

# International Anti-Corruption Concepts and their Implementation in Ukraine

**How to cite this article [Chicago]:** Sobko, Ganna, Viktoriia Shchyrska, Oksana Volodina, Oleksandr Kurman, and Viacheslav Semenohov. "International Anti-Corruption Concepts and their Implementation in Ukraine." *Novum Jus* 17, no. 2 (2023): 219-249. <https://doi.org/10.14718/NovumJus.2023.17.2.9>

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# International Anti-Corruption Concepts and their Implementation in Ukraine

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**Received:** May 4, 2023 | **Evaluated:** May 11, 2023 | **Accepted:** May 15, 2023

## Abstract

The relevance of the research is that Ukraine needs to eliminate corruption. A large number of measures have already been implemented, but Ukraine still lags behind other countries in terms of corruption indicators. Corruption does not depend on the political or economic regime. This phenomenon can be found in almost any country since corruption is a general aspect of the exercise of state authority in the form of specific actions of civil servants. Having analyzed the corruption in the public service of Ukraine, it seems necessary to pay attention to the foreign experience in anti-corruption activities. This circumstance is attributed to many reasons. One of the reasons for foreign experience is that developed countries have a more advanced system of public service. Therefore, the article is focused on the analysis of statistical indicators on corruption in different countries. The aim of the study is to analyze the specifics of tackling corruption in various countries. As a result, the dynamics of corruption in Ukraine is studied. In particular, the creation of specialized anti-corruption bodies and their effectiveness are analyzed. Finally, measures have been developed that would have a positive impact on the effective fight against corruption.

**Keywords:** international experience, corruption, pre-trial investigative authorities, anti-corruption measures.

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# Conceptos internacionales contra la corrupción y su aplicación en Ucrania

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**Recibido:** 4 de mayo de 2023 | **Evaluado:** 11 de mayo de 2023 | **Aceptado:** 15 de mayo de 2023

## Resumen

La relevancia de esta investigación radica en que Ucrania necesita eliminar la corrupción. Ya se ha aplicado un gran número de medidas; sin embargo, el país todavía está a la zaga de otros países en lo que respecta a los indicadores de corrupción. La corrupción no depende del régimen político o económico; este fenómeno se puede encontrar en casi cualquier país ya que es un aspecto general del ejercicio de la autoridad estatal en forma de acciones específicas de los funcionarios públicos. Después de analizar la corrupción en la administración pública de Ucrania, parece necesario prestar atención a la experiencia extranjera en las actividades anticorrupción. Esta circunstancia se atribuye a muchas razones, una de las cuales es aplicar la experiencia extranjera que los países desarrollados tienen, representada en un sistema más avanzado de administración pública. Por lo tanto, el artículo se centra en el análisis de indicadores estadísticos sobre la corrupción en diferentes países. El objetivo del estudio es analizar los aspectos específicos de la lucha contra la corrupción en varios países. Como resultado, se estudia la dinámica de la corrupción en Ucrania. En particular, se analiza la creación de órganos especializados contra la corrupción y su eficacia. Por último, se han elaborado medidas que tendrían un efecto positivo en la lucha eficaz contra la corrupción.

**Palabras clave:** experiencia internacional, corrupción, autoridades de investigación previa al juicio, medidas anticorrupción.

## Introduction

The study of foreign experience in the implementation of prevention and fight corruption in the sphere of public service shows that many states have developed measures to prevent and tackle corruption, which do not depend on national specifics. However, it should be noted that the concepts of prevention and suppression of corruption in the public service of foreign states are reduced to a detailed definition of the administrative and legal status of a civil servant and is based on the protection of human rights.<sup>1</sup>

Therefore, it is appropriate to consider a number of positive examples of implementing means of prevention and fight against corruption in such countries as the USA, Canada, Italy, Germany, Singapore, and China. At different stages of development of foreign states, the importance of tackling corruption as one of the factors hindering the democratic development inevitably arises. The analysis of international regulatory legal acts and anti-corruption measures allows to determine the conceptual basis for the formation of Ukrainian anti-corruption legislation.

The article is aimed at a comprehensive analysis of foreign anti-corruption concepts and the identification of positive experiences for their implementation in Ukraine. The use of official positions for personal gain, the possibility of influencing political and economic processes have always attracted criminally minded elements. It should be noted that the main factors for the emergence of corruption in Ukraine are war, low standard of living, unfavorable crime situation, social stratification, distrust of the judicial system, isolation of power from society, weak anti-corruption legislation, migration, etc.

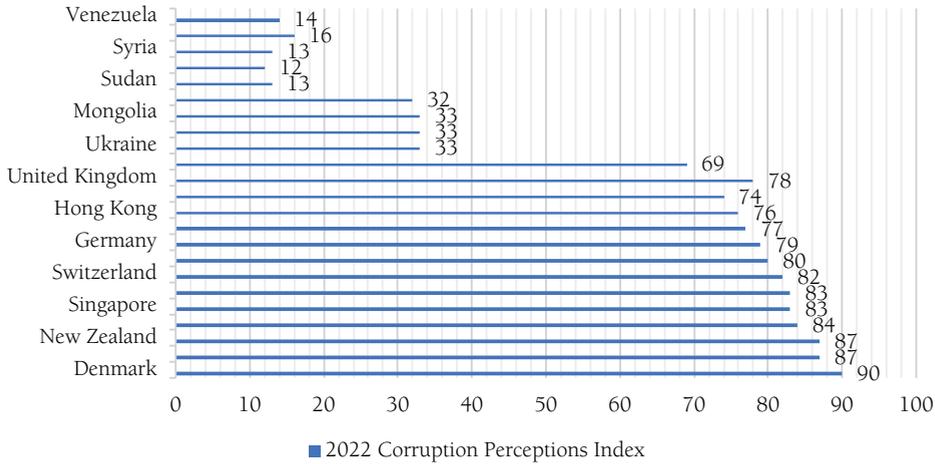
The study of international experience allows to demonstrate the priority of preventing and eliminating the causes of corruption. In Ukraine, until recently, the emphasis has been placed on combating official criminal offenses without analyzing the factors contributing to their commission. As a result, latent corruption crimes have become widespread. No country in the world can be considered free from of corruption, but some states managed to minimize its manifestations. The main conceptual directions can be traced using the example of the most effective anti-corruption

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<sup>1</sup> Viktor Shevchuk, Viacheslav Vapniarchuk, Igor Borysenko, Dmytro Zatenatskyi, & Viacheslav Semenogov, "Criminalistic methodics of crime investigation: Current problems and promising research areas," *Revista Juridica Portucalense* no. 32 (2022): 320-341. [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-14](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-14).

measures in foreign countries, according to the Corruption Perceptions Index 2022 (Figure 1). In this Index, 100 points represent the complete absence of corruption, while 0 point means the dominance of corruption in public service. <sup>2</sup>

**Figure 1.** The 2022 Corruption Perceptions Index by countries



Source: Transparency International (2022).

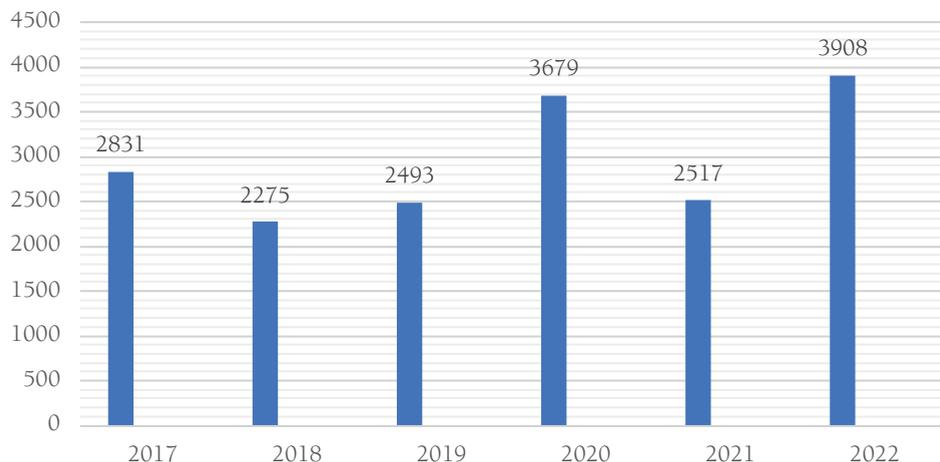
The lowest level of corruption is in Denmark (90), having increased by two points over the past years. At the same time, Sudan, Somalia, Syria, Yemen and Venezuela are the most corrupt countries. It should be noted that the indicator of Ukraine is extremely disappointing.

However, in order to understand the real situation of corruption in Ukraine, it is necessary to refer to statistics that reflect the current state, dynamics and trends. Thus, according to the General Prosecutor’s Office (2022), in 2022, the investigative bodies and the Prosecutor’s Office detected 3,908 corruption crimes, which is more than in previous years. For example, in 2021 there were 2,517 corruption criminal offenses, in 2020 - 3,679 corruption criminal offenses, in 2019 - 2,493 corruption criminal offenses, in 2018 - 2,275 corruption crimes, and 2017 - 2,831 corruption criminal offenses, with the exception of 2019 (2,517 corruption crimes). However, a more detailed analysis of these statistics showed (Figure 2) that some increase

<sup>2</sup> Transparency International, “The 2022 Corruption Perceptions Index,” 2022, <https://www.transparency.org/en/cpi/2022>.

in these digital indicators of recent years does not indicate the intensification of activities in the fight against corruption.<sup>3</sup>

**Figure 2.** Statistical data on corruption in Ukraine



Source: Office of the Prosecutor General (2022).

According to statistical indicators, the level of corruption criminal offenses is increasing. Ukraine achieved some positive changes in 2021. However, the year of war negatively affected the corruption indicators, which proved the urgent need to change the approach to fighting corruption in the country.

## Results

### Anti-corruption legal framework in the selected countries

To fight corruption in Ukraine, it is suggested to consider conceptual strategies for fighting corruption in various countries that have a higher Corruption Perceptions Index than Ukraine. The first anti-corruption concept is the existence of the legal framework for combating corruption, which is a prerequisite for the countries of the Group of States against Corruption (GRECO) and the countries that ratified the United Nations Convention Against Corruption (hereinafter referred to as the Convention) of October 31, 2003.

<sup>3</sup> Office of the Prosecutor General, "Report on the state of anti-corruption activities," 2022, <https://new.gp.gov.ua/ua/posts/statistika>.

Finland is one of the least corrupt countries in the world and is a party to almost all regulatory legal acts of the European Union and the United Nations. However, Finland is gradually implementing international legal norms. The main focus of Finnish legislations is the prevention of corruption crimes. Such norms determine the nature of the crime and the specific scope of activities. The Institute for the Prevention of Corruption is the main measure to stop corruption at the stage of its occurrence if there is an appropriate legal framework. For example, Belgium has included an explanation of the norms of conduct and anti-corruption standards, as well as their reminders in the concept of corruption.<sup>4</sup>

A striking example of international anti-corruption legislation is the United Nations Convention against Corruption, adopted on October 31, 2003, and ratified on December 14, 2005.<sup>5</sup> The Convention states that corruption has become a transnational phenomenon. The problems it causes threaten the security and stability of the world. Therefore, the eradication of corruption is necessary at the international level through the adoption of common and effective measures. The Convention aims to promote, encourage and support international cooperation. The provisions of the Convention contribute to the strengthening of the mechanism for information exchange and mutual assistance in the investigation of corruption crimes. Hence, the following objectives of the Convention can be distinguished:

1. Promote and strengthen measures to prevent and combat corruption.
2. Encourage, facilitate and support international cooperation and technical assistance in the prevention and control of corruption, particularly in the area of asset recovery.
3. Promote good faith, incorruptibility, responsibility and proper management of public affairs and public property.

According to Articles 5 and 6 of the Convention, each State Party shall develop effective measures to fight corruption and shall assess the level of corruption in the country in order to determine the effectiveness of existing measures and the need to adopt new ones to improve the situation with respect to corruption. In addition, each State Party shall ensure that there is an appropriate body to monitor compliance

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<sup>4</sup> United Nations, "Commission on Crime Prevention and Criminal Justice," 2010, [https://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ\\_Mandate-Functions.html](https://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Mandate-Functions.html).

<sup>5</sup> United Nations, "United Nations Convention Against Corruption," 2005, [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf).

with laws and coordinate the implementation of anti-corruption policies. Another important element in solving the problem of corruption is cooperation between countries, namely: participation in international programs and projects aimed at preventing corruption; exchange of effective measures that can help combat bribery.

In this regard, it is essential to analyze the experience of foreign countries in preventing and fighting corruption. Thus, Canada's Federal Accountability Act C-2 was introduced as Bill C-2 in the first session of Parliament on April 11, 2006.<sup>6</sup> This law was designed to reduce the level of bribery and to ensure administrative transparency, accountability and oversight. According to the Canadian legislation, the criminal offense is classified as corruption in the following cases: 1. Any person accused of bribery in cases of agreeing to provide a monetary loan, reward, or gift to a foreign public official; 2. Any person accused of inducing to use his official position for personal gains.<sup>7</sup> These corruption crimes are punishable by up to 14 years imprisonment.

Sweden is one of the top five less corrupt countries in 2022. This result was achieved by implementing the following anti-corruption legislation:

- a. Chapter 10, 5 paragraph b – on receiving a bribe: a bribe is punishable by a fine or imprisonment for up to two years (both for giving and accepting a bribe).
- b. Chapter 10, 5 paragraph d – on the use of official position for personal gain: imprisonment of up to two years or a fine should be imposed.
- c. Chapter 10, 5 paragraph e – on financing corruption organizations: the penalty is the same as in paragraphs b, d.<sup>8</sup>

In Ukraine, the Law of Ukraine “On Prevention of Corruption” regulates the legal phenomenon of corruption. Thus, Art. 3 of this Law defines corruption as the use by a person of the powers granted to him/her or the opportunities associated with them for the purpose of obtaining the undue advantage or accepting such an advantage or promising/offering such an advantage for himself or other persons

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<sup>6</sup> Parliament of Canada, “Federal Accountability Act,” 2006, <https://laws-lois.justice.gc.ca/eng/acts/F-5.5/FullText.html>.

<sup>7</sup> Timothy Martin, “Canadian law on corruption of foreign public officials,” *National Journal of Constitutional Law* 10, no. 2 (1999): 189-193, <https://timmartin.ca/wp-content/uploads/2021/12/Canadian-Law-on-Corruption-of-Foreign-Officials.pdf>

<sup>8</sup> Sveriges Riksdag, “Brottsbalk,” 1962, [https://www.riksdagen.se/sv/dokument-lagar/dokument/svenskforfattningssamling/brottsbalk-1962700\\_sfs-1962-700](https://www.riksdagen.se/sv/dokument-lagar/dokument/svenskforfattningssamling/brottsbalk-1962700_sfs-1962-700)

or, accordingly, promising/offering or providing an undue advantage to a person specified in Part 1 of Article 3 of this Law or, at his/her request, to other natural persons or legal entities in order to induce such person to make an unlawful use of the official powers granted to him/her or the opportunities associated with them.<sup>9</sup>

The existence of a specialized anti-corruption body means the concentration of forces and means of counteraction in one hand. For this purpose, specialized anti-corruption structures have been created and operate in some foreign countries. In Italy, the “Directorate of Investigations - Antimafia”<sup>10</sup> operates, consisting of representatives of law enforcement agencies of the Prosecutor's Office and the civil service. This body investigates cases of corruption and organized crime. In 1952, the “Corruption Investigation Bureau was established in Singapore to prevent and investigate corruption”<sup>11</sup>. The Director of the Bureau reports directly to the Prime Minister of Singapore, which excludes interference in his work by third parties. In addition to monitoring public authorities and officials, the Bureau also detects abuses in the commercial sector.

According to Canadian legislation, anti-corruption measures in Canada include:

1. Ensuring the protection of persons involved in the disclosure of corruption cases (involvement of the population in the fight against corruption);
2. Citizens of Canada are given access to information about the activities of public bodies and private organizations to build confidence in the population to conduct business honestly or the state;
3. Bribery by citizens outside the country (bribes to officials of foreign states) is punishable by imprisonment for up to 14 years.

In some countries, the anti-corruption bodies are distributed among several departments can be observed. In France, such services are the “Corruption Prevention Service”, the “Central Accounting Chamber”, the “Central Office for the Punishment of Financial Offences in the Financial Sphere”, the “Central Directorate of General Information” .<sup>12</sup> All these structures are financed from the state budget and work in the respective field. In many foreign countries there are interdepartmental

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<sup>9</sup> Verkhovna Rada of Ukraine, “Law of Ukraine of October 12, 2014 No. 1700-VII ‘On prevention of corruption’,” <https://zakon.rada.gov.ua/laws/show/1700-18#Text>.

<sup>10</sup> Sobovyi, O. M., “General aspects of the problem of improving the legal support of the fight against corruption,” 2022, [https://minjust.gov.ua/m/str\\_1129](https://minjust.gov.ua/m/str_1129).

<sup>11</sup> Valeriia V. Haltsova, Sergiy O. Kharytonov, & Oleksii O. Bondarenko, “Divulgence of confidentiality of adoption: criminal legal and medical aspects,” *Wiadomosci lekarskie* 74, no. 11-2 (2021): 3085-3091.

<sup>12</sup> OECD. “Specialized Anti-Corruption Institutions - Review of Models.” 2013. <https://www.oecd.org/corruption/acn/specialisedanti-corruptioninstitutions-reviewofmodels.htm>.

commissions of representatives of state bodies, which coordinate their activities at the highest level. Such a structure exists in Lithuania<sup>13</sup>. It consists of representatives from the fields of law, economics, and management.

In the United States, the main role is assigned to the Federal Bureau of Investigation. The judicial body, the Prosecutor's Office, the Ministry of Justice, special police units, the Institute of Independent Prosecutors take part in fighting corruption processes and imposing punishment on the participants of agreements<sup>14</sup>. Moreover, any US citizen can inform the Department of Justice about the facts of corruption known to him/her and receive money for such information. In Sweden, the judicial system operates independently and is not bribed, observing the rule of law, while public procurement is regulated by the Public Procurement Act (the law strictly controls bribery).

## Specialized anti-corruption institutions in Ukraine: Legal Foundations and Reforms

In Ukraine, in accordance with Article 1 of the Law of Ukraine “On Prevention of Corruption”, specially authorized bodies in the field of anti-corruption are as follows: Prosecutor's Office, National Police of Ukraine, National Anti-Corruption Bureau of Ukraine, National Agency for Prevention of Corruption.<sup>15</sup> However, the activities of these bodies face a number of problems related to the lack of a quality legislative framework. No systematic approaches have been developed regarding the activities of anti-corruption bodies and their interaction with civil society. There is no conceptual vision of organizational and legal support for tackling corruption.

The Verkhovna Rada of Ukraine created an important specialized anti-corruption court and granted the National Anti-Corruption Bureau the right to autonomously withdraw information from communication channels. The problems of training highly qualified specialists for law enforcement agencies focused on fighting corruption remain relevant. In addition, the work of the National Agency of Ukraine for the Identification, Search and Management of Assets Derived from Corruption and

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<sup>13</sup> United Nations. “Conference of the States Parties to the United Nations Convention against Corruption.” 2017. <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1705613e.pdf>.

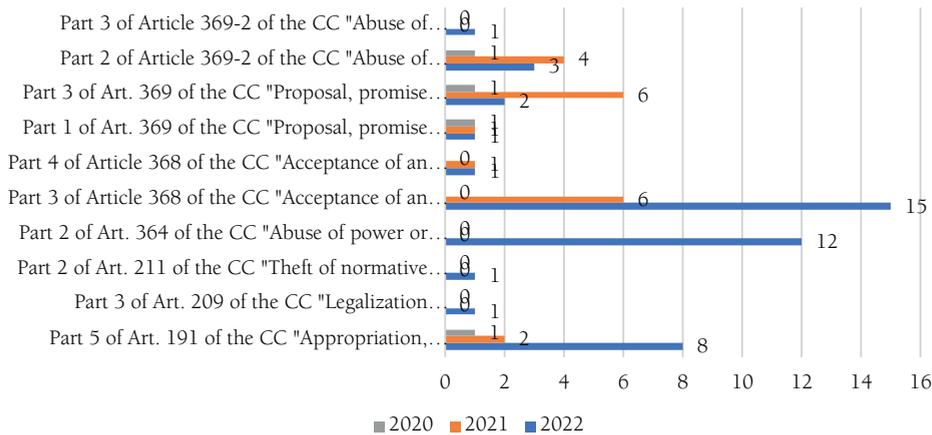
<sup>14</sup> Sobovyi, “General aspects of the problem of improving the legal support of the fight against corruption.”

<sup>15</sup> Verkhovna Rada of Ukraine. “Law of Ukraine of October 12, 2014 No. 1700-VII ‘On prevention of corruption.’”

Other Crimes and the State Bureau of Investigation also play an important role in the prevention of corruption in Ukraine<sup>16</sup>.

The High Anti-Corruption Court of Ukraine (hereinafter – HACC), a body with all-Ukrainian jurisdiction, considers exclusively the cases of top corrupt officials investigated by the NABU. The creation of this court was one of the main requirements of the International Monetary Fund (IMF) for further cooperation with Ukraine. The judges of this court were selected in an open competition with the participation of international experts. All petitions and indictments in corruption cases against high-ranking officials are submitted to the investigating judges of the HACC, and appeals are submitted to the Appeals Chamber of the HACC. The court began its work only on September 5, 2019, and since then has not yet issued a single conviction in the cases of high-ranking corrupt officials. The statistical data on the work of the HACC of the Specialized Anti-Corruption Court of Ukraine reflect the effectiveness of this anti-corruption body in recent years (Figure 3).

**Figure 3.** Data on persons brought to justice in 2020-2022



Source: compiled on the basis of Official Web Portal “The judiciary of Ukraine” (2022)

As it can be seen from the table, the number of prosecuted persons increased from 0 in 2019 to an average of 5 in 2022. Such indicators are not even convenient to show when creating a separate court.<sup>17</sup>

<sup>16</sup> Orobets K., “Concept, signs and types of criminal offence in legislation and practice of the US and Ukraine,” *Pakistan Journal of Criminology* 14, no. 2 (2022): 47-62.

<sup>17</sup> Official Web Portal “The Judiciary of Ukraine”, “Data on persons prosecuted,” 2022, [https://court.gov.ua/inshe/sudova\\_statystyka/zvit\\_dsau\\_2022](https://court.gov.ua/inshe/sudova_statystyka/zvit_dsau_2022).

In addition to the judiciary, the changes also affected other law enforcement bodies created to combat corruption in Ukraine on the basis of ratified conventions. One of the main bodies involved in the disclosure of corruption crimes is the State Bureau of Investigation, which is the central executive body in the prevention, detection, suppression, disclosure and investigation of crimes within its jurisdiction. Improving the effectiveness of the fight against corruption is also one of the main commitments of Ukraine in cooperation with international financial organizations.

The problem of fighting corruption is relevant in view of the considerable public attention to this activity, the high level of distrust in the authorities and the high level of latent corruption of officials. The Presidential Decree “On Sustainable Development Strategy ‘Ukraine – 2020-2024’” defines anti-corruption reform as one of the priorities along with the reform of the national security and defense system, reform of the judiciary and law enforcement, decentralization and public administration reforms.<sup>18</sup>

The next anti-corruption body is the National Agency for the prevention of Corruption (NACP), whose main function is preventive. This function is manifested in the verification of the authenticity of the data in the declarations of all civil servants and the comparison of the declared data, in particular the data on income, with their lifestyle and the data contained in public registers. If the NACP detects violations, the material is transferred to the National Anti-Corruption Bureau.

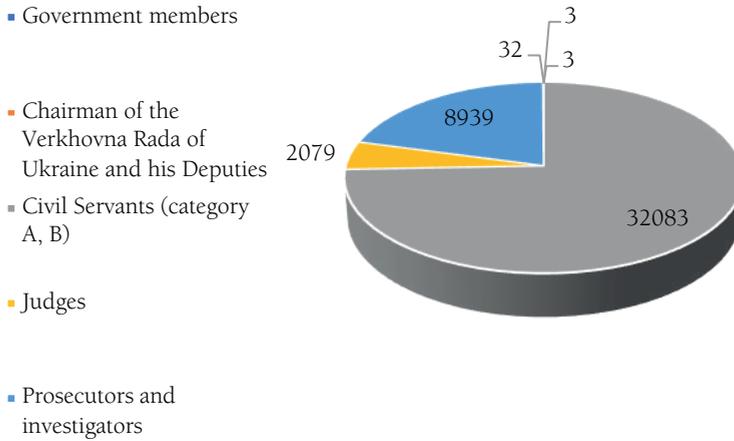
It is a known fact that Ukraine was obliged to create the NACP as a guarantee for obtaining a visa-free regime with the EU. It was launched for a long time, but even after the start of activities in 2016, observers still do not rate the work of the agency as effective. NACP members were accused of bias and loyalty to individual politicians and officials. After being elected president, Volodymyr Zelensky promised to revive the NACP. So, according to the indicators for 2021, it is growing.<sup>19</sup> As of April 10, 2023, 366,910 declarations had been filed. Figure 4 shows the number of persons filing a declaration annually.

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<sup>18</sup> Presidential Decree of January 12, 2015 No. 5/2015 “On Sustainable Development Strategy ‘Ukraine – 2020’,” 2015, <https://zakon.rada.gov.ua/laws/show/5/2015#Text>.

<sup>19</sup> National Agency on Corruption Prevention, “Anti-corruption strategy (2021-2025),” 2021, <https://nazk.gov.ua/wp-content/uploads/2022/08/Antykoruptsijna-strategiya-na-2021-2025-rr.pdf>.

**Figure 4.** Data on the number of public servants who submitted declarations for 2021



**Source:** National Agency on Corruption Prevention (2023b)

The National Anti-Corruption Bureau of Ukraine (NABU) is aimed at preventing, detecting, suppressing, investigating and disclosing corruption crimes committed by high-ranking officials. That is, the NABU must detect VIP corrupt officials, namely: ex-presidents, ministers, MPs, judges, prosecutors, heads of authorities and local self-government. NABU investigators have the right to open a case, demand information about property, income and expenses of persons, and freely enter state institutions. However, for quite some time now, NABU has not been able to obtain permission to wiretap high-ranking officials. For example, the Verkhovna Rada of Ukraine did not support the bill that would have given NABU the right to wiretap MPs. Since 2015, NABU detectives have opened 760 cases against top corrupt officials, and 215 cases have been sent to court. To date, the courts have issued 31 verdicts against corrupt officials.

Specialized Anti-Corruption Prosecutor's Office (SAPO) is an independent structural unit of the General Prosecutor's Office of Ukraine. All tasks related to tackling corruption were transferred from the General Prosecutor's Office of Ukraine to the SAPO. The SAPO has obligations to oversee the investigations of the NABU, as well as to support the state prosecution and representation of the interests of Ukrainians and the state in courts for corruption crimes. The general structure of the SAPO includes the central apparatus and territorial branches, which are located in the same cities where the NABU has offices.

The National Agency of Ukraine for Detection, Search and Management of Assets Derived from Corruption and Other Crimes (ARMA) detects assets, proves their criminal or corruption origin, confiscates them exclusively by court decision, and then sells them at public auction. All information about assets and cash accounts is stored in a specially created open register, which is also maintained by the Agency. So far, ARMA has been administering most of the confiscated assets of former high-ranking officials of Viktor Yanukovich's presidential administration, the origin of which has been proven by investigators of the General Prosecutor's Office of Ukraine. Regarding the effectiveness of the ARMA's work, the following indicators from ARMA's annual report are presented (Table 1).

**Table 1.** The amount of confiscated property by the court decisions

| The amount of confiscated property             | 2019   | 2020    | 2021  | 2022   |
|--|--------|---------|-------|--------|
| Money (million USD)                            | 4,3    | 130     | 25,7  | 32,9   |
| Money (million euros)                          | 2,5    | 6,8     | 6     | 39,8   |
| Securities (million UAH)                       | 3535,7 | 5783, 1 | 158,3 | 240,3  |
| Automobile transport (units)                   | 4195   | 1715    | 1877  | 14973  |
| Air transport (units)                          | 0      | 1       | 3     | 28     |
| Residential property (units)                   | 3870   | 5649    | 3911  | 7358   |
| Land plots (pieces)                            | 61394  | 6229    | 8466  | 142992 |
| Sea and river transport (units)                |        | 158     | 67    | 150    |
| Non-residential property (units)               | 4506   | 6047    | 3267  | 8445   |
| Agricultural machinery with components (units) | 2284   | 1508    | 899   | 4771   |
| Pipeline transport (units)                     | 0      | 0       | 0     | 17914  |
| Intellectual property rights (pieces)          | 105    | 936     | 388   | 97     |
| Other property (goods) (units)                 | 190489 | 24489   | 5486  | 7681   |

**Source:** Official Web Portal "The judiciary of Ukraine" (2022).

Therefore, according to the statistics, this body is really effective and its existence as an anti-corruption measure is fully justified. According to Figure 5, the NABU is the least effective structure in preventing corruption.

**Figure 5.** The efficiency of anti-corruption institutions in Ukraine



Source: Compiled by the authors

The Security Service of Ukraine (SBU) is not a new body, unlike those considered, but it also occupies an important place in fighting corruption and organized crime. It has the authority to receive information and documents on operations, accounts, deposits, internal and external economic transactions of individuals and legal entities from banks, credit, customs, financial and other institutions, enterprises, organizations, regardless of the form of ownership. This unit also organizes, carries out and coordinates operational activities to uncover and expose corrupt officials in the structures of state authority. In addition, the unit, in cooperation with the Prosecutor's Office, the Unit carries out operational searches to ensure the investigation of abuses of corrupt officials of the executive, legislative and judicial authorities, law enforcement and control bodies.

Another newly created body is the Bureau of Economic Security of Ukraine, which is one of the central executive bodies for combating crimes affecting the functioning of the state economy. In accordance with the assigned tasks, the Bureau of Economic Security of Ukraine performs law enforcement, analytical, economic, information and other functions. The activities of the Bureau of Economic Security of Ukraine are directed and coordinated by the Cabinet of Ministers of Ukraine.

Since 2014, the National Council on Anti-Corruption Policy under the President of Ukraine has been a consultative and advisory body, whose responsibilities include

preparing and submitting proposals to the head of state on anti-corruption strategy, analyzing the situation with preventing and tackling corruption in Ukraine. In addition, every two months the National Council is obliged to prepare proposals for improving anti-corruption legislation for consideration by the President and to put forward ideas for improving the coordination of the work of other anti-corruption bodies.

The Council includes representatives of Transparency International Ukraine, the European Business Association, the American Chamber of Commerce, public organizations “Anti-Corruption Action Center” and “Center for Political and Legal Reforms”. The official status of observers in the Council has representatives of international organizations and diplomatic institutions that support Ukraine in fighting corruption. Therefore, the executive branch does not stand still striving to achieve significant results in fighting corruption.

## The role of the public and civic organizations in countering corruption

The activities of public and civic organizations, laws on providing information on the activities of state bodies are among the most effective measures to detect corruption abroad. In many countries there are special pages and sites on the Internet where anyone can report corruption crimes that have come to their attention. In several countries, public organizations are actively involved in anti-corruption activities. In Sweden, the public organization “Democratic Audit”, which includes political scientists, economists and scientists, has been studying the level of corruption in different areas since 1994.<sup>20</sup>

Many countries have a special legal act to combat corruption. In Romania, for example, the Law “On the Prevention, Detection and Punishment of Corruption”<sup>21</sup> has been in force since 2000. In some countries, anti-corruption measures are provided for within the framework of laws on organized crime (for example, in Lithuania).

National programs, strategies and doctrines show the country's will to meet international anti-corruption requirements. The main attention in such acts is paid

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<sup>20</sup> Robert Hislope & Anthony Mughan, *Introduction to Comparative Politics. The State and Its Challenges* (Cambridge: Cambridge University Press, 2012).

<sup>21</sup> Parlamentul României, “Legea nr. 78/2000 pentru prevenirea, descoperirea și sancționarea faptelor de corupție,” 2000, <https://legislatie.just.ro/Public/DetaliuDocument/22361>.

to the creation of a control system, the work of non-governmental organizations, the activities of the public, and the independence of the media. Against the background of widespread corruption in the country, Poland adopted the State Program “Anti-Corruption Strategy”<sup>22</sup>, which provides for the establishment of a commission to prepare amendments to existing legislation. Slovakia has a “National Anti-Corruption Program”<sup>23</sup>.

In the United States, the U.S. Department of Commerce has created a hotline on its website to strengthen anti-corruption measures and assist American companies in solving this problem at the international level. It is interesting to note that the US formed a system of control over corruption-related crimes.

In addition, in Canada, as in many other countries (Germany, Sweden), special attention is paid to the involvement of citizens in the fight against corruption. Thanks to such methods, trust between the people and the state is created, and the level of corruption decreases because all information is available to everyone. As a result, the official who has undermined the trust of the population can be removed from office. Thus, in order to fight corruption crimes more effectively, the participating countries involve civil society through the following measures:

- Establishing and strengthening a policy of transparency and involving the public in decision- making processes.
- Providing the public with access to information.
- Encouraging the public to seek and disseminate information about corruption.

These measures contribute to good disclosure of corruption crimes and also prevent the emergence of new ones. All of the above measures can have a positive effect on stopping the spread of corruption.

In Sweden, the church and public opinion play a big role in the population<sup>24</sup>. It is worth noting that in that country the population plays a significant role in the elimination of corruption. The population has great doubts about a rapidly developing business or an official whose income is much lower than expenses.

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<sup>22</sup> Jacka Wojciechowicz, *Jak walczyć z korupcją? Zasady tworzenia i wdrażania strategii antykorupcyjnej dla Polski* (Warszawa: Fundacja im. Stefana Batorego, 2010).

<sup>23</sup> Sobovyi, “General aspects of the problem of improving the legal support of the fight against corruption.”

<sup>24</sup> Sobovyi, “General aspects of the problem of improving the legal support of the fight against corruption.”

Such cases quickly arouse suspicion in society, resulting in the dismissal of such an official or the closure of a dubious business. This indicates the existence of a transparency policy in the country, meaning the availability of verifiable information to citizens, which allows identifying possible corruption crimes. Considering the experience of the fight against corruption in Sweden, it is possible to conclude that the measures implemented within the framework of the anti-corruption policy are effective, which is proven by the statistics of Transparency International.

The development of professional codes of ethics is an important component of anti-corruption activities abroad. For example, the “Code of Ethics for Government Service” has defined the moral standards of civil servants since 1958. In the United States, “14 General Principles of Ethical Conduct” are mandatory for every official. The anti-corruption form of control is carried out by the relevant committees and commissions of the Senate and the House of Representatives of the US Congress.<sup>25</sup> Furthermore, in Israel, there is a Code of Professional Ethics that includes a recommendation for decision-making and specific prohibitive and advisory rules with examples of acceptable and unacceptable types of behavior. In Spain, the Statute of Ethical Behavior for Civil Servants was adopted in 2007.<sup>26</sup>

The introduction of liability of legal entities for corruption crimes is one of the mandatory requirements of international anti-corruption conventions. For example, in Switzerland, the criminal liability of legal entities was introduced in the amended Criminal Code in 2004.<sup>27</sup> In 2005, the Parliament of Montenegro adopted a law on the liability of legal entities for criminal offenses.<sup>28</sup> In addition, in Canada, the Code of Values and Ethics for the Public Service was adopted in 2003.<sup>29</sup> Based on the provisions of the Code, civil servants should conduct their personal affairs in a manner that does not undermine public trust and objectivity. Civil servants must be subject to public scrutiny and make decisions in accordance with the interests of society.

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<sup>25</sup> Centre for Integrity in the Defence Sector, “The necessity and functions of the Code of Ethics,” 2019, [https://www.nato.int/nato\\_static\\_fl2014/assets/pdf/2020/8/pdf/BB-GGG-8-ukr.pdf](https://www.nato.int/nato_static_fl2014/assets/pdf/2020/8/pdf/BB-GGG-8-ukr.pdf).

<sup>26</sup> Gobierno de España, “Ley 7/2007, de 12 de abril, del Estatuto Básico del Empleado Público,” 2007, <https://www.boe.es/buscar/pdf/2007/BOE-A-2007-7788-consolidado.pdf>.

<sup>27</sup> Transparency International, “The 2022 Corruption Perceptions Index.”

<sup>28</sup> United Nations, “Conference of the States Parties to the United Nations Convention against Corruption.”

<sup>29</sup> Treasury Board of Canada, *Values and ethics code for the public service* (Ottawa: Canadian Government Publishing, 2003). <https://www.oecd.org/mena/governance/35528015.pdf>.

Regarding Ukraine, in 2016 the National Agency of Ukraine on Civil Service approved the General Rules of Ethical Conduct for Civil Servants and Local Government Officials.<sup>30</sup>

## Lobbying as a form of corruption

The prohibition of lobbying as a form of corruption is an important area of legislative activity abroad. Since 1946, the United States has had the Federal Regulation of Lobbying Act,<sup>31</sup> which requires any organization that exerts pressure on Congress to register its lobbyists and report its legislative interests. According to research by the Sunlight Foundation, American companies that invest in lobbying pay proportionately less in taxes than those that do not pay lobbyists. In the United States, lobbyists register with Congress and do not hide how much and who pays them. According to the Constitution, the President of the United States can be impeached for this crime. The real fight against corruption in the United States took place in the 1970s.<sup>32</sup>

The Honest Leadership and Open Government Act, adopted in the United States on September 14, 2007, to strengthen disclosure requirements for lobbying activities and funding, imposes restrictions on gifts to members of Congress members and their staff, which implies mandatory disclosure of their expenses.<sup>33</sup> It is necessary to emphasize that financial intelligence units are the most effective bodies in limiting corruption in the financial sector and combating money laundering. Their main task is to collect, analyze and evaluate data on financial transactions and provide law enforcement agencies with information on illegal transactions.<sup>34</sup>

Furthermore, it is worth mentioning that the legislation of foreign countries is developing with the introduction of disciplinary and criminal (if necessary) responsibility for the discrepancy between declared income and expenses. Membership in

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<sup>30</sup> National Agency of Ukraine on Civil Service, "Order No. 158 of August 5, 2016 'On Approval of the General Rules of Ethical Conduct for Civil Servants and Local Government Officials'," <https://zakon.rada.gov.ua/laws/show/z1203-16#Text>.

<sup>31</sup> U.S. Congress, "Federal Regulation of Lobbying Act," 1946, <https://uscode.house.gov/view.xhtml?path=/prelim@title2/chapter8A&redition=prelim>.

<sup>32</sup> Charles Babington, "Bush Signs Lobby-Ethics Bill," *The Oklahoman*, 2007, <https://eu.oklahoman.com/story/news/2007/09/14/bush-signs-lobby-ethics-bill/61715477007/>.

<sup>33</sup> U.S. Congress, "H.R.2316 - Honest Leadership and Open Government Act of 2007," <https://www.congress.gov/bill/110th-congress/house-bill/2316>.

<sup>34</sup> Vincent Johnson, "Regulating lobbyists: law, ethics, and public policy," *Cornell Journal of Law and Public Policy* 16, no. 1 (2006): 1-56.

international anti-corruption unions, ratification of conventions, implementation of international legislation, interaction between Interpol and financial intelligence agencies are important criteria for assessing the will of the global community to combat corruption.

As is known, Ukraine does not have a law that would regulate lobbying activities, except for Article 369-2 of the Criminal Code of Ukraine “Abuse of Influence” which appeared in 2011 as follows: “Offering or providing undue benefit to a person who offers or promises (agrees) for such benefit to influence the decision of a person authorized to perform the functions of the state”<sup>35</sup> and the Law of Ukraine No. 3207-VI “On Amendments to Certain Legislative Acts of Ukraine on Liability for Corruption Offenses”.<sup>36</sup> Therefore, the institution of lobbying in Ukraine is not regulated. Such a legislative vacuum leads to unregulated lobbying and, as a result, to corruption in the state apparatus.

At present, the legislative regulation of lobbying activities in Ukraine, taking into account the experience of the United States, is necessary because it would allow to identify and suppress the facts of corrupt lobbying from the very beginning. The law should limit the right to engage in lobbying activities to persons holding public positions during the entire period of public service and for a certain period after dismissal from service. In recent years, the level of bribery in the American economy has again reached such a level that the government has been forced to launch a large-scale attack on companies that use undue advantages to promote their interests abroad.

## Discussion

The important part of solving the problem of corruption is the interaction between countries in the fight against corruption, namely: participation in international programs and projects aimed at the prevention of corruption and the exchange of effective measures that can help in the fight against bribery.

Thus, in order to tackle corruption crimes more effectively, participating countries involve civil society in the following ways:

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<sup>35</sup> Criminal Code of Ukraine, 2001, <https://zakon.rada.gov.ua/laws/show/2341-14#Text>

<sup>36</sup> Verkhovna Rada of Ukraine, “Law of Ukraine No. 3207-VI ‘On amendments to certain legislative acts of Ukraine on liability for corruption offenses’,” 2016, <https://zakon.rada.gov.ua/laws/show/3207-17#Text>.

- Establishing and strengthening a policy of transparency and involvement of the population in decision-making processes.
- Providing the public with access to information.
- Encouraging the public to seek and disseminate information on corruption.

These measures facilitate detecting corruption crimes and stopping the emergence of new ones. All these measures may have a positive impact on tackling corruption.

Having studied the examples of several countries, it is possible to conclude that countries with a low corruption level implemented the efficient means to fight corruption. Such methods as enhancing transparency, increasing the importance of public opinion, promoting and protecting whistleblowers about corruption crimes, and increasing penalties for the aforementioned crimes are applied. The listed principles contribute to a high living standard, the stable economic and political development.<sup>37</sup>

Reforming the anti-corruption system is one of the crucial aspects of tackling corruption. To achieve this goal, the following measures are proposed:

- Launching a multi-purpose anti-corruption system.
- Establishing a specialized anti-corruption court and granting the National Anti-Corruption Bureau the right to autonomously obtain information from communication channels.
- Improving the activities of the National Agency for the Prevention of Corruption to ensure effective verification of e-declarations by high-level officials and prompt response to identified violations.
- Establishing the State Bureau of Investigation, which will counteract corruption in law enforcement structures.
- Launching the National Agency of Ukraine for Detection, Search and Management of Assets Derived from Corruption and Other Crimes.
- Improving financial intelligence (financial monitoring).

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<sup>37</sup> Oksana Volodina, Viktoriia V. Haltsova, & Sergiy O. Kharytonov, "Social danger of domestic violence and the need for rehabilitation of its victims," *Wiadomosci Lekarskie* 73, no. 12-2 (2020): 2895-2901.

- Simplifying a tax reporting procedure and payment of tax and non-tax payments.
- Strengthening the requirements for the activities of regulatory authorities, reducing the number of required licenses, permits, and patents.
- Delimitating competences of state authorities to provide administrative services and perform control, supervisory or inspection functions.
- Final rejection of non-monetary forms of transactions in the economic sector of Ukraine.
- Ensuring transparency of privatization processes, public procurement, tenders, and auctions.
- Developing E-Governance.
- Reforming the civil service and service of local self-government bodies in order to ensure their professionalism.
- Involving the population in the creation of public organizations for combating corruption.
- Training specialists in anti-corruption activities.<sup>38</sup>

Reducing the prerequisites for corruption, increasing the social price of public service (prestige, social security), and boosting the risk of committing a corrupt act are the basic components of the anti-corruption policy. Such areas of anti-corruption were decisive in a number of foreign countries (Singapore, Poland), which, according to the international community, have achieved significant success in this area.<sup>39</sup>

The main objective of the anti-corruption reform is to significantly reduce corruption in Ukraine, decrease losses to the state budget and business due to corruption, and improve Ukraine's position in the Corruption Perceptions Index. This should be achieved through the proper implementation of the new anti-corruption strategy and the successful introduction of new anti-corruption mechanisms, namely: declaring the property status of civil servants, preventing and resolving conflicts of interest, verifying the integrity of employees and monitoring their lifestyle. Overcoming

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<sup>38</sup> V. I. Lytvynenko, Petro Ya. Pryhunov, & Mykhailo V. Hutsaliuk, "Conceptual principles of countering organized crime and corruption at the present stage of Ukraine's development," *Public Law* 1, no. 37 (2020): 124-135.

<sup>39</sup> M. I. Melnyk, *Corruption is the corrosion of power (social essence, trends and consequences, countermeasures)* (Kyiv: Yurydychna Dumka, 2004).

political corruption requires a radical reform of the system of politics financing. It is important to use the latest technologies, in particular to provide the state with access to information in the form of “open data”.<sup>40</sup>

In 2022, the Verkhovna Rada of Ukraine approved the Anti-Corruption Program for 2021-2025, which established a series of changes aimed at reducing corruption in Ukraine. This concept was developed with the help of the EUAM Ukraine.<sup>41</sup> In 2022, the Ministry of Internal Affairs initiated a number of measures aimed at reducing the level of corruption. Accordingly, several legislative acts on improving the quality of services provided by the bodies of the Ministry of Internal Affairs and on eliminating/minimizing corruption risks in the activities of the Ministry of Internal Affairs were created.

Accordingly, within the framework of the Anti-Corruption Program of the Ministry of Internal Affairs of Ukraine for 2021-2025, 356 measures were designed, of which 342 were implemented, i.e. 96% of all measures envisaged by the Program and 14 actions (4%) were not implemented for objective reasons. According to the results of the complex anti-corruption actions carried out during the reporting period, there is a tendency to reduce the number of prosecuted employees of the Ministry of Internal Affairs system (criminal, administrative, disciplinary). Thus, the number of employees prosecuted for violation of anti-corruption legislation decreased from 826 people in 2019 to 152 people in 2022 (in the year 2020 there were 361 prosecuted employees, in 2021 there were 427 ones).<sup>42</sup>

The objective of the Program is as follows:

- Improvement of the system of prevention of and fight against corruption in the Ministry of Internal Affairs, service centers, institutions and enterprises under the control of the Ministry of Internal Affairs, bodies of the Ministry of Internal Affairs system, ensuring the coherence and consistency of anti-corruption activities within the Ministry of Internal Affairs system.

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<sup>40</sup> Dmytro Vovk & Iurii Barabash, “Judges have political flair: Jurisprudence of the Constitutional Court of Ukraine in politically sensitive cases,” *Ideology and Political Journal* 2, no. 18 (2021): 312-334.

<sup>41</sup> National Agency on Corruption Prevention, “Declaration dynamics: more than 5.5 thousand public servants voluntarily submitted declarations for 2021,” <https://nazk.gov.ua/uk/novyny/dynamika-deklaruvannya-za-tyzhden-deklaratsiyi-za-2021-rik-dobrovilno-podaly-ponad-5-5-tys-publichnyh-sluzhbovtziv/>.

<sup>42</sup> Office of the Prosecutor General, “Report on the state of anti-corruption activities.”

- Further implementation of mechanisms of transparency, and integrity, reducing the number of violations of anti-corruption legislation, decreasing corruption risks in the activities of the Ministry of Internal Affairs and increasing the level of public confidence in the Ministry of Internal Affairs.

The principles the Ministry of Internal Affairs policy is based on are as follows:

- The rule of law.
- Integrity of public service.
- The creation of negative attitudes towards corruption.
- The inevitability of punishment for committing corruption offenses.
- Legality and rationality in the use of budgetary funds.
- Digital transformation of public administration.
- Transparency and openness of activities.
- The involvement of the public and international institutions in the implementation of anticorruption measures.

According to the Anti-Corruption Program, the main tasks and priorities of fighting corruption are as follows:

- Regulatory and legal prevention of corruption.
- The change of personnel management in compliance with the financial control.
- The control in the field of public procurement as a measure to combat corruption, improving the internal audit.
- The improvement of services provided by the Ministry of Internal Affairs.
- The change of attitude towards reporting corruption crimes.
- Cooperation with international organizations on anti-corruption measures.<sup>43</sup>

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<sup>43</sup> Verkhovna Rada of Ukraine, “Law of Ukraine No. 2322-IX of June 20, 2022 ‘On the principles of state anti-corruption policy for 2021-2025’,” <https://zakon.rada.gov.ua/laws/show/2322-20#Text>.

In this regard, the main regulations and administrative documents governing the issues of prevention and combating of corruption in the Ministry of Internal Affairs are the following ones:

- Resolution of the Cabinet of Ministers of Ukraine No. 878 of October 28, 2015 “On Approval of the Regulation on the Ministry of Internal Affairs of Ukraine”.<sup>44</sup>
- The General Rules of Ethical Conduct for Civil Servants and Local Government Officials, approved by the Order of the National Agency of Ukraine on Civil Service No. 158 of August 5, 2016 “On Approval of the General Rules of Ethical Conduct for Civil Servants and Local Government Officials”.<sup>45</sup>
- Order of the Ministry of Internal Affairs No. 888 of November 6, 2018 “On approval of the Procedure for conducting inspections of the activities of structural units of the Ministry of Internal Affairs, the National Guard of Ukraine, territorial bodies for the provision of services of the Ministry of Internal Affairs, institutions and enterprises belonging to the sphere of management of the Ministry of Internal Affairs”.<sup>46</sup>
- Order of the Ministry of Internal Affairs of Ukraine No. 1613 of December 12, 2015 “On Approval of the Regulations on the Office for the Prevention of Corruption and Lustration of the Ministry of Internal Affairs of Ukraine”;<sup>47</sup>
- Order of the State Judicial Administration of Ukraine No. 14 of January 13, 2023 “On Approval of the Anti-Corruption Program of the State Judicial Administration of Ukraine for 2022 – 2024”.<sup>48</sup>

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<sup>44</sup> Cabinet of Ministers of Ukraine, “Resolution No. 878 of October 28, 2015 ‘On Approval of the Regulation on the Ministry of Internal Affairs of Ukraine’,” *Zakon Rada*. 2015. <https://zakon.rada.gov.ua/laws/show/878-2015-%D0%BF#Text>.

<sup>45</sup> National Agency of Ukraine on Civil Service, “Order No. 158 of August 5, 2016 ‘On Approval of the General Rules of Ethical Conduct for Civil Servants and Local Government Officials.’”

<sup>46</sup> Ministry of Internal Affairs of Ukraine. “Order No. 888 of November 6, 2018 ‘On approval of the Procedure for conducting inspections of the activities of structural units of the Ministry of Internal Affairs, the National Guard of Ukraine, territorial bodies for the provision of services of the Ministry of Internal Affairs, institutions and enterprises belonging to the sphere of management of the Ministry of Internal Affairs’,” <https://zakon.rada.gov.ua/laws/show/z1354-18#Text>.

<sup>47</sup> Ministry of Internal Affairs of Ukraine, “Order No. 1613 of December 12, 2015 ‘On Approval of the Regulations on the Office for the Prevention of Corruption and Lustration of the Ministry of Internal Affairs of Ukraine’,” <https://zakon.rada.gov.ua/rada/show/v1613320-15#Text>.

<sup>48</sup> State Judicial Administration of Ukraine, “Order No. 14 of January 13, 2023 ‘On Approval of the Anti-Corruption Program of the State Judicial Administration of Ukraine for 2022 – 2024’,” <https://zakon.rada.gov.ua/rada/show/v0014750-23#Text>.

- Order of the Ministry of Internal Affairs of Ukraine No. 921 of December 9, 2021 “On approval of the Regulation on the introduction in the Ministry of Internal Affairs of Ukraine, the Main Service Center of the Ministry of Internal Affairs, institutions and enterprises belonging to the sphere of management of the Ministry of Internal Affairs, mechanisms for encouraging whistleblowers and forming a culture of reporting possible facts of corruption or corruption-related offenses, other violations of the Law of Ukraine ‘On Prevention of Corruption’”.<sup>49</sup>
- Order of the National Commission for State Regulation of Energy and Utilities No. 36-od October 31, 2022 “On the establishment of a working group to assess corruption risks”.<sup>50</sup>

## Conclusions

Accordingly, it is obvious that the measures taken will not eradicate corruption in Ukraine, but they can positively affect the further fight against it. Ukraine must fulfill its responsibilities and adopt the positive experience of countries that have been successful in uncovering corruption crimes. With the view to European integration, Ukraine has started the fight against corruption.

One of the requirements of the visa-free regime was the creation of specialized anti-corruption bodies. Analyzing the statistical data provided by these bodies, it is possible to conclude that their work is unsatisfactory. Statistics on Ukraine show that with the introduction of martial law, the level of corruption crimes has increased significantly. The concepts considered in the article will help Ukraine become a member of the European Union. Increasing the number of specialized anti-corruption bodies will positively contribute to its elimination.

Apart from that, the statistical analysis shows that the newly created units of pre-trial investigation are less effective in comparison with the National Police of Ukraine and the Security Service of Ukraine. It is necessary to pay attention to the low efficiency

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<sup>49</sup> Ministry of Internal Affairs of Ukraine, “Order No. 921 of December 9, 2021 ‘On approval of the Regulation on the introduction in the Ministry of Internal Affairs of Ukraine, the Main Service Center of the Ministry of Internal Affairs, institutions and enterprises belonging to the sphere of management of the Ministry of Internal Affairs, mechanisms for encouraging whistleblowers and forming a culture of reporting possible facts of corruption or corruption-related offenses, other violations of the Law of Ukraine ‘On Prevention of Corruption’”, <https://zakon.rada.gov.ua/laws/show/z1675-21#Text>.

<sup>50</sup> National Commission for State Regulation of Energy and Utilities, “Order No. 36-od October 31, 2022 ‘On the establishment of a working group to assess corruption risks’”, <https://zakon.rada.gov.ua/rada/show/vn036874-22#Text>.

of the activities of public and civic organizations in Ukraine in comparison with their importance in foreign countries. This is especially problematic since such organizations are one of the most effective means of revealing the facts of corruption.

In addition, promoting the rules of ethical behavior of civil servants will have a positive impact on the fight against corruption. Moreover, strengthening the concept of countering lobbying interests is the key element in combating corruption. Finally, the development of the Anti-Corruption Program for 2021-2025 by the Verkhovna Rada of Ukraine is a new milestone in fighting corruption in Ukraine.

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