

# STRENGTHENING PREVENTION, DETECTION AND PROSECUTION OF CORRUPTION, AND PUBLIC-PRIVATE PARTNERSHIP: UKRAINIAN DIMENSION

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## I. CURRENT SITUATION OF CORRUPTION

Corruption in Ukraine remains a critical issue impacting governance, economic stability and public trust. Despite significant efforts to reform and tackle corruption, the persistence of corrupt practices underscores the need for a multifaceted approach involving both public and private sectors. This paper examines the current situation in Ukraine, analysing recent trends, challenges and effective countermeasures. It highlights notable cases such as the attempted bribery of a high-ranking official using cryptocurrency and the case of the former Head of the Supreme Court, illustrating the complexity and systemic nature of corruption in the country.

### A. Corruption and Money-Laundering Trends

Corruption in Ukraine has evolved in complexity, with emerging trends highlighting the sophisticated methods employed by individuals and organizations to engage in corrupt activities.

- **Increased sophistication:** Corruption schemes have become more intricate, often involving complex financial transactions and international connections. The use of cryptocurrency has emerged as a new tool for facilitating and concealing bribes and illicit financial flows. This digital currency enables anonymity and cross-border transactions, complicating traditional investigative methods.
- **High-profile cases:** Recent investigations reveal how these new trends manifest in real-life scenarios. For instance, a recent case involves a parliament member who allegedly attempted to bribe the Head of the State Agency for Restoration using cryptocurrency. This case illustrates the innovative tactics used in modern corruption schemes and highlights the need for regulatory and technological advancements to counter such practices. The involvement of cryptocurrency emphasizes the necessity for law enforcement and regulatory bodies to adapt to the evolving financial landscape.
- **High-profile cases continued:** Another significant case is that of the former Head of the Supreme Court of Ukraine, who was implicated in a major corruption scandal. The case revealed systemic issues within the judiciary, including bribery and manipulation of court decisions. This case underscored the deep-rooted problems in Ukraine's judicial system and highlighted the urgent need for comprehensive reforms and more effective enforcement mechanisms to address and prevent corruption.

## II. NATIONAL LEGISLATION AND FRAMEWORKS OF ANTI-CORRUPTION MEASURES

### A. Anti-corruption Legislation

- **Legislative reforms:** Ukraine has implemented several reforms, including comprehensive anti-corruption laws and codes of conduct for public officials. Continued legislative efforts are needed to address emerging challenges and improve enforcement.

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- **Compliance frameworks:** Ensuring that national and international standards are met through rigorous compliance measures is essential for maintaining the integrity of anti-corruption efforts.

### III. ROOT CAUSES OF CORRUPTION

#### A Triggers for Detection

Effective detection of corruption relies on identifying various triggers that can lead to investigations.

- **Whistle-blowing:** Whistle-blowers play a crucial role in uncovering corruption. Reports from insiders or individuals with knowledge of illicit activities can provide valuable information for initiating investigations. In Ukraine, whistle-blower protection laws are essential to encourage reporting and ensure the safety of those coming forward with information. In 2020, the Law on Prevention of Corruption was amended, and there are huge changes pertaining to the protection of whistle-blowers. For example, provisions were introduced on the legal status of whistle-blowers, their rights and guarantees of protection, some conditions for disclosure information about corruption etc.
- **Financial Irregularities:** Suspicious financial activities often signal underlying corrupt practices. Anomalies in financial records, unexplained wealth and irregular transactions are common indicators that prompt further investigation.

#### B. Root Causes of Corruption Challenges in Ukraine

Understanding the root causes of corruption is crucial for developing effective strategies to combat it. Several factors contribute to the challenges faced in Ukraine:

1. **Historical legacy:** The Soviet legacy has left a lasting impact on Ukraine's governance and economic systems. The centralized control and lack of transparency characteristic of Soviet-era governance have fostered a culture of corruption and nepotism that persists today.
2. **War:** Ongoing conflicts, including the war with Russia, create opportunities for corruption by disrupting institutional stability and prioritizing security over governance. The war exacerbates economic pressures and weakens institutional capacities, further complicating anti-corruption efforts. The Ukrainian government has had to rapidly increase defence spending and procure military supplies on short notice. In such situations, corruption risks increase because emergency procurement processes often lack the transparency and regulatory oversight needed to prevent fraud. There have been cases of inflated military contracts, embezzlement of defence funds, and bribery, all driven by the urgency of the war. For example, it has been reported that corruption in military procurement has involved the overpricing of equipment or paying for supplies that were never delivered, directly impacting the country's defence capabilities.
3. **Weak institutions:** Many Ukrainian institutions struggle with inefficiencies, lack of resources and insufficient independence. Political interference and inadequate support undermine the effectiveness of anti-corruption bodies and hinder their ability to enforce laws and regulations.
4. **Political instability:** Frequent changes in government and political instability disrupt long-term anti-corruption strategies. Corruption often thrives in environments lacking political continuity and consistent governance. Each new government would announce new anti-corruption reforms, but the lack of continuity and consistent political will meant that many of these efforts were either half-implemented or stalled. For example, while former president government initiated several reforms, including efforts to address corruption in the energy sector, there was criticism that many of his associates benefited from corrupt practices. This inconsistency weakened public trust in anti-corruption measures and allowed corrupt networks to remain influential. The other example is that Ukraine's political instability has often been exacerbated by the influence of oligarchs who control vast sectors of the economy and media. Frequent political changes provided opportunities for oligarchs to shift their support between political figures and parties to protect their interests. This further disrupted

consistent governance and anti-corruption efforts, as political actors dependent on oligarchic support were less inclined to push for comprehensive reforms.

5. **Economic pressures:** Economic instability and rapid development needs can drive individuals and entities to engage in corrupt practices. In a competitive and uncertain economic environment, the temptation to engage in illicit activities increases.
6. **Legal framework limitations:** Although Ukraine has established anti-corruption laws, their enforcement is often weak. Legal loopholes and inconsistencies in the application of laws impede effective prosecution and prevention efforts. Ukraine's anti-corruption laws are a critical part of the country's efforts to combat widespread corruption, which has long been seen as a major obstacle to its political and economic development. Over the past decade, Ukraine has introduced several laws and institutional reforms aimed at addressing corruption. Here's an overview of the key components:

- **National Anti-corruption Strategy**

The **National Anti-corruption Strategy (2021–2025)** is a comprehensive framework designed to prevent and fight corruption. It outlines goals such as reducing opportunities for corruption, enhancing public accountability, and strengthening public trust in the government.

- **Key anti-corruption institutions**

Ukraine has established several independent institutions to investigate, prevent and prosecute corruption:

- **National Anti-Corruption Bureau of Ukraine (NABU):** Founded in 2015, NABU is responsible for investigating high-level corruption cases involving senior government officials, judges and other influential figures. It operates independently to ensure unbiased investigations.
- **Specialized Anti-Corruption Prosecutor's Office (SAPO):** Works in tandem with NABU to prosecute high-profile corruption cases, ensuring that cases investigated by NABU are pursued in court.
- **National Agency for Prevention of Corruption (NAPC):** Responsible for developing anti-corruption policies, monitoring officials' asset declarations, and ensuring transparency. NAPC also monitors compliance with conflict-of-interest laws and oversees political party financing.
- **High Anti-Corruption Court (HACC):** Created in 2019, HACC is a specialized court that handles cases related to corruption involving high-ranking officials. It is crucial for ensuring that corruption cases are tried fairly and efficiently.

- **Asset declarations**

Ukrainian officials are required by law to submit detailed *electronic asset declarations* annually. These declarations list personal assets, including income, real estate, vehicles and other properties. The goal is to prevent illicit enrichment and ensure transparency. The NAPC monitors these declarations and can launch investigations if discrepancies or suspicious activities are detected.

- **Criminalization of corruption**

Ukrainian law criminalizes various forms of corruption, including *bribery*, *abuse of power*, *misappropriation of state resources* and *illicit enrichment*. In 2020, the Ukrainian parliament passed a law reinstating criminal liability for officials who fail to adequately explain their assets, which had been annulled by a previous court ruling.

- **Conflict of Interest and Public Procurement**

The law imposes strict rules on conflict of interest for public officials, aiming to prevent personal gain from their official positions. The *ProZorro e-procurement system*, established in 2016, ensures transparency in public procurement by making all state purchases public, significantly reducing corruption in the procurement process.

- **International Cooperation**

Ukraine collaborates with international organizations such as the *EU*, *GRECO* (Group of States Against Corruption), and the *OECD* to align its anti-corruption laws with international standards. These partnerships provide technical assistance, oversight and recommendations to enhance Ukraine's legal framework and enforcement mechanisms.

- **Challenges and Ongoing Reforms**

Despite these reforms, corruption remains a significant issue in Ukraine, with challenges in enforcement and political interference occasionally undermining the effectiveness of anti-corruption efforts. However, the country continues to refine its legal frameworks, with pressure from civil society and international partners playing a key role in driving reforms.

7. **Conclusion:** Ukraine's anti-corruption laws are designed to create a transparent and accountable system of governance, with specialized agencies and legal frameworks aimed at preventing and prosecuting corruption. While progress has been made, continuous reforms and enforcement are essential to fully eradicate corruption and enhance public trust in government institutions.

**B. Investigation and Prosecution Challenges**

- **Institutional weaknesses:** Anti-corruption agencies in Ukraine face challenges such as limited resources and bureaucratic inefficiencies. These weaknesses can impede effective investigations and prosecutions.
- **International coordination:** Corruption cases often involve cross-border elements, creating challenges related to jurisdiction and international cooperation. Strengthening international partnerships and frameworks is essential for addressing these challenges.

**C. Solutions**

- **Enhanced training:** Investing in capacity-building and training programmes for anti-corruption agencies can improve their effectiveness. Training should focus on modern investigative techniques and the use of technology in detecting corruption.
- **International cooperation:** Strengthening cooperation with international bodies and enhancing frameworks for cross-border investigations can improve the effectiveness of anti-corruption efforts.

All in all, these solutions might be not enough. We need as well to build a resilient anti-corruption framework that involves not only legislative and institutional changes but also fostering a culture of transparency and accountability.

**IV. CASE STUDY (ANALYSIS OF THE INVESTIGATION, PROSECUTION OF INDIVIDUAL CASES) AND/OR BEST PRACTICE OF ANTI-CORRUPTION ACTIVITIES**

**A. Case Examples**

1. Case of the Former Head of the Supreme Court

- **Background:** The former Head of the Supreme Court was involved in a significant corruption scandal, which included accepting bribes to influence judicial decisions. This case exposed systemic corruption within the judiciary and highlighted the challenges of addressing high-level corruption within established institutions.
- **Details:** Investigations into this case revealed extensive bribery networks and manipulation of court outcomes. The involvement of top judicial officials demonstrated how deeply ingrained corruption can be and the difficulties in enforcing accountability at the highest levels. On 15 May 2023, the NABU and

SAPO uncovered that the Head of the Supreme Court received a \$2.7 million bribe. This was major news, as this was the first time in Ukraine's history that a person of such high rank was suspected of corruption.

According to the investigation, the former Head of the Supreme Court, in collusion with a notary and a lawyer, organized a scheme to receive bribes for making favourable court decisions, particularly in favour of a major agricultural businessman.

Almost immediately after the suspicion was announced, the Plenary Session of the Supreme Court removed him from his position as head of the Court, and the accused was taken into custody with an alternative of 107 million UAH bail. This bail amount was subsequently reduced several times, and ultimately, on 31 January 2024, he was released from pretrial detention on bail of 18 million. As of 13 March 2024, the case is in the preparatory proceedings stage. The pretrial investigation lasted until 4 October 2023, and then the defence spent nearly five months reviewing the investigation materials. Currently, the case is being examined by a panel of judges in the High Anti-Corruption Court.

- **Outcome:** The case led to legal proceedings against the former Head and highlighted the need for judicial reforms. It emphasized the importance of increasing transparency and accountability within the judicial system to prevent similar instances of corruption in the future.

## 2. Recent Corruption Case Involving Cryptocurrency

- **Overview:** The case involving a parliament member's attempt to bribe a high-ranking official with cryptocurrency highlights the growing sophistication of corruption. The use of digital currencies in this context illustrates new challenges for detection and enforcement.
- **Details:** In November 2023 a parliament member was accused regarding an attempt to bribe the former Head of the State Agency for Restoration and Infrastructure Development. According to the investigation he offered a bribe equivalent to 50,000 dollars in exchange for assistance in allocating funds for the renovation of the university under his control. Currently, the case is being examined in the High Anti-Corruption Court. Nowadays the parliament member is hiding abroad and recently an international warrant to arrest was issued by the court.
- **Outcome:** The ongoing investigation into this case will provide insights into the effectiveness of current anti-corruption measures and the necessary adjustments to address emerging financial technologies.

## V. PROPOSAL ON POSSIBLE COUNTERMEASURES

### A. Prevention and Detection

- **Joint initiatives:** Collaborative programmes between the public and private sectors, such as the "Clean Business" initiative (It is not a concrete initiative in Ukraine, but something like my idea that means public authorities do their job fairly so business doesn't need to give bribes etc. On the other hand business also needs to be fair in issues regarding tax payments, hiring employees etc.), promote transparency and ethical practices. These initiatives help build trust and enhance detection capabilities.
- **Shared resources:** Leveraging expertise and resources from both sectors can improve detection and prevention efforts. Public-private partnerships can provide valuable insights and support for anti-corruption initiatives.

### B. Prosecution

- **Unified approach:** Coordinated efforts between public authorities and private sector entities streamline the prosecution process. Collaboration ensures that cases are handled efficiently and effectively,

improving outcomes.

### C. Reporting Channels and Whistle-Blowers Protection

- **Whistle-blower protection laws:** Implementing and enforcing whistle-blower protection laws is crucial for encouraging the reporting of corruption. Ensuring the safety and confidentiality of whistle-blowers helps gather valuable information and promote accountability.

Ukraine introduced whistle-blower protection mechanisms as part of its broader anti-corruption efforts, particularly in the 2019 Law on Corruption Prevention and the establishment of the National Agency on Corruption Prevention (NACP). For example, whistle-blowers are legally protected from dismissal, demotion or discrimination in their workplace after reporting corruption. This extends to both public and private sector employees. Employers are prohibited from firing or penalizing employees for reporting corruption. Also, whistle-blowers can choose to report anonymously or under confidentiality agreements. The law mandates that the identity of the whistle-blower must remain confidential unless the whistle-blower consents to its disclosure. The protection of identity is essential in safeguarding individuals from potential threats.

But, in practice, maintaining the confidentiality of whistle-blowers can be challenging, especially in high-profile cases. Corrupt officials may still find ways to uncover the identities of whistle-blowers, exposing them to threats or retaliation. The lack of comprehensive digital infrastructure to secure anonymity can further erode confidence in the protection system.

Also in Ukraine, there is often a cultural stigma attached to whistle-blowing, with whistle-blowers viewed negatively as informants rather than as individuals acting in the public interest. This societal resistance, combined with institutional reluctance to support whistle-blowers, discourages people from reporting corruption despite legal protections.

- **Civil society monitoring:** Engaging non-governmental organizations and civil society in monitoring and oversight activities enhances transparency and accountability. Civil society plays a critical role in advocating for reforms and holding institutions accountable.

In Ukraine, a wide range of NGOs are actively involved in promoting transparency, accountability and anti-corruption efforts. For example, the Anti-Corruption Action Center (AntAC) is known for conducting in-depth investigations into corruption at the highest levels of government, exposing corrupt officials and practices through reports, media campaigns and public forums. Also, this organization advocates for stronger anti-corruption laws and institutions. It played a crucial role in establishing independent anti-corruption bodies like the National Anti-Corruption Bureau of Ukraine (NABU) and the Specialized Anti-Corruption Prosecutor's Office (SAPO).

### D. Internal Investigations

- **Developing procedures:** Establishing robust internal investigation protocols within private-sector organizations can help detect and address corruption. Regular audits and compliance checks are essential for preventing and mitigating corrupt practices.
- **Preventing recurrence:** Implementing measures to prevent future incidents of corruption, such as developing strong ethical guidelines and fostering a culture of integrity, is crucial for long-term success.

From my point of view there is a complex of measures that should be done to reduce the level of corruption and prevent future incidents, but firstly the understanding of the role of corruption in Ukrainian society needs to be changed, there should be zero tolerance to corruption and we need to mentally change our perception of corruption.

### E. Education and Public Awareness

- **Educational programmes:** Anti-corruption education programmes for minors and the public help

raise awareness and promote ethical behaviour. Education initiatives should focus on the importance of integrity and the impact of corruption on society.

- **Awareness campaigns:** Public awareness campaigns play a vital role in highlighting the consequences of corruption and encouraging reporting. Campaigns should target various audiences to foster a culture of transparency and accountability.

#### **F. Private-Sector Initiatives and Partnerships**

- **Compliance programmes:** Private companies are increasingly adopting anti-corruption measures and working with public authorities to ensure ethical practices. Compliance programmes should be tailored to address specific risks and challenges within the organization.
- **Public-private partnerships:** Collaborative initiatives between the public and private sectors promote transparency and ethical behaviour. Public-private partnerships can enhance the effectiveness of anti-corruption efforts and build trust among stakeholders.

## **VI. CONCLUSION**

Corruption remains a formidable challenge in Ukraine, deeply rooted in historical, economic and institutional issues. The persistent nature of corruption, illustrated by high-profile cases such as the involvement of the former Head of the Supreme Court and recent attempts to bribe high-ranking officials using cryptocurrency, underscores the urgency of a comprehensive anti-corruption strategy.

The evolution of corruption methods and the increasing complexity of financial transactions necessitate a multifaceted approach. Strengthening both public and private sector collaboration is essential for effective prevention, detection and prosecution of corrupt practices. The integration of modern technologies and enhanced regulatory frameworks are critical to addressing the sophisticated tactics employed by corrupt individuals and entities.

Furthermore, the root causes of corruption, including the Soviet legacy, ongoing war and institutional weaknesses, require targeted reforms and international cooperation. Building a resilient anti-corruption framework involves not only legislative and institutional changes but also fostering a culture of transparency and accountability.

By implementing robust measures, improving investigative and prosecutorial capacities and promoting strong public-private partnerships, Ukraine can make significant progress in combating corruption. Ultimately, creating a transparent and just governance system depends on collective efforts from all sectors of society to uphold integrity and ensure the effective enforcement of anti-corruption initiatives.