

A SYSTEM OF ANTI-CORRUPTION PRIORITIES DURING THE LARGE-SCALE WAR IN UKRAINE

Kurinyi Ye. V.

The corruption extent in the modern Ukrainian state is quite large. It must be considerably reduced, at least, to the indicators of our closest Western neighboring countries (Poland, Lithuania, Slovakia, the Czech Republic, and Romania), which have already integrated into two Euro-Atlantic alliances and which our state is striving to join but with no success yet – one of the reasons is high corruption manifestations.

One of the key recognized criteria for assessing a corruption level is the Corruption Perceptions Index (CPI). Thus, Ukraine received 33 points out of 100 in CPI for 2022. Our score has increased by one point, and now Ukraine ranks 116th out of 180 countries in the CPI.

Algeria, Angola, Zambia, Mongolia, El Salvador, and the Philippines also have 33 points. Bosnia and Herzegovina, the Gambia, Indonesia, Malawi, Nepal, Sierra Leone are one point ahead of us – they all have 34 points. Dominican Republic, Kenya, and Niger have one point less than Ukraine.

Among the neighbors, Ukraine still ranks higher only than Russia – the terrorist country lost 1 point in 2022 and, with 28 points, now ranks 137th. In addition, the points of Hungary fell again – 42 points (-1, 77th), and those of the Russian satellite Belarus as well. The latter has lost 2 points this year.

Among the friends of Ukraine, there are also changes in indicators. Poland lost 1 point, but remained the leader in terms of CPI among our neighbors – with 55 points, it ranks 45th. But Slovakia managed to improve its performance over the year – 53 points (+1, 49th place), Romania – 46 points (+1, 63rd place) and Moldova, which added the most – +3, and now ranks 91st with 39 points.

According to Transparency International Ukraine, the growth of Ukraine by one point is a change within the margin of error, so it is worth considering the results for several years. Over the past 10 years (from 2013 to 2022), our country has shown positive dynamics: the corresponding indicator has increased from 25 to 33 points.

The sustainability of Ukraine's anti-corruption progress is often based on cooperation between civil society, business, and the state. This was most clearly manifested in innovative solutions that not only helped our country eliminate options to affect some processes through corruption but also become successful cases that other countries are following.

The most advantageous Ukrainian anti-corruption innovation is Prozorro, an online public procurement platform which began operating in 2016. The platform's motto is "Everyone sees everything". The electronic system not only assists in conducting public procurement but also tracking the distribution of taxpayers' funds. used. Since its launch, Prozorro has announced more than 15 million procurements worth UAH 4.3 trillion. In 2020, Prozorro was recognized the world's most transparent public procurement system: the United States used it as an example in its anti-corruption strategy, and the World Bank recommended involving it for procurements for the reconstruction of Ukraine.

Following the results of last year's CPI, Transparency International Ukraine provided authorities with 5 specific recommendations, the implementation of which could improve our performance in the study. None of these recommendations were fully implemented, four were partially implemented, and one was not implemented at all.

The following were partially implemented: complete the competitions and select professional, independent, and honest leaders of the anti-corruption ecosystem: the Specialized Anti-Corruption Prosecutor's Office, the Asset Recovery and Management Agency, and the National Anti-Corruption Bureau; adopt the State Anti-Corruption Strategy and the program for its implementation; ensure transparent accounting of public property and continue on the path to privatization; minimize the risks of adopting draft laws that remove procurement from the scope of the Law of Ukraine "On Public Procurement".

The recommendation to conduct the reform of constitutional justice, considering the Venice Commission's opinions, remained unimplemented.

Transparency International Ukraine offers 4 comprehensive steps that will help improve the anti-corruption level and contribute to the effective recovery of Ukraine in 2023. In particular, these are: a) complete competitions and elect professional, independent, and honest heads of anti-corruption ecosystem bodies: the Asset Recovery and Management Agency, the National Anti-Corruption Bureau, and the National Agency on Corruption Prevention; b) conduct the reform of constitutional justice, considering the opinions provided by the Venice Commission; hold a transparent competition for the selection of judges of the Constitutional Court of Ukraine; re-elect bodies of judicial self-government to ensure normal functioning of judicial institutions and launch a full-fledged judicial reform; c) disclose data where possible and not detrimental to security and defense interests; resume the submission of electronic declarations and their verification by the NACP; resume submission of reports by political parties; restore the functionality of agencies that have been limited due to the war, except for obvious and reasonable exceptions; d) use the Prozorro electronic

system for procurement to reconstruct Ukraine after the Russian invasion; ensure effective control and monitoring of procurement¹.

Despite some anti-corruption progress in Ukraine (+8 points in 10 years), firstly, the current pace cannot be considered impressive and encouraging for solving the strategic tasks of our state; secondly, 57 points separate Ukraine from the least corrupted countries, and 24 points from political entities where corruption replaces the state. That is, the way forward is more than twice as long as the way back to the club of countries that actually did not succeed.

Unfortunately, anti-corruption regression prevails in the Ukrainian state. As the experience of almost a year and a half of large-scale aggression of the Russian Federation has shown, corruption sprouts are increasingly finding a favorable ground in wartime. In particular, some dishonest public authorities, taking advantage of the lack of proper control over their activities and war chaos, find loopholes for illegal enrichment. Regrettably, one of the dangerous from the standpoint of various corruption manifestations was the Ministry of Defense of Ukraine, which recently has distinguished itself by numerous abuses (ranging from significantly inflated food prices for service personnel to the case of incredible enrichment of the head of Odessa Regional Center for Recruitment and Social Support) rather than brilliant cases of an efficient state defense policy.

Representatives of all-levels deputies, the judiciary, executive bodies of local and regional authorities, and other unscrupulous officials are not much better than the Ministry of Defense of Ukraine (MoDU). Unfortunately, the domestic bureaucratic hive keeps teeming with them.

It is worth noting that the Ukrainian community learns about a considerable part of high-profile cases of corruption and other abuses from findings of exposés and reports of public activists. NABU and SAPO (the National Anti-Corruption Bureau of Ukraine and the Specialized Anti-Corruption Prosecutor's Office) demonstrate some dynamics and independence in the fight against corruption compared to other anti-corruption agencies do nothing (as a rule, they begin to actively employ their diverse functional potential after the relevant statement of the Head of State).

Such inertia of bodies, which must be at the forefront in the fight against corruption, can be explained differently: from the excessive precaution of their leaders to shortcomings in the current legislation and pressure on their activities not only from higher government institutions but also influential individuals who are not directly associated with public authorities.

In order to identify determinants of the vulnerability of the organization and activities of anti-corruption bodies of Ukraine, it is necessary to study up

¹ Індекс сприйняття корупції – 2022. URL: <https://cpi.ti-ukraine.org>.

on the existing deficiencies of their performance and establish centers (sources) which explicitly or implicitly affect them.

In my opinion, the report prepared by the National Agency on Corruption Prevention (hereinafter referred to as the NACP) more accurately describes the relevant system. Thus, it states that Ukraine began building a full-fledged anti-corruption infrastructure and establishing new specialized anti-corruption bodies in 2014. It was a logical component in striving toward the EU and NATO, incl. the improvement of some regulations. International experience has repeatedly proved that establishing new anti-corruption bodies is more effective and faster than reforming existing ones. Ukraine chose that path and gained the attention from the international expert community.

After the well-known 2013-2014 events provoked mainly by endemic (systemic) corruption, Ukraine adopted a comprehensive anti-corruption package of laws and established new specialized institutions: NABU, SAPO, NACP, and ARMA (Asset Recovery and Management Agency).

The listed bodies have composed an anti-corruption system – a set of multi-level institutions united by a common goal of combating corruption achieve it following their inherent functions and powers. Together, they form a large-scale anti-corruption mechanism through the rational division of responsibilities and tasks, cooperation and collaboration of efforts.

In order for the Ukrainian system of preventing and combating corruption to function fully, in addition to anti-corruption bodies, there are also state ones – so-called involved bodies. The two categories differ in specialization. Therefore, anti-corruption bodies are directly engaged in developing and monitoring of anti-corruption policy, investigating and considering corruption cases with participation of high-ranking officials and a lot of funds, which requires specialized expertise and resources. The involved bodies, within their powers, can also take some anti-corruption measures and strengthen the anti-corruption system, which helps make anti-corruption activities more ambitious and effective.

The system of anti-corruption bodies of Ukraine should be considered from the standpoint of their scope.

The first level – the preventive function. The key task is to formulate appropriate policy and prevent corruption. The NACP is a central executive body with a special status. The objectives are to check electronic declarations, reports of political parties and facts about a conflict of interest; formulate drafts of the Anti-Corruption Strategy and the State Program for its implementation; coordinate anti-corruption programs of other bodies; draw up administrative protocols on the commission of corruption-related offenses by high-ranking officials; conduct anti-corruption expertise of draft laws and acts of the Cabinet of Ministers of Ukraine.

Entities involved: the Verkhovna Rada of Ukraine – the only legislative body, objectives – adopt the Law on the Anti-Corruption Strategy; conduct specific hearings, anti-corruption expertise of draft laws (in the Committee on Anti-Corruption Policy); the Cabinet of Ministers of Ukraine – the highest executive body, objective – approve the State Program for the Implementation of the Anti-Corruption Strategy; the Ministry of Justice of Ukraine – the executive body, objective – carry out anti-corruption expertise of statutory acts, except for draft laws.

The second level – the investigative and operational function. The key task is to investigate corruption crimes.

Anti-corruption bodies are as follows: NABU is a state law enforcement agency whose jurisdiction depends on the nature of a corruption crime, the degree of damage caused and perpetrator (high-ranking officials or individuals among officials), objective – investigate corruption crimes involving high-ranking officials or large amounts of public funds; SAPO is an independent unit of the Prosecutor General’s Office, objective – conduct procedural management and argue for the State in the HACC (High Anti-Corruption Court) in proceedings under the NABU jurisdiction; ARMA is a central executive body with a special status that does not conduct pre-trial investigations of corruption crimes, but its activities are crucial to investigate such criminal proceedings effectively, objective – identify and search for assets derived from corruption crimes and manages such assets (they are under arrest).

Entities involved: the National Police (NP) is an executive body that serves society by safeguarding human rights and freedoms, combating crime, maintaining public safety and order; objectives: investigate most crimes, including corruption ones, which do not fall within the competence of NABU and SBI and draw up administrative protocols on the commission of offenses related to corruption; the State Bureau of Investigation (SBI) is a law enforcement agency, the establishment of which was stipulated by the Criminal Procedure Code of Ukraine, objectives: investigate individual corruption crimes mainly committed by law enforcement officers and organized groups; the Security Service of Ukraine (SSU) is a special-purpose body with law enforcement functions, objective – conduct operational and investigative activities, incl. corruption crimes; the Prosecutor’s Office of Ukraine is an independent centralized state body operating in the system of law enforcement agencies, objective – carry out procedural management and argue for the State in general courts in cases of NP, SBI, and SSU.

The third level – the judicial function. The key task is to bring to criminal liability.

Anti-corruption bodies: the HACC is the highest specialized court in the judicial system of Ukraine, which began its work a year after the adoption of the Law of Ukraine “On the High Anti-Corruption Court” dated June 7, 2018, No. 2447-VIII, objectives: consider proceedings on corruption crimes investigated by the NABU and make decisions as a court of first and appellate instances.

Entities involved: general courts – local and appellate, Supreme Court, objectives: consider criminal proceedings on corruption crimes investigated by the NP, SBI, SSU, consider cases under administrative protocols drawn up by the NACP and the National Police; consider cases on bringing to civil liability for corruption offenses².

The analysis of the above system of anti-corruption bodies of Ukraine allows confirming its organizational and functional integrity. The system’s components are endowed with legislatively defined powers of administrative and criminal protection. Moreover, according to their functional purpose, they complement each other organically. Zero duplication of powers in central anti-corruption bodies prevents unhealthy competition, which allows them to properly perform their direct duties.

In the mentioned system, the involved second-level bodies (the investigative and operational function) lack ESB – Economic Security Bureau, which, based on its name, shall deal with economic issues, taking a bulk of relevant powers from the SSU, the National Police and SBI. However, as evidenced by more than one and a half year of experience of the ESB functioning, despite the change of its leadership in April this year, the liquidation of this law enforcement agency remains relevant because of poor performance since the beginning of its actual functioning in November 2021.

As practice shows, the performance of anti-corruption bodies is affected by a range of factors that can determine the priority measures for the further activity of these institutions, and one of such conditions is the ongoing large-scale war and all ensuing adverse circumstances.

Thus, the relevant prerogatives of anti-corruption activities in Ukraine are mentioned in the State Anti-Corruption Program for 2023-2025 approved by Government Resolution No. 220 as of March 4, 2023 (hereinafter referred to as the Program)³.

² Антикорупційна система. *Антикорупційна енциклопедія* / Офіс доброчесності НАЗК. URL: <https://prosvita.nazk.gov.ua/encyclopedia/antykoryuptsijna-systema-v-ukrayini#:~:text=>.

³ Про затвердження Державної антикорупційної програми на 2023–2025 роки : Постанова Кабінету Міністрів України від 4 березня 2023 р. № 220 / Кабінет Міністрів України. URL: <https://zakon.rada.gov.ua/laws/show/220-2023-%D0%BF#Text>.

In particular, Section 2 of the Program is entitled “Corruption prevention in priority areas” and consists of 7 areas of concerns amidst anti-corruption activities, as follows:

The first vector (subsection 2.1. Fair trial, prosecutor’s office and law enforcement agencies)

Problem 2.1.1. Society experiences a decline of trust in judicial authorities. The following issues remain unresolved: renewal of the bench of the High Council of Justice and the High Qualification Commission of Judges of Ukraine has not been completed. As a result, the Commission Opinion on Ukraine’s application for membership of the European Union provides a recommendation on the need to “finalize the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidate to establish the High Qualification Commission of Judges of Ukraine”.

Problem 2.1.2. Qualification assessment of judges and competitive procedures require improvement and formulation of consistent and predictable criteria (indicators) of integrity and professional ethics. Integrity and professional ethics as standard requirements for judges have not been sufficiently put into practice, and the assessment of these characteristics is not always transparent and predictable.

Problem 2.1.3. Lack of effective mechanisms for maintaining the integrity of judges and responding to the established facts of impact and pressure on judges and interference in their activities.

Problem 2.1.4. Corruption risks caused by gaps and imperfections in judicial legislation. Despite the statutory restriction for one person to hold an administrative position in court for two consecutive terms, experience shows that judges disregard the rule. This necessitates the introduction of other approaches to selecting judges holding administrative positions in order to prevent such situations.

Problem 2.1.5. Managerial processes in prosecution agencies are scarcely ever transparent and effective. The reasons triggering the problem consist of an imperfect system for evaluating prosecutors’ performance; poor legislative regulation of the grounds for bringing the prosecutor to disciplinary responsibility, guarantees of the independence and effective functioning of the body carrying out disciplinary proceedings, the procedure for considering a disciplinary complaint and the application of disciplinary sanctions.

Problem 2.1.6. Lack of an effective model of appointment, remuneration, promotion and consideration of disciplinary complaints in the system of the National Police. The level of financial support for police officers, as well as mechanisms of financial incentives, do not provide a competitive edge in the labor market that negatively affects the quality of police personnel and is also one of the factors of high corruptness.

Problem 2.1.7. The need to improve the process of independent evaluation of the performance of anti-corruption bodies and the elaboration of accountability mechanisms. The issue of dismissal (termination of powers) in case of entry into force of a court decision on bringing to administrative responsibility for an administrative offense related to corruption is regulated differently for heads of various law enforcement agencies.

The second vector (subsection 2.2. State regulation of the economy)

Problem 2.2.1. Failure to fulfil the digital transformation of the exercise of powers by state and local self-government bodies as a basis for ensuring transparency and minimizing corruption risks in their activities that adversely affects the efficiency of state and local self-government bodies, the speed and convenience of obtaining services by citizens and businesses and provokes some corruption risks.

Problem 2.2.2. Selective application of mandatory rules to business that comes with corresponding corruption risks. The problem of unfair and selective application of mandatory rules to business entities is caused by incomplete transition to a preventive and risk-oriented system of state supervision (control), the excessive discretion on the part of executive authorities and local self-government bodies when providing access to a shared limited resource.

Problem 2.2.3. Excessive and unjustified regulatory burden on business, which causes a high level of corruption.

Problem 2.2.4. Ineffective state regulation that impedes honest business to develop and leads to corrupt practices. The lack of necessary reliable information and subsequent reasoned recommendations considerably complicates decision-making in the field of public policy, in particular, regulatory.

Problem 2.2.5. Insufficient scope of information on the activity of the Antimonopoly Committee of Ukraine and vesting it with discretion powers complicate public control over performance and stipulate a high level of corruption risks.

Problem 2.2.6. Most state aid providers give it to business entities, which is illegal and recognized by the Antimonopoly Committee as inadmissible for competition that has a negative impact on competition and may be a consequence of the implementation of preliminary corruption agreements.

Problem 2.2.7. Ineffective mechanism for exercising preliminary control and assessment of impact on competition upon establishment and operation of business entities causes adversely affects competition.

The third vector (subsection 2.3. Customs and taxation).

Problem 2.3.1. Lack of transparency and underperformance of customs authorities, excessive discretionary powers of customs officers. The activities of the State Customs Service do not correspond to its potential effectiveness.

Problem 2.3.2. Non-transparency of approaches to classifying goods, establishing their customs value and appointing inspection. The solution to this problem shall be consistent with steps taken by Ukraine when reforming customs aimed at harmonizing national customs legislation with the relevant EU legislation.

Problem 2.3.3. Imperfect procedure for administrative appeal against actions of customs officials. Studies of the IMF and the World Bank suggest that a conflict of interest amidst an administrative appeal can be settled by excluding from consideration of complaints officials who made the appealed decision, were involved in any way before its adoption, or directly coordinate activities of the bodies whose decisions are being appealed.

Problem 2.3.4. One of the fundamental problems of the customs functioning is the interference of law enforcement agencies in the procedure of customs inspection. Law enforcement officers, in particular the SSU and the National Police, are entitled to initiate a wide range of actions with access to declarants' goods, reloading, unpacking, etc. At the same time, the Customs Code of Ukraine stipulates that the interference of law enforcement officers in customs inspection is specifically prohibited.

Problem 2.3.5. Excessive discretionary powers of employees of tax authorities. Ukraine ranks 130th following the Index of Economic Freedom and 122nd in the Corruption Perceptions Index. Officials from among top managers of fiscal bodies are periodically involved in criminal cases of various abuses. The state has accumulated heavy debts to entrepreneurs and charged unreasonable fines.

Problem 2.3.6. Tax authorities are entitled to impose financial sanctions, and the excessive focus of these bodies on their application lead to corruption risks. For a long time, financial crimes were investigated by several bodies, in particular the SSU, the National Police and the tax police, which caused the duplication of their powers and excessive pressure on taxpayers. The situation has changed since the foundation of the ESB, but its activities raise some concerns, which do not contribute to high public confidence.

The fourth vector (subsection 2.4. Public and private sectors of the economy).

Problem 2.4.1. The existing management model in economic entities of the state-run economy is ineffective, resulting in losses and corruption. The state property policy is not formalized, and there are no individual property policies for state unitary enterprises, business entities under the authorized capital of which the state owns 50 percent or more of shares (stakes).

Problem 2.4.2. Poor transparency of privatization procedures and buyers' breach of sale terms for the privatization target. There is a need for a legislative definition of the list of state-owned objects which are not subject to privatization.

Problem 2.4.3. Insufficient publicly available information about state-owned economic entities utterly degrades the transparency of their activities, complicates public control, and encourages corruption.

Problem 2.4.4. High corruption tolerance in the private sector of the economy driven by a lack of effective administrative, procedural, and legal incentives for business to implement integrity practices; a lack of systematic interaction of business representatives and civil society institutions with government agencies, etc.

The fifth vector (subsection 2.5. Construction, land relations and infrastructure).

Problem 2.5.1. Non-public information on urban planning and land management leads to corruption and allows constructing contrary to legal requirements.

Problem 2.5.2. Lack of public information on cultural heritage sites and collisions in laws on urban planning and monument protection result in abuse and real estate development on cultural heritage sites.

Problem 2.5.3. Imperfect system of state construction control and regulation encourages the emergence of corrupt practices.

Problem 2.5.4. Formation procedure for land plots is complicated and comes with excessive discretion.

Problem 2.5.5. Procedure for collecting land tax and leasing state and communal land is succeeded by corruption risks because of giving them for use below market.

Problem 2.5.6. Free procedure for changing the designation of land plots stimulates corruption when making relevant decisions.

Problem 2.5.7. Lack of a procedure for sale of state-owned and communal land plots or land titles (lease, superficies, emphyteusis) via electronic auctions under uncontrolled distribution of agricultural land.

Problem 2.5.8. Free privatization of state and communal land is a source of corruption in land relations.

Problem 2.5.9. Excessive concentration of powers in the central executive body implementing the state policy on land relations encourages a conflict of interest and widespread abuses.

Problem 2.5.10. Imperfection of available control tools and lack of transparency in road construction, repair and operation.

The sixth vector (subsection 2.6. The defense sector).

Problem 2.6.1. Non-transparent and inefficient use and disposal of defense lands and real estate in the military-industrial complex, as well as surplus movable military property, intellectual property; uncontrolled fuel consumption, which is procured for the needs of the Armed Forces.

Problem 2.6.2. Procurement of defense goods, works and services is implemented amidst an excessive classification regime and has a low level

of competition, which contributes to the abuse and unreasonable spending of budget funds.

Problem 2.6.3. Ineffective model of control over defense products during manufacture does not allow averting the supply of defective samples of weapons and military equipment on time and in full.

Problem 2.6.4. Inefficient use of budget funds and abuses when accommodating service personnel.

Problem 2.6.5. Corruption risks in the formulation and implementation of personnel policy in the defense sector during conscription (admission) to military service, admission to higher military educational institutions, training and service abroad, holding staffing measures, and granting state awards.

The seventh vector (subsection 2.7. Health protection, education and science and social protection).

Problem 2.7.1. Patients and doctors do not receive pharmaceuticals and medical devices on time and in full, in particular, due to incomplete transition to a new system of arrangement and control of medical procurement and partially regulated processes for determining needs and pharmacy inventory.

Problem 2.7.2. Patients do not receive the appropriate treatment abroad, as well as during the provision of medical care involving transplantation, because of corrupt practices caused by poor regulation of the relevant procedures and non-transparent accounting.

Problem 2.7.3. Electronic health record is poorly integrated with other databases, which allows for abuse during the implementation of some functions (namely, the provision of disability benefits, preventive and mandatory medical examinations, and the establishment of a disability group).

Problem 2.7.4. Non-transparent recruitment procedures in health facilities diminish competition and allows for corruption amidst appointment to such positions.

Problem 2.7.5. Access to educational institutions and the course of the educational process are marked by corruption risks. The award of academic degrees and ranks often come with corrupt practices and other manifestations of dishonesty.

Problem 2.7.6. The sector of education and science is characterized by conflicts of interest during the formation and implementation of state policy.

Problem 2.7.7. There is a lack of proper accounting and transparency in using funds provided in budgets of all levels for social protection of all categories of social benefit recipients.

In addition to the second section of the Program, the specification of anti-corruption priorities in Ukraine is also available in Chapter 3 “Ensuring the inevitability of responsibility for corruption”.

Thus, in subsection 3.1 Disciplinary responsibility, there is a problem 3.1.1. Violation of the anti-corruption legislation is not always regarded in practice as a disciplinary offense; most entities subject to the Law of Ukraine “On Prevention of Corruption” get away with disciplinary penalties.

Subsection 3.2 Administrative liability. Problem 3.2.1. Some rules, prohibitions and restrictions established by the anti-corruption legislation lack legal liability measures. Articles 172⁴-172⁹, 212¹⁵, 212²¹ of the Code of Ukraine on Administrative Offenses have shortcomings that significantly decrease their support and preventive potential, as well as the effectiveness of the NACP, the National Police, the Prosecutor’s Office, and courts.

Subsection 3.3. Criminal liability

Problem 3.3.1. Some provisions of criminal law related to criminal liability for corruption criminal offenses contradict specific international standards and are not consistent with each other and with criminal procedural legislation and the Law of Ukraine “On Prevention of Corruption”.

Problem 3.3.2. Low efficiency and quality of the pre-trial investigation of corruption and corruption-related criminal offenses (a significant proportion of such proceedings last for years) is due to the excessive complexity of individual procedural actions. A set of procedures for conducting investigative (search) actions are burdensome and can be simplified by referring to the practice of the European Court of Human Rights. Sufficient guarantees of institutional and operating independence have not yet been introduced for NABU and SAPO. Therefore, NABU cannot independently collect information from electronic communication networks and hence faces obstacles when implementing expert evaluation for the purposes of criminal proceedings.

Problem 3.3.3. The legislation regulating the ARMA activity teems with numerous gaps and corruption risks. Underperformance of transferring assets to ARMA’s management to preserve their economic value, as well as the processes of preventing and countering the legalization of illegal funds. Guarantees of ARMA’s independence and institutional capacity need to be essentially strengthened. The established procedure for the competitive selection of the ARMA Chairperson does not ensure impartiality and selection on merits, and the procedure for establishing the competitive commission is marked by the risks of recognizing it as such that contradicts the Constitution of Ukraine. The list of grounds for dismissal of the ARMA Head is too broad and does not guarantee their independence from improper interference in activities. One of the mechanisms for monitoring its performance – an external independent assessment of performance efficiency – has never been carried out.

Problem 3.3.4. The overall dynamics of court proceedings in cases of corruption and corruption-related criminal offenses is low. There is no

established practice of considering relevant criminal proceedings. There are multiple cases when trial participants abuse their procedural rights.

It is worth noting that the above list of priority anti-corruption areas cannot be called exhaustive. For example, it lacks such an essential component as energy economy (on January 16, 2023, NABU and SAPO completed an investigation on suspicion of 15 persons involved in abuses using the so-called Rotterdam+ formula under which electricity consumers illegally overpaid more than UAH 20 billion during 2018–2019)⁴. Moreover, the sixth priority area “Defense sector” does not cover abuses occurring during the war in domestic Centers for Recruitment and Social Support (former military enlistment offices). In particular, on July 25, President of Ukraine V. Zelensky reported on the “disappointing results” of the inspection of military committees⁵.

The specific vectors and problems can be gathered into a single system of anti-corruption priorities, consisting of several blocks. The first block concerns shortcomings in direct organization and functioning of anti-corruption bodies (for example, ARMA, which, in addition to complete omissions, before the Vilnius NATO Summit on July 11–12, 2023, was led by a person with, mildly speaking, an ambiguous reputation that provoked indignation of the Ukrainian public and dissatisfaction of our Western partners, primarily the United States)⁶. The second block characterizes the workflow management in courts and law enforcement agencies that are involved in the anti-corruption system. The third one is related to the performance of control and supervisory bodies with the highest indicators of corruption risks and manifestations (State Customs Service of Ukraine, State Tax Service of Ukraine). The fourth block consists of priorities of the economic, political, and socio-cultural sectors, the totality of which should be under the constant preventive and protective influence of the central anti-corruption institutions of Ukraine. The fifth block accumulates the most crucial state component during the war, namely the

⁴ Справа «Роттердам+»: НАБУ і САП завершили розслідування другого епізоду. *Економічна правда*. 2023. 16 січня. URL: <https://www.epravda.com.ua/news/2023/01/16/696015/>.

⁵ Зеленський повідомив про «невтішні результати» перевірки військкомів. *Радіо Свобода*. 2023. 25 липня. URL: <https://www.radiosvoboda.org/a/news-viyskkomu-zelenskyu/32518907.html>.

⁶ Крицька І. Проблеми не закінчуються. Черговий відбір на посаду директора АРМА відбувся зі скандалом через бекграунд переможниці. Що з холдингом конфіскованих активів буде далі. *Forbes Ukraine*. 2023. 30 червня. <https://forbes.ua/money/problemi-ne-zakinchuyutsya-chergoviy-vidbir-direktora-arma-proyshov-zi-skandalom-cherез-bekgraund-peremozhni-ti-shcho-z-kholdingom-konfiskovanih-aktiviv-bude-dali-30062023-14509>.

defense sector, because every corruption case in this sector can be equated with an invisible shot in the back of the state, the effects of which can be no less severe than obvious blows from an external aggressor.

Taking into account the above, the defense sector of Ukraine unconditionally leads in the so-called rating of anti-corruption priority amidst the large-scale war.

REFERENCES

1. Антикорупційна система. *Антикорупційна енциклопедія* / Офіс доброчесності НАЗК. URL: <https://prosvita.nazk.gov.ua/encyclopedia/antukoruptsiyna-systema-v-ukrayini#:~:text=>.

2. Зеленський повідомив про «невтішні результати» перевірки військомів. *Радіо Свобода*. 2023. 25 липня. URL: <https://www.radiosvoboda.org/a/news-viyskkomu-zelenskyu/32518907.html>.

3. Індекс сприйняття корупції – 2022. URL: <https://cpi.ti-ukraine.org>.

4. Крицька І. Проблеми не закінчуються. Черговий відбір на посаду директора АРМА відбувся зі скандалом через бекграунд переможниці. Що з холдингом конфіскованих активів буде далі. *Forbes Ukraine*. 2023. 30 червня. <https://forbes.ua/money/problems-ne-zakinchuyutsya-chergoviy-vidbir-direktora-arma-proyshov-zi-skandalom-cherez-bekgrund-peremozhnitsi-shcho-z-kholdingom-konfiskovanikh-aktiviv-bude-dali-30062023-14509>.

5. Про затвердження Державної антикорупційної програми на 2023–2025 роки : Постанова Кабінету Міністрів України від 4 березня 2023 р. № 220 / Кабінет Міністрів України. URL: <https://zakon.rada.gov.ua/laws/show/220-2023-%D0%BF#Text>.

6. Справа «Роттердам+»: НАБУ і САП завершили розслідування другого епізоду. *Економічна правда*. 2023. 16 січня. URL: <https://www.epravda.com.ua/news/2023/01/16/696015/>.

Information about the author:

Kurinni Yevhen Volodymyrovych,

Doctor of Law, Professor,
Professor at the Department of Administrative
and Commercial Law
Zaporizhzhia National University