtain an unlawful benefit or accept such a benefit or accept a promise/offer of such a benefit for themselves or others or upon their request to other individuals or legal entities in order to persuade the person to use the official powers or related opportunities unlawfully (Law of Ukraine "On Prevention of Corruption" 2014; see National Agency on Corruption Prevention 2022a).

The importance of the issue related to the activities of anti-corruption agencies finds its confirmation at the international level. Thus, the UN Convention against Corruption (United Nations Office on Drugs and Crime 2004) and the Criminal Law Convention on Corruption of 1999 (Council of Europe 1999) are worth noting. Thus, Article 20 of the Criminal Law Convention on Corruption (Council of Europe 1999) states that each party to the Convention shall adopt appropriate complex measures to establish specialized authorities and ensure training of the staff of such entities to combat corruption. Such persons shall have the necessary autonomy to perform their functions effectively and impartially and be free from any pressure. The State shall ensure that such staff have adequate training to perform their proper anti-corruption tasks (Council of Europe 1999).

Article 6 of the UN Convention against Corruption (United Nations Office on Drugs and Crime 2004) also provides for establishing bodies to combat corruption. Its provisions stipulate that each State party to the Convention shall ensure the existence of a body or bodies, as appropriate, that prevent corruption by the following means: implementing anti-corruption policies, overseeing and coordinating the implementation of these policies, and increasing and disseminating knowledge about the prevention of corruption. Establishing such bodies shall follow the fundamental principles of the State's legal system. At the same time, the State shall guarantee such bodies an adequate level of independence in their activities to enable them to carry out their functions effectively and freely from any undue influence. It is also incumbent upon the State to train representatives of such bodies (United Nations Office on Drugs and Crime 2004).

Thus, the analysis of the considered international documents makes it possible to argue that establishing anti-corruption bodies in Ukraine arises out of the norms of international law on anti-corruption (National Agency on Corruption Prevention 2020). The creation of relevant bodies was also due to the high level of corruption in Ukraine, which the State had to overcome. Many countries enforce an anti-corruption policy; consequently, there is a large variety of methods to combat corruption (Holovkin 2018). Therefore, Ukraine can adopt the best international practices for combating bribery.

The legislative support of criminal law measures against corruption elicited many debates in the legal literature. These issues are as follows: the success and effectiveness of the version of the delimitation of criminal liability for official abuses in public and private spheres enshrined in the Criminal Code; the limits of the perception of international legal standards against corruption; the feasibility of limiting numerous preferential provisions of the criminal law act to persons who committed corruption crimes; their list; the concept of “public services”, and more (Dudorov *et al.* 2019).

Notably, the legislation of Ukraine stipulates several types of liability for corruption-related crimes, namely, disciplinary, administrative, civil and criminal. Special attention should be paid to criminal liability for bribery (Vozniuk 2021). The CCU provides appropriate penalties; in particular, the provisions of Section XVII, “Crimes in the field of official activity, and activities related to the provision of public services”, envisage that the guilty person can be prosecuted for the following violations: abuse of power or official position; declaration of false information; acceptance of an offer, promise or receipt of an unlawful benefit by an official; bribery of a person providing public services; offer, promise or provision of an unlawful benefit to an official; abuse of power by persons providing public services; unlawful enrichment (Khavroniuk 2018).

In addition, criminal liability provides for confiscating property and funds for corruption and corruption-related offences. Thus, the legislation of Ukraine has substantive and institutional anti-corruption mechanisms, which can be crucial tools for combating bribery if effectively implemented.

In general, liability for corruption provides for several legal sanctions and penalties to punish those guilty of corrupt practices. First, criminal punishment, *i.e.*, persons who commit corruption offences may be held criminally liable, including imprisonment, high monetary fines or other sanctions under the law. The next type is disciplinary measures. In cases where officials or employees of State institutions commit corrupt acts, disciplinary liability may be imposed, such as dismissal, disciplinary measures or disqualification from holding office. Finally, property liability may be imposed. Persons who enrich themselves illegally through corrupt schemes may be deprived of their ill-gotten property or be liable for an amount equivalent to the illegal enrichment.

Impact of Hostilities on Anti-corruption Legislation

On 24 February 2022, the Russian Federation launched large-scale hostilities related to the military aggression against Ukraine on the territory of Ukraine. Volodymyr Zelenskyy, the President of Ukraine, signed Presidential Decree No. 64/2022, “On the Imposition of Martial Law in Ukraine,” on the same day (Verkhovna Rada

of Ukraine 2022a). The legal nature of martial law provides for temporary, due to the military threat, restriction of constitutional rights and freedoms of a person and a citizen and the rights and legitimate interests of legal entities, indicating the duration of these restrictions. It also imposes stricter liability under criminal law for committed crimes. It is also worth noting that martial law will remain in force in Ukraine until the military conflict is over. Thus, the last extension of martial law took place on 15 August 2022, on the grounds of the relevant Decree of the President of Ukraine (Verkhovna Rada of Ukraine 2022a). By this Decree, martial law was extended in Ukraine for 90 days. Accordingly, the extension of martial law implies that all its consequences continue, including anti-corruption measures taken during the period of such a state.

On 7 March 2022, Law No. 2117-IX amended the CCU to enhance liability for crimes under Articles 185, 186, 187, 189 and 191 of the CCU, committed under martial law. According to these crimes, misappropriation, embezzlement or conversion of property by abuse of office is a corruption crime. On 4 May 2022, Draft Law No. 7348, “On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Corruption Acts under Martial Law” was registered (Verkhovna Rada of Ukraine 2022b).

The Draft Law proposes to amend Article 111 of the CCU and supplement it with paragraph 3, which states the following:

3. During the period of martial law and for one year after its termination or cancellation, high treason shall be considered unlawful enrichment when a person authorized to perform the functions of the state or local self-government obtains assets, the value of which exceeds their legal income by more than six thousand five hundred tax-free minimum incomes of citizens.

The draft law stipulates that such crimes shall be punishable by imprisonment for up to 15 years or a life sentence. In addition, the punishment under the Draft Law implies the confiscation of the property of an official found guilty and the deprivation of the right to occupy certain positions or engage in certain activities (Verkhovna Rada of Ukraine 2022b). Thus, the legislator equates corruption-related crimes under martial law with high treason and provides for appropriate punishment, thereby emphasizing the high negative impact of corruption on the activities of the State and society in the context of war. The Draft Law contains numerous explanatory notes in addition to the proposed amendments to the CCU. In particular, officials who occupy responsible positions shall mean persons referred to in paragraph 1 of Article 3 of the Law of Ukraine “On Prevention of Corruption” 2014 (National Agency on Corruption Prevention 2022a).

The explanatory note also clarifies the issue of acquisition of assets, by which the legislator understands the receipt of such assets by the authorized person in direct ownership or their receipt by a third party with the complicity of the person authorized to perform the functions of the State or local self-government and provided that it is proven that a person can directly or indirectly commit actions identical in content to the right of disposal. In addition, the Draft Law provides that the concept of “assets” includes cash, property, intangible assets or property rights, cryptocurrency or services. The authors of this article hold that including such a

wide range in the list of assets is a positive practice in interpreting this concept since it narrows the possibility of finding ways to evade the law for unlawful enrichment.

Moreover, the authors of this article believe it is a progressive decision to include cryptocurrency in this list since it is a popular digital asset now, which can be used to create corruption schemes. The only controversial point here is the procedure for monitoring cryptocurrency assets, which is practically impossible now, provided the person does not exchange them for fiat currency by receiving them at a bank or card account. Since the legislator mentions cryptocurrency as one of the possible assets of unlawful enrichment, it indicates that this currency has attracted considerable attention as a potential bribe and should have State monitoring to prevent corruption. The Draft Law also determines that “legal assets” include all income lawfully obtained by a person from legal sources (Verkhovna Rada of Ukraine 2022b).

It is worth emphasizing that in August 2023, President Zelenskyy said that he wanted to submit a bill to the Verkhovna Rada to equate wartime corruption with high treason. In this case, not only special anti-corruption bodies will be able to investigate corruption crimes, but also the Security Service of Ukraine (SBU) (Tyshchenko 2023). It is worth noting that this initiative has sparked lively debate in society and international organizations. For example, the rapporteur on Ukraine in the European Parliament, M. Gahler, warned that it would be inappropriate to shift the fight against corruption to the SBU by renaming corruption as high treason:

The fight against corruption in all areas where large amounts of public and private money are involved was important before the war, is even more important during the war and will remain a challenge afterwards when much money will be spent on reconstruction and the pre-accession agenda. Therefore, it is in the common interest of the Ukrainian government, parliament, anti-corruption institutions, civil society, and international donors to put safeguards in place to ensure that financial resources are used properly.

He emphasizes that this may give the impression that the purpose of such an initiative is to enable the authorities to control corruption cases and determine their fate, especially when it comes to cases against high-ranking officials (European Parliament Multimedia Centre 2023).

The Vice-Chair of the European Parliament’s delegation to the EU–Ukraine Parliamentary Association Committee, V. von Cramon, also criticized Zelenskyy’s idea: “I am concerned about President Zelenskyy’s latest initiative to fight corruption. I see it as an attempt to get rid of political opponents. It is not aimed at strengthening the existing anti-corruption institutions, but at giving significant powers to the Security Service of Ukraine” (European Parliament Multimedia Centre 2023).

The anti-corruption movement Transparency International Ukraine also believes that equating corruption with high treason in Ukraine in wartime is a very bad idea. They emphasize that such initiatives are more about fighting the symptoms than the disease. Corruption is treason on a metaphorical level, not a legal one. It is a systemic problem that has no “simple solutions”. Ukraine is already working in the right direction, so we should follow this path for seemingly quick but very risky solutions, even during the war (TI Ukraine 2023).

Indeed, such an initiative and law project look more like a loud statement for an internal audience than one that can be implemented. This approach raises many risks. First, there is the risk of politicization. With this equation of corruption with treason, there is a high risk of politicizing court decisions and persecution of opposition groups. Politicians can use this argument to suppress opposition opinions and criticism of the government by calling them “treason”.

Second, the problem is manifested in the vagueness of the concepts. Definitions of corruption and treason may vary in different contexts and countries. This can lead to misunderstandings and abuses in determining when and how these concepts are applied.

Third, it threatens rights and freedoms and can restrict citizens’ rights and freedoms, such as freedom of speech and the right to a fair trial. Authorities can use this to justify restricting civil rights in an unhealthy way.

Finally, fourth, it negatively affects existing independent anti-corruption institutions. Attempts to apply the concept of high treason to corruption may undermine the independence of the judiciary and other oversight institutions, which are essential for ensuring equality before the law and the recognition of citizens’ rights.

Instead of equating corruption with high treason, treating it as a separate crime and developing effective strategies and mechanisms to prevent and combat it is better. This will ensure fair and independent justice and respect for the rights of citizens without restricting freedom of speech and other civil rights.

It is also worth considering the Anti-Corruption Strategy for 2021–2025, approved by the Law of Ukraine No. 2322-IX, “On the Principles of State Anti-Corruption Policy for 2021–2025” (Verkhovna Rada of Ukraine 2022c). The strategy is based on a combination of the following approaches: the main directions for further improvement of the general system of preventing and combating corruption are identified, and the most priority areas for overcoming corruption are determined. A balanced combination of these approaches will help reduce corruption, increase public confidence in the authorities, and intensify socio-economic growth in Ukraine. The structure of the Anti-Corruption Strategy is clear and understandable. It contains a list of priority areas that need improvement in the fight against corruption, enumerates specific problems that exist in this area, and establishes a list of measures to be implemented to overcome them. These priority areas include the following: fair trial, prosecutor’s office and law enforcement agencies; State regulation of the economy; construction, land relations and infrastructure; health care, education and science, and social protection.

Given the current situation, it is reasonable to pay special attention to the principles of combating corruption in the defence sector. Section 3.6 of the Strategy is devoted to this issue. It lists numerous problems that currently exist in the relevant sector. This section determines the following problems: opaque and inefficient use and disposal of defence lands and real estate objects in the defence-industrial complex; excessive regime of procurement classification in the defence sector, which leads to a low level of competition and abuse and misappropriation of budget funds; inefficient model of control of defence products in the production process; misallocation of budget funds and abuse while providing housing for servicemen; corruption risks while forming and implementing personnel policy in

the field of defence (Verkhovna Rada of Ukraine 2022c). The strategy constitutes relevant problems existing in the Ukrainian defence–industrial complex, which currently represents a key to the protection of Ukrainian statehood, independence and territorial integrity in accordance with the principles of international law. Therefore, it is crucial to find solutions to the above problems, given the framework of the overall fight against corruption and a specific historical period of the State’s immense complexity to preserve its sovereignty. The strategy determines specific measures to be implemented in order to overcome the stated problems.

It is worth highlighting some by-laws that are crucial for overcoming corruption in key areas of the defence sector. These by-laws are the Resolution of the Cabinet of Ministers of Ukraine No. 169, On Some Issues of Defense and Public Procurement of Goods, Works and Services under Martial Law (Cabinet of Ministers of Ukraine 2022a) and the Resolution of the Cabinet of Ministers of Ukraine No. 561, On Some Issues of State Financial Control under Martial Law (Cabinet of Ministers of Ukraine 2022b). The first-mentioned Resolution regulates the public procurement of goods, works and services to meet the urgent needs of the State functioning under martial law. It envisages a public procurement procedure with a list of established requirements (Cabinet of Ministers of Ukraine 2022a).

The second-mentioned Resolution establishes that the State Audit Service and its interregional territorial agencies exercise their powers, considering various features imposed by martial law during and for a month after its termination or cancellation (Cabinet of Ministers of Ukraine 2022b).

The authors of this article emphasize that the Explanation No. 2 of 28.02.2022 on the application of particular provisions of the Law of Ukraine “On Prevention of Corruption” regarding measures of financial control under martial law discloses the issues related to financial control (National Agency on Corruption Prevention 2022a). This document contains explanations, methodological and advisory assistance, in particular, on the application of the provisions of the Law and the regulations adopted for its implementation. It establishes the procedure for various relevant issues elicited by Russia’s military aggression. The first thing to note is the issue of the declaration and submission of a notice of significant changes in property status concerning property and funds received from 24 February 2022 by the declaring subject. The Explanation states that all funds collected for the needs of the Armed Forces of Ukraine are not considered income and are not subject to declaration.

It is necessary to consider the features of submitting an annual tax return in 2022 and the deadline for submitting a notice of significant changes in property status. The document states that it is obligatory to submit the annual tax return by 1 April and report the corresponding changes in property status within 10 days. However, the Explanation emphasizes that the declaring subjects shall not lose time filling and submitting the declaration until clean victory in the war and the cancellation of martial law (National Agency on Corruption Prevention 2022a). Thus, it is possible to argue that the State, represented by its bodies, is flexible with the declaring subjects and simplifies bureaucratic procedures to achieve a common goal – victory over the Russian aggressor.

It is also worth paying attention to the draft of the new CCU. Work on the draft of the new CCU is ongoing. The Working Group on the Development of Criminal

Law has largely completed the discussion of the General and Special Parts of the new Code. Over time, social values, technologies and social challenges change. The new Criminal Code may consider modern realities, such as cybercrime, human rights requirements and more progressive approaches to criminal liability. In addition, the Criminal Code could be reviewed and adapted to harmonize it with international human rights and transnational crime standards.

It should be noted that the draft Code defines a corruption offence. A corruption criminal offence is any crime or misdemeanour provided for by this Code, which contains the following mandatory signs of corruption: (a) unlawful benefit – as the subject or means of a criminal offence; and (b) abuse or inducement to abuse, influence on decision-making or trading in influence – as a method of a criminal offence (EUAM Ukraine 2023).

In turn, a criminal offence related to corruption is any criminal offence provided for by this Code committed by a person referred to in Article 3(1) of the Law of Ukraine “On Prevention of Corruption” that violates the requirements, prohibitions or restrictions established by this Law, but does not contain signs of corruption (EUAM Ukraine 2023). Such a clear delineation of the types of corruption crimes is a significant positive for their classification and the choice of preventive measures and punishment.

It is important that the development of the new criminal Code is open and involves a wide range of non-governmental organizations, experts and civil society representatives to ensure broad support and adherence to the principles of justice and the rule of law.

State Measures to Combat Corruption under Martial Law

Despite the difficult situation caused by the war, the authorized bodies of the State continue to fight against the facts of corruption. For example, at the beginning of March 2022, the National Anti-Corruption Bureau of Ukraine (2022) sent an indictment to the High Anti-Corruption Court regarding the actions of a lawyer suspected of violation of the following articles of the CCU: paragraph 2 of Article 15 “Attempt to commit a criminal offence”; paragraph 4 of Article 27 “Types of accomplices”; paragraph 4 of Article 190 “Fraud”; paragraph 2 of Article 366-2 “Declaration of false information”; paragraph 3 of Article 369 “Offer, promise or provision of an unlawful benefit to an official” (Verkhovna Rada of Ukraine 2001). In accordance with the circumstances of the case, the accused lawyer, together with an accomplice, promised another person to agree with a judge of one of the courts to make a favourable decision with the business entity for \$100,000.

After the investigation, the suspect seized antiques and cash in different currencies for a total amount of more than 130 million Ukrainian hryvnia (UAH 130 million) (National Anti-Corruption Bureau of Ukraine 2022). Thus, it is possible to assert that competent public authorities continue to exercise their powers to combat bribery in practice even though the country is in a state of war. The authors of this article consider this practice positive because all structures and representatives of public authorities have to carry out their activities fully to comply with the normal functioning of the State despite military difficulties.

Notably, the Anti-Corruption Court of Ukraine passed seven sentences on nine people for various corruption cases from 24 February to 3 June 2022. Furthermore, such court decisions directly influence the defence capacity of the State since the Anti-Corruption Court transfers funds received as bail to the needs of the Armed Forces of Ukraine. It is also worth emphasizing the significant work of the National Agency of Ukraine for finding, tracing, and management of assets derived from corruption and other crimes, which holds assets related to the war. In particular, Belarusian trucks, Russian aircraft and railway cars have already been transferred to the Agency (Borovyk 2022).

Even though Ukraine has been fighting corruption for a long time, this phenomenon still exists today. Unfortunately, even the military aggression of Russia against Ukraine did not completely stop the corrupt officials. Ukraine has already taken numerous measures and steps to overcome corruption, but they are still insufficient. Given the new conditions, it is necessary to take the following measures in this direction: to ensure that anti-corruption institutions can carry out their work based on their powers; to continue judicial reform; to return stolen assets of Ukraine; to use strategic tools to ensure transparent recovery (TI Ukraine 2022a).

The integration of Ukraine into the EU has accelerated since the beginning of the war; accordingly, the issue of combating corruption should change in the direction of the practice and legislation of the EU Member States (TI Ukraine 2022c). Corruption causes severe damage to the economy and society as a whole. First, corruption hinders economic growth and healthy business because it creates uncertainty, distorts competition and generates additional costs. According to the Euro-barometer survey conducted in 2017 in the field of business, four out of five companies in the EU consider corruption a problem in doing business. In particular, small companies hold such an opinion since they are less prepared for competition, and corruption in large amounts often goes hand in hand with tax evasion (Blanche *et al.* 2019).

Second, corruption is associated with severe and organized crime. Corruption is inherent in the activities of organized criminal groups engaged in illegal activities on a national, regional and global scale. According to Europol's *Serious and Organised Crime Threat Assessment* (SOCTA) report, 60% of organized criminal groups engaged in criminal business in the EU resort to corruption (Europol 2021). It is worth noting that corruption schemes in Ukraine, even during the war, were implemented to steal humanitarian aid, charitable donations and free assistance intended for military needs.

Thus, the SBU detained an organized criminal group that brought military products to Ukraine under the guise of humanitarian aid. Criminals took letters of guarantee from the military unit by fraud and imported almost 3000 flak jackets worth UAH 25 million for the alleged free transfer of the Armed Forces of Ukraine. In reality, they sold protective equipment via the Internet site for profit (Security Service of Ukraine 2022b). According to the Minister of Internal Affairs of Ukraine, law enforcement officers are investigating almost 250 criminal proceedings for theft of humanitarian aid for the army. One of the most common criminal schemes is the creation of fictitious charitable organizations to import cars of increased accessibility under the preferential procedure, with a zero customs clearance rate, as if it is charitable assistance for the Armed Forces of Ukraine. Subsequently, such cars are sold to the territorial defence forces, volunteer organizations, or armed groups at

a market price (Central Region Specialized Prosecutor's Office in the Field of Defense 2022). In addition, imported branded clothes, shoes and medicines are formalized as humanitarian aid. There are also reports of criminal business in the occupied territories associated with the paid evacuation of people from the combat zone.

A new type of criminal business conducted during the war in Ukraine was the unlawful crossing of the State border of Ukraine by persons subject to military service with forged medical documents to avoid mobilization. In criminal conspiracy, corrupt officials of local administrations with officials of medical institutions and military commissariats take bribes from men of conscription age for illegal registration of a disability group, which is the grounds for travel abroad under martial law (Security Service of Ukraine 2022a). During the war, military officials often resort to bribery to illegally liberate military conscripts by issuing falsified military registration documents (Central Region Specialized Prosecutor's Office in the Field of Defense 2022).

War creates a favourable environment for corruption. It opens up new "opportunities" for corrupt officials, and the focus of attention often shifts from these problems to the issue of protection and defence. In times of war, when governments and authorities may be deployed or lose control over certain territories, it becomes difficult to maintain effective control over finances and resources. This creates opportunities for abuse of power and corruption. Also, under martial law, when governments and authorities may be deployed or lose control over certain territories, it becomes difficult to maintain effective control over finances and resources. This creates opportunities for abuse of power and corruption. These factors can contribute to the spread of corruption during armed conflict and make it more difficult to combat.

Consequently, in armed conflicts, corruption can seriously jeopardize resources, military preparedness and humanitarian assistance, causing negative humanitarian and security consequences. In addition, corruption can undermine the rule of law and post-war reconstruction, harming stability and security. Therefore, it is important to keep this issue under control and pay attention to preventing corruption to ensure the fair and effective use of resources and aid in conflict. This is especially true in countries where corruption is quite high. At the same time, we should maintain common sense and fight this phenomenon within the framework of the law and proper institutional powers.

CONCLUSION

In summary, the authors of this article note that the anti-corruption sphere of legal regulation is meritoriously represented by legislation and provided with an institutional mechanism. In this regard, it is expedient to raise the question of the limits of freedom of rule-making, the force of empty declarative articles in it, the feasibility of blind copying of foreign norms, and the admissibility of features where they are redundant. Even though there are legislation and institutional measures to combat corruption in Ukraine, its indicators are still quite high. The hostilities in the territory of Ukraine have worsened the situation even more.

World experience shows that an effective method for combating corruption is the establishment of specialized authorized bodies following national legislation.

Various relevant bodies exist in different countries. Ukraine also has a system of specialized anti-corruption bodies corresponding to international law and legal requirements. Establishing such bodies is an effective anti-corruption means, but real steps towards the fight against corruption require other measures to be taken. The legislator can apply particular methods and approaches of the EU and its Member States to combat corruption effectively. First, the anti-corruption policy requires the State to promote high standards of transparency and encourage civil society to combat bribery. In this regard, developing and adopting legislation protecting people reporting corruption cases is expedient.

It is also advisable for Ukraine to strengthen its mechanisms for monitoring the activities of authorized persons and the anti-corruption authorities. Ukraine should also consider expanding the cooperation and verification mechanism that verifies compliance with anti-corruption norms. Ukraine should update its existing criminal law instruments for punishment for committing relevant crimes. The example of the EU shows that it took inspiration from legislative innovations experimented with by some Member States when changing its criminal legislation. Finally, Ukraine should strengthen its countermeasures and measures to freeze and confiscate criminal assets so that corruption does not pay off.

Since the Verkhovna Rada of Ukraine (2022b) has submitted for approval the Draft Law No. 7348, “On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Corruption Acts under Martial Law”, the authors of this article can argue that Ukraine is already taking significant steps to improve anti-corruption measures in wartime in order to prevent destructive consequences of corruption, protect from armed aggression, and gain international recognition. The authors of the article believe that the share of anti-corruption regulation cannot be reduced under any circumstances.

Acknowledgements. The authors gratefully acknowledge the high-quality comments, suggestions and guidance provided by the referees and editorial staff of the *International Annals of Criminology* relative to the presentation of the material, the clarity of its argument and reasoning and the overall design and delivery of this article.

References

- Blanche, Méliissa, Adeline Depardon, and Félix Gros.** 2019. “EU Action against Corruption: Steps Forward and Setbacks in a Strategic Policy for Europe.” *European Juridical Training Network*, retrieved 20 July 2023 (<https://portal.ejtn.eu/PageFiles/17913/TH-2019-01%20TEAM%20FRANCE.pdf>).
- Borovyk, A.** 2022. “100 Days of Anti-corruption during the War.” *TI Ukraine*, 3 June 2022, retrieved 20 July 2023 (<https://ti-ukraine.org/blogs/100-dniv-antykoru-pid-chas-vijny>).
- Buriak, K.** 2020. “Features of Anti-corruption Legislation in the Countries of the European Union.” *Entrepreneurship, Economy and Law* 2:356–60.
- Cabinet of Ministers of Ukraine.** 2022a. “Resolution of the Cabinet of Ministers of Ukraine No. 169, On Some Issues of Defense and Public Procurement of Goods, Works and Services under Martial Law.” Retrieved 20 July 2023 (<https://zakon.rada.gov.ua/laws/show/169-2022-%D0%BF#Text>).
- Cabinet of Ministers of Ukraine.** 2022b. “Resolution of the Cabinet of Ministers of Ukraine No. 561, On Some Issues of State Financial Control under Martial Law.” Retrieved 20 July 2023 (<https://zakon.rada.gov.ua/laws/show/561-2022-%D0%BF#Text>).
- Central Region Specialized Prosecutor’s Office in the Field of Defense.** 2022. “Acting Military Commissar in Zhytomyr Oblast Detained for Taking a Bribe.” Retrieved 20 July 2023 (https://vppnr.gp.gov.ua/ua/news.html?_m=publications&_t=rec&id=310424).

- Council of Europe.** 1999. "Criminal Law Convention on Corruption." *European Treaty Series* No. 173, 27 January 1999, retrieved 20 July 2023 (<https://rm.coe.int/168007f3f5>).
- Dudorov, O. O., T. O. Kolomoiets, S. M. Kushnir, and O. L. Makarenkov.** 2019. *General Theoretical, Administrative and Criminal-Legal Grounds for the Conceptualization of Anti-Corruption Reform in Ukraine: A Collective Monograph*. Zaporizhzhia: Helvetyka Publishing House.
- EUAM Ukraine.** 2023. "New Criminal Code: The Text of the Project of the New Criminal Code of Ukraine." Retrieved 19 October 2023 (<https://newcriminalcode.org.ua/criminal-code>).
- European Commission.** 2023. "Migration and Home Affairs: EU Legislation on Anti-corruption." Retrieved 26 September 2023 (https://home-affairs.ec.europa.eu/policies/internal-security/corruption/eu-legislation-anti-corruption_en).
- European Parliament Multimedia Centre.** 2023. "AFET-BUDG." European Parliament, 30 August 2023, retrieved 20 September 2023 (https://multimedia.europarl.europa.eu/en/webstreaming/afet-budg_20230830-1115-COMMITTEE-AFET-BUDG).
- Europol.** 2021. *European Union Serious and Organised Crime Threat Assessment. A Corrupting Influence: the Infiltration and Mine Action of Europe's Economy and Society by Organised Crime*. Luxembourg: Publications Office of the European Union.
- Grubiša, Damir.** 2013. "Anti-Corruption Policy in Croatia: a Benchmark for EU Accession." retrieved 20 July 2023 (https://eu.boell.org/sites/default/files/uploads/2013/12/anti-corruption_croatia.pdf).
- Grynchak, Alla A., Yuliia S. Tavolzhanska, Serhii V. Grynchak, Viktor S. Smorodynskyi, and Kateryna V. Latysh.** 2022. "Convention for the Protection of Human Rights and Fundamental Freedoms as a Constitutional Instrument of European Public Order." *Public Organization Review* 23(2):825–38.
- Hall, Ben and Sam Fleming.** 2022. "Who Will Pay to Put Ukraine Back Together Again?" *Financial Times*, 11 May 2022, retrieved 20 July 2023 (<https://www.ft.com/content/179501fa-2bae-481b-bff4-54933eb74459>).
- Holovkin, Bohdan M.** 2018. "Mechanism for Corruption Prevention." *Journal of Kyiv University of Law* 4:254–60.
- Holovkin, Bohdan M., Oleksii V. Tavolzhanskyi, and Oleksandr V. Lysodyed.** 2021. "Corruption as a Cybersecurity Threat in the New World Order." *Connections* 20(2):75–87.
- Khavroniuk, M. I.** 2018. *Scientific and Practical Commentary to the Law of Ukraine "On the Prevention of Corruption"*. Kyiv: Vaite.
- Kolb, O. H. and L. M. Dumchynska.** 2020. "Corruption as One of the Threats to the National Security of Ukraine." *Penitentiary System: Yesterday. Today. Tomorrow* 1(7):14–22.
- Kovalchuk, I.** 2019. "Comparative Legal Characteristics of National and Foreign Anti-corruption Bodies." *Entrepreneurship, Economy and Law* 6:163–8.
- Kvasha, O. O.** 2020. "Political Will is a Necessary Condition for an Effective Fight against Corruption." *Legal State* 31:359–65.
- Lutsenko, Y.** 2019. "Legal Basis for the Formation and Implementation of Military Policy." *Scientific Notes of the Institute of Legislation of the Verkhovna Rada of Ukraine* 4:130–6.
- National Agency on Corruption Prevention.** 2020. *Report of the National Agency on Corruption Prevention*. Official Website of the National Agency on Corruption Prevention, retrieved 20 July 2023 (<https://nazk.gov.ua/wp-content/uploads/2021/04/NAZK-Zvit-za-2020-rik-15.04.2021-1.pdf>).
- National Agency on Corruption Prevention.** 2022a. "Explanation No. 2 of 28.02.2022 on the Application of Particular Provisions of the Law of Ukraine 'On Prevention of Corruption' Regarding Measures of Financial Control under Martial Law." Official Website of the National Agency on Corruption Prevention, retrieved 20 July 2023 (<https://nazk.gov.ua/uk/documents/roz-yasnennya-vid-28-02-2022-2-shhodo-zastosuvannya-okremyh-polozhen-zakonu-ukrayiny-pro-zapobigannya-koruptsiyi-stosovno-zahodiv-finansovogo-kontrolyu-v-umovah-voyennogo-stanu>).
- National Agency on Corruption Prevention.** 2022b. "NACP Receives Data from the State Customs Service and the European Customs Authorities that Will Allow the Identification of Illegal Cash from Officials Crossing the Border." Official Website of the National Agency on Corruption Prevention, retrieved 20 July 2023 (<https://nazk.gov.ua/uk/novyny/nazk-otrymuye-vid-derzhmysluzhby-ta-mytnyh-organiv-krayinyevropy-dani-yaki-dozvolyat-vyavlyaty-nezakonnu-gotivku-u-posadovtsiv-shho-peretynayut-kordon>).
- National Anti-Corruption Bureau of Ukraine.** 2022. "Case against Two Lawyers is Taken to Court." Official Website of the National Anti-Corruption Bureau of Ukraine, 14 March 2022, retrieved 20 July 2023 (<https://nabu.gov.ua/novyny/spravu-stosovno-dvoh-advokativ-skerovano-do-sudu>).

- Orlovskiy, Ruslan, Roman Shapoval, and Olga Demenko.** 2018. "Possibilities of Adapting the Typologies of the International Standards for Establishing Criminal Liability for Corruption-Related Crimes in Ukraine." *Journal of Eastern European and Central Asian Research* 5(2):1–12.
- Pishchanska, M. O. and Ya. P. Pavlovych-Seneta.** 2016. "International Activity and Experience of Foreign Countries in the Field of Combating Corruption." *Scientific Bulletin of the Lviv State University of Internal Affairs* 3:50–61.
- Security Service of Ukraine.** 2022a. "The Security Service of Ukraine Eliminated Four Large-scale Channels of Illegal Departure of Men Abroad." *Official Website of the Security Service of Ukraine*, retrieved 20 July 2023 (<https://ssu.gov.ua/novyny/sbu-likvidovala-chotyry-masshtabni-kanaly-nelehalnoho-vyzducholovikiv-za-kordon>).
- Security Service of Ukraine.** 2022b. "The SBU Blocked a Million-dollar Scheme to Steal Military Ammunition in the Lviv Region." *Official Website of the Security Service of Ukraine*, retrieved 20 July 2023 (<https://ssu.gov.ua/novyny/sbu-zablokuvala-milionnu-skhemu-rozkradannia-viiskovoi-amunitsiina-lvivshchyni>).
- Shevchuk, A. V. and O. M. Bodnaruk.** 2022. "Criminal Liability for Embezzlement of Humanitarian Aid." *Scientific Bulletin of Uzhhorod National University* 72(2):184–91.
- TI Ukraine.** 2022a. "Anti-corruption as a Critical Condition for Sustainable Recovery." *TI Ukraine*, retrieved 20 July 2023 (<https://ti-ukraine.org/research/antykoryupciya-yak-krytychna-umova-stalogo-vidnovlennya>).
- TI Ukraine.** 2022b. "Corruption and Abuse during the War: What to Do." *TI Ukraine*, retrieved 20 July 2023 (<https://ti-ukraine.org/news/koryupciya-ta-zlovzhyvannya-pid-chas-vijny-shho-robyty>).
- TI Ukraine.** 2022c. "Ukraine is a Candidate for the EU. What Does it Mean for Anti-corruption." *TI Ukraine*, retrieved 20 July 2023 (<https://ti-ukraine.org/news/ukrayina-kandydat-do-yes-shho-tse-oznachaye-dlya-antykoryupciyi>).
- TI Ukraine.** 2023. "6 Reasons Not to Equate Corruption with High Treason." *TI Ukraine*, 28 August 2023, retrieved 20 September 2023 (https://ti-ukraine.org/news/6-prychyn-chomu-koryupciyu-ne-mozhna-pryrivnyaty-do-derzhzrady/?fbclid=IwAR0IKHgdTHB6tqHQ2t1o2R0SBo5C_lr-Z_A-N6f7Q2O0ZXn-Z2XmHyBmws).
- Tyshchenko, K.** 2023. "Zelenskyy Wants to Equate Wartime Corruption to Treason." *Ukrainska Pravda*, 27 August 2023, retrieved 18 October 2023 (<https://www.pravda.com.ua/news/2023/08/27/7417309>).
- United Nations Office on Drugs and Crime.** 2004. *United Nations Convention against Corruption*. Retrieved 20 July 2023 (https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf).
- United Nations Office on Drugs and Crime.** 2020. *Global Study on Firearms Trafficking 2020*. March 2020, retrieved 19 October 2023 (https://www.unodc.org/documents/data-and-analysis/Firearms/2020_REPORT_Global_Study_on_Firearms_Trafficking_2020_web.pdf).
- Verkhovna Rada of Ukraine.** 2001. "Criminal Codex of Ukraine." Retrieved 20 July 2023 (<https://zakon.rada.gov.ua/laws/show/2341-14#Text>).
- Verkhovna Rada of Ukraine.** 2022a. "Decree of the President of Ukraine No. 573/2022, On the Extension of Martial Law in Ukraine." Retrieved 20 July 2023 (<https://zakon.rada.gov.ua/laws/show/573/2022#Text>).
- Verkhovna Rada of Ukraine.** 2022b. "Draft Law No. 7348, On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Corruption Acts under Martial Law." Retrieved 20 July 2023 (<https://itd.rada.gov.ua/billInfo/Bills/pubFile/1288571>).
- Verkhovna Rada of Ukraine.** 2022c. "Law of Ukraine No. 2322-IX, On the Principles of State Anti-Corruption Policy for 2021–2025." Retrieved 20 July 2023 (<https://zakon.rada.gov.ua/laws/show/2322-20#Text>).
- Verkhovna Rada of Ukraine.** 2022d. "Law of Ukraine No 389-VIII, On the Legal Regime of Martial Law." Retrieved 30 October 2023 (<https://zakon.rada.gov.ua/laws/show/389-19#Text>).
- Vozniuk, A.** 2021. "Corruption Criminal Offenses: Conceptual Problems in the Context of Reforming the Criminal Legislation of Ukraine." *Law Journal of the National Academy of Internal Affairs* 20(2):21–32.
- Vozniuk, A., O. Dudorov, A. Tytko, and R. Movchan.** 2020. "Implementation of UN and EU Recommendations on Criminalization of Organized Crimes." *Amazonia Investiga* 9(28):234–40.
- Zaika, S.** 2015. "Characteristics of the Anti-corruption Legislation of Ukraine." Retrieved 20 October 2023 (<http://elar.naiua.kiev.ua/jspui/handle/123456789/7938>).

TRANSLATED ABSTRACTS

Abstracto

El artículo tiene como objetivo proporcionar un análisis teórico y práctico integral de las cuestiones en la regulación legal de la prevención de la corrupción, estudiar el estado de la lucha contra la corrupción y la legalización del producto de los delitos relacionados con la corrupción bajo la ley marcial, determinar nuevos riesgos de corrupción durante una guerra y sugerir recomendaciones para minimizarlos. Los autores de este artículo establecieron los principales problemas que causan la aparición y propagación de la corrupción en la sociedad y las formas de superar este fenómeno. Los resultados del estudio determinaron que los organismos independientes de lucha contra la corrupción y los organismos encargados de hacer cumplir la ley han proseguido sus actividades preventivas y de aplicación de la ley incluso en condiciones de guerra; su propósito era garantizar el funcionamiento normal del Estado, la capacidad de defensa del país y la seguridad de la sociedad. En las actividades legislativas y de aplicación de la ley, esta labor de investigación puede ayudar a mejorar las relaciones internacionales entre Ucrania y otros países en el contexto del desarrollo de relaciones bilaterales relativas a la prestación de asistencia a Ucrania para la recuperación de la guerra, atracción de inversiones, lucha contra la corrupción y posible adhesión a la Unión Europea.

Palabras clave corrupción; ley marcial; soborno; actividades anticorrupción; seguridad

Abstrait

L'article vise à fournir une analyse théorique et pratique complète des questions dans la réglementation juridique de la prévention de la corruption, étudier l'état de la lutte contre la corruption et la légalisation des produits des crimes liés à la corruption en vertu de la loi martiale, déterminer les nouveaux risques de corruption pendant une guerre et proposer des recommandations pour leur minimisation. Les auteurs de cet article ont établi les principaux problèmes qui causent l'émergence et la propagation de la corruption dans la société et les moyens de surmonter ce phénomène. Les résultats de l'étude ont établi que les organismes indépendants de lutte contre la corruption et les organismes d'application de la loi autorisés ont poursuivi leurs activités de prévention et d'application de la loi même dans des conditions de guerre; leur but était d'assurer le fonctionnement normal de l'État, la capacité de défense du pays et la sécurité de la société. Dans le cadre des activités d'élaboration de lois et d'application de la loi, ce travail de recherche peut aider à améliorer les relations internationales entre l'Ukraine et les pays étrangers dans le contexte du développement des relations bilatérales en ce qui concerne la fourniture d'une aide à l'Ukraine pour la reprise de la guerre, l'attrait des investissements, la lutte contre la corruption et l'adhésion possible à l'Union Européenne.

Mots-clés corruption; loi martiale; activités anti-corruption; sécurité

抽象的

本文旨在对预防腐败法律规制中存在的问题进行全面的理论和实践分析,研究戒严下打击腐败和腐败相关犯罪所得合法化的状况,确定战争期间新的腐败风险,并提出尽量减少腐败风险的建议。本文的作者确立了导致腐败在社会中出现和传播的主要问题以及克服这一现象的途径。研究表明,独立的反腐败机构和授权的执法机构即使在战争条件下也继续开展预防和执法活动;其目的是确保国家正常运作、国家防御能力和社会安全。在立法和执法活动中,这项研究工作有助于在发展双边关系的背景下改善乌克兰与外国之间的国际关系,这些关系涉及向乌克兰提供战后恢复援助、吸引投资、打击腐败和可能加入欧洲联盟。

关键词 腐败; 戒严; 贿赂; 反腐; 保安。

مجرد

تهدف المقالة إلى تقديم تحليل نظري وعملي شامل للمسائل في التنظيم القانوني لمنع الفساد، ودراسة حالة مكافحة الفساد وإضفاء الشرعية على عائدات الجرائم المتعلقة بالفساد بموجب الأحكام العرفية، وتحديد مخاطر الفساد الجديدة أثناء الحرب، واقتراح توصيات لتقليلها. حدد واضعو هذه المادة المشكل الرئيسي التي تسبب ظهور الفساد وانتشاره في المجتمع وسبل التغلب على هذه الظاهرة. وأثبتت نتائج الدراسة أن وكالات مكافحة الفساد المسبقة وأجهزة إنفاذ القانون المأذون لها تواصل الأنشطة الوقائية وأنشطة إنفاذ القانون حتى في ظل ظروف الحرب؛ والغرض منها هو ضمان سير العمل العددي للدولة، والقدرة الدفاعية للبلد، وأمن المجتمع. وفي أنشطة وضع القوانين وإنفاذ القانون، يمكن أن يساعد هذا العمل البحثي على تحسين العلاقات الدولية بين أوكرانيا والبلدان الأجنبية في سياق تطوير العلاقات الثنائية فيما يتعلق بتقديم المساعدة لأوكرانيا من أجل الانتعاش بعد الحرب، واجتذاب الاستثمار، ومكافحة الفساد، واحتتمال الانضمام إلى الاتحاد الأوروبي.

الكلمات الرئيسية الفساد; الأحكام العرفية; الرشوة; نشاط مكافحة الفساد; الأمن

Bohdan M. Holovkin is a Doctor of Law, Professor and Head of the Department of Criminology and Criminal and Executive Law at Yaroslav Mudryi National Law University, Kharkiv, Ukraine. He is a corresponding member of the National Academy of Legal Sciences of Ukraine. His research interests include combating crime, preventing corruption, combating crime in the economic sphere, theoretical and applied problems of victimology, and latency of crimes.

Mykola Semenyshyn is a Doctor of Law, Associate Professor and Chief of the Main Department of the National Police in the Odesa Region, Ukraine. His research interests include crime prevention, criminal law, cybercrime, preventing corruption and countering crime in the economic sphere.

Oleksii V. Tavolzhanskiy has a PhD in Law and is Associate Professor at the Department of Criminology and Criminal and Executive Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine. His research interests include countering cybercrime, preventing corruption, countering crime in the economic sphere, criminal executive law, the legal status of convicts, and international standards for the treatment of convicts.

Oleksandr V. Lysodyed has a PhD in Law and is Associate Professor at the Department of Criminology and Criminal and Executive Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine. His research interests include crime prevention, convicts' legal status, and criminal punishment execution.

Nataliia V. Smetanina has a PhD in Law and is Assistant Professor at the Department of Criminology and Penitentiary Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine. Her research interests include crime prevention, criminal law, cybercrime, preventing corruption and countering crime in the economic sphere.

Cite this article: Holovkin, B. M., Semenyshyn, M., Tavolzhanskyi, O. V., Lysodyed, O. V., and Smetanina, N. V. 2023. Fight against Corruption-Related Crimes in Wartime in Ukraine. *International Annals of Criminology* 61, 384–409. <https://doi.org/10.1017/cri.2023.31>