Introduction

Corruption is a social phenomenon that has a vividly pronounced political background. Historical experience bears witness to the fact that the heights of power have often been achieved with the aid of corruption. At the same time, corruption has often caused the careers of politicians and governmental figures to end, and governments to fall. It has led to the change of political regimes and the decline of states.

Over the course of recent decades, corruption has also manifested itself as a feature of contemporary politics in many countries of the world. Some analysts think that corruption has become the fundamental political problem of the early-21st century. Corruption and government are eternal antagonists. Corruption, as a form of social corrosion, "eats away" at governmental structures, while governmental authority in turn strives to destroy corruption.

This article will provide the definition of the concept of corruption, and will analyze the level of corruption and its influence on the socio-political, social, and economic development of Ukraine. A short survey of measures taken is conducted, and basic lines for battle with this negative phenomenon are proposed.

A definition of the concept of corruption

As various dictionaries testify, the word corruption derives from the Latin word corruptio, meaning "spoilage." For the purposes of this article, it can be understood as the suborning of individual officials in the governmental apparatus. It should be noted that a precise definition of the concept of corruption does not exist, either among Ukrainian legal scholars or among practitioners.

The basic approaches to an understanding of corruption can be reduced to the following:

1. Corruption is understood as the bribery and venality of governmental employees.
2. Corruption is regarded as the abuse of power or official position, performed for personal interests.
3. Corruption includes the use of official powers or the status of one's position, and also the authority of such a position, for the satisfaction of personal interests or of the interests of third persons.
4. Corruption is regarded as a feature of organized crime.[2]

The regulatory legal acts of Ukraine also do not give a unified definition of the concept of corruption. Thus, in Ukraine's Law "On the Battle with Corruption," the following formula is given: "corruption is understood in this law to be the activities of persons authorized to carry out governmental functions, which actions are directed at the illegal utilization of the powers granted them for the obtaining of material goods, services, privileges, or other advantages." A different definition of corruption is given in the Presidential document "Concept of the Battle with Corruption for 1998-2005":[3] "In a legal regard, corruption comprises the totality of corrupt acts and other violations of law (criminal, administrative, civil, and disciplinary), and also violations of ethics of behavior by officials, which violations are connected with the accomplishment of these acts; these acts, violations of law, and violations of ethics of behavior being various in nature and degree of social danger, but single in their essence."

An analysis of international jurisprudential documents also testifies to the existence of various approaches to understanding corruption. Thus, in the Resolution "Practical Measures for the Battle with Corruption" disseminated at the Eighth Congress of the UN on the Prevention of Crime (Havana, 1990), corruption is defined as "violations of an ethical (moral), disciplinary, administrative, or criminal nature which manifested themselves in the illegal utilization of one's official position as an actor in corrupt activities." Another UN document (which is a reference document on the international battle against corruption) formulates the concept of corruption as "abuse of public authority for private gain."[4]

Thus, corruption is a complex social phenomenon that has a negative influence on all aspects of the political and socio-economic development of society and the state. It manifests itself in both illegal acts (in action) and unethical and illegal deeds.

Corruption can be defined as a complex social—and, in its essence, antisocial, immoral, and illegal—phenomenon which arises in the process of the exercise of authority by individuals and is characterized by the use of such authority for the satisfaction of personal interests (or interests of third persons), and also for the creation of conditions for the commission of corrupt acts, their concealment, or their facilitation.

The scale and influence of corruption in Ukraine

Corruption in Ukraine has turned into one of the primary threats to national security. In essence, two subsystems are functioning in society, one official and the other unofficial, that are for all practical purposes equal in their influence. Society and the state as a whole experience the negative influence of corruption. It subverts the economic foundations of the state, discourages foreign investment, and leads the population to distrust authority structures. Corruption has a negative effect on Ukraine's international image, leads to a "shadowing" of the economy, and facilitates the growth of the influence of organized crime groups.

Ukraine's population rates the scale of the spread of corruption in Ukraine as very high. The results of sociological polls by the Aleksandr Razumkov Memorial Ukrainian Center for Economic Studies (UCEPS) show that only two percent of respondents think that "almost no one in the country takes bribes," while the majority hold the opposite point of view. Twelve percent of those polled think that "almost everyone takes bribes, using their position of employment," while 49 percent think that "many" take bribes and 29 percent think "some" do.

The citizens of Ukraine have to resort to corrupt acts and the giving of bribes even to exercise their legitimate rights. According to data from a UCEPS sociological poll, 60.5 percent of respondents know of instances where bribes were given in exchange for a legitimate decision, and 47.5 percent of those polled knew of instances of bribery in exchange for an illegitimate decision.

A brief analysis of the influence of corruption on the formation and functioning of governmental authority, and its influence on the implementation of governmental policies and on society as a whole, is given in this subsection. It is shown how slogans from the battle with corruption are utilized in political struggles. Individual estimates of the scale of corruption in Ukraine are also given.

Corruption renders a substantial influence on the formation of governmental authority in Ukraine. In the executive branch this occurs primarily by means of either payment for appointment to office (buying and selling of positions) or appointment to office independent of a person's professional qualifications, proceeding from one's family ties or personal allegiance, according to the principle "It doesn't matter who you are; what matters is whose you are."

Most dangerous are manifestations of corruption in personnel policies at the highest levels of executive authority, insofar as leaders at the highest level can create an entire pyramid of corrupt relations penetrating all levels of government. Under such conditions it becomes impossible for an office to be filled proceeding only from the professional and personal qualities of the candidate. What becomes decisive is payment for appointment, or family (or friendly) relations with high-level leaders or other persons of influence. Not infrequently, personnel decisions are only formally made immediately within authority structures. In reality, however, they are made outside the offices of those in authority, by influential businessmen or by leaders of organized crime formations who control a certain region or sphere of activity. Such instances have been reported by the domestic and foreign mass media, by the leaders of countries and law-enforcement agencies, and by well-known Ukrainian politicians.

Thus, speaking to law-enforcement agency leaders, President of Ukraine Leonid Kuchma stated, "The following materials were made available to me prior to today's conference: about twenty-five hundred permanent criminal groups are on the books of the internal affairs [police] agencies! Just think about it, friends: twenty-five hundred groups armed and dangerous!"

"In a legal regard, corruption comprises the totality of corrupt acts and other violations of law (criminal, administrative, civil, and disciplinary), and also violations of ethics of behavior by officials, which violations are connected with the accomplishment of these acts; these acts, violations of law, and violations of ethics of behavior being various in nature and degree of social danger, but single in their essence."
data from Ukraine's law-enforcement agencies, in the 1998 elections for representative organs of government, a significant number of persons with connections to criminal activity were elected. In some cases, these were organizers or active participants in criminal groups, and in other cases people that, by the time of their election, already had judicial precedent for their involvement in acts from the Center for Social Ties at the Chief Administration of the Ministry of Internal Affairs (MVD) in Ukraine, the nine active members of organized criminal groups are deputies on the Kerch city council.[9] In 1999, four deputies in the Yevpatoriya city council were arrested for committing various crimes.[10]

During the formation of authority structures, corruption leads, in the first place, to authority being given to persons to whom it has not in fact been delegated by voters, or who should not occupy governmental positions due to their professional and personal qualities. Essentially, the issue at hand is the illegal conferral of authority. In the second place, repressive means are being used, including the criminal prosecution of the office, government officials and other persons who have violated the law. This is also related to the presence of an interest in corrupting governmental structures, or individual governmental figures, insofar as the exposure of facts of repressive means, and discrediting opponents. On the other hand, the political opposition can accuse the government of corruption for the purpose of achieving its own political goals.

In the summer of 1998, information about corruption among parliamentarians spread particularly intensively. This was during the election of the Chairman of the Supreme Soviet of Ukraine. It was reported both during public speeches at plenary sessions of Parliament and in the mass media that some candidates for this position, or members of structures which supported these candidates, were resorting to bribery of individual deputies. There was also talk of the bribery of deputies in connection with the formation of deputy groups and factions and the movement of deputies from one faction to another.[11] It went so far that on 25 June 1998, the Supreme Soviet of Ukraine adopted a special resolution, “On the activities of members of Parliament in the period of the election of the position of Chairman of the Supreme Soviet of Ukraine.” A Temporary Investigative Commission for verification of statements by deputies about facts relating to bribery during voting was created, and the Office of the Prosecutor General of Ukraine was enlisted to participate in the verification.

The statement of this politician should be taken extraordinarily seriously, insofar as during that period he himself was a candidate for the position of Chairman of the Supreme Soviet of Ukraine, which means he was well informed about the political situation that took place in 1998. In 1998, the Office of the Prosecutor General of Ukraine made representations to Parliament about obtaining an agreement to institute criminal proceedings against People's Deputies of Ukraine P. Lazarenko and N. Apanasenok for commission of crimes involving corruption. In March 2000, the Security Service of Ukraine presented Parliament for parliamentary considerations material on six People's Deputies of Ukraine. The Security Service discovered actions on the part of these six individuals that violated the principles contained in Ukraine's Law “On the battle with corruption.”[12] In addition, the Security Service reported a violation of election legislation by another People's Deputy of Ukraine (through the use of counterfeit documents during registration as a candidate).[13]

Information on the entrepreneurial activities of parliamentarians was made public on 20 April 2000 at a session of the Coordination Committee on the Battle with Corruption and Organized Crime at the Office of the President of Ukraine. According this report, composed of data from the Government Tax Administration, 364 People's Deputies of Ukraine receive official income from commercial structures. Parliamentarians head 202 enterprises and are founders of 473. Overall, People's Deputies have a direct or indirect relation to the economic management of 6,105 enterprises. In 1999, these enterprises imported into Ukraine raw materials and consumer goods worth 13.2 billion grivnas (corresponding to 25.3% of Ukraine's imports), and exported raw materials and consumer goods worth 5.2 billion grivnas (10.1% of Ukraine's exports). According to these figures, for 1999 alone the enterprises mentioned are in arrears to the budget in the amount of 4.1 billion grivnas.[16]

Although some of the facts mentioned above, and others that have been published in the mass media, have not been confirmed officially (or are still being verified), it may be asserted that such information as has been made public by parliamentarians and governmental leaders is an admission of corruption among high-level politicians.

For the sake of fairness, it should be noted that, in comparison with the other branches of government, the legislative authorities cannot objectively be the most corrupt. The executive authority is potentially the most corrupt, insofar as it is the representatives of the executive authority who have the opportunity to manage monetary resources, real estate, and things of material value, and to decide questions of apportioning plots of land and rent, calling to legal and financial account, and issuing permits, licenses, and credits guaranteed by the Government. This is also confirmed by court practice in applying anti-corruption legislation; the overwhelming majority of persons called to account for bribery, abuse of authority, and violation of the Law of Ukraine “On the battle with corruption” are representatives of the executive authority. Incidentally, the absence among them of representatives from a criminal milieu, including leaders of criminal groups, come to power. In the third place, government formed in this way is illegitimate and will be utilized by the governing interests of groups which support these candidates, or of individuals who have otherwise obtained power.

Corruption also influences the functioning of governmental authority. Corruption is predicated on the exploitation of public authority for private gain. The state is deprived of that which it could use for the benefit of society and the international community that the use of the legal process is absolutely devoid of a political subtext and is directed exclusively at securing legality in the society.[17]

The essence of corruption is also manifested in the fact that corruption can be a weapon in the battle for power or (retention of power). On the one hand, authority structures can use slogans from the battle with corruption to try and achieve political goals, including conducting reprisals against political opponents utilizing the criminal law, repressive means, and discrediting opponents. On the other hand, political corruption can accuse the government of corruption for the purpose of achieving its own political goals. Surprising as it may seem, the opposition may thus have an interest in corrupting authority structures (or individual governmental figures), insofar as the exposure of facts of repressive means, and discrediting opponents. On the other hand, the political opposition can accuse the government of corruption for the purpose of achieving its own political goals.

The most typical variants of using slogans from the battle with corruption for battle with political enemies are given below:

1. The selective application of the criminal law and other repressive legal means to governmental figures and politicians (as a rule, from the opposition). Even when there are grounds for such an approach, the decision may be taken not because such grounds exist, but mainly due to political considerations. That is, calling such persons to account for committing violations of law relating to corruption is accomplished not as a result of systematic anti-corruption activities by the authorities, but proceeding from the interests of some political group. The process is the subject of conscious concealment of cases and publication of summary measures for the purpose of convincing society and the international community that the use of the legal process is absolutely devoid of a political subtext and is directed exclusively at securing legality in the society.[20]

In such instances, law-enforcement agency representatives can apply the law with a clear conscience, even while recognizing the political aspect of the situation. However, there can be a material change in the situation if what is involved is a calling to account of other officials (or political figures) for similar acts, officials not in political opposition to the country's leadership, or who are even close to those in power. In such instances, law-enforcement agency representatives who deem their task to be not assuring legality, but rather servicing the existing political regime, are compelled to violate the law, insofar as non-application of the law when there are grounds for its application is an abuse of authority. [20]

2. The use of juridical reprisals against political opponents by means of charging them with corruption (or other illegal acts) when there are no legal grounds to do so. The goal and means in such instances remain the same as those described above, but grounds for their application are absent.

This was particularly the case in the former USSR, where the authorities not infrequently wreaked reprisals on political figures, and in particular on opposition parliamentarians. An example of the latter is detailed in the novellas and materials of the criminal case brought in April 1997 by Prosecutor General of Ukraine G. Vosylenko against Chairman of the Parliament Committee on Questions of the Fight with Organized Crime and Corruption G. Omelchenko, who was accused of abuse of authority (without grounds, as became clear in time), think this was one such instance.

In such instances, law-enforcement agency representatives have occasion to act illegally. Ungrounded criminal prosecution (or application of other repressive measures) is a job-related crime; that is, the topic now expands to include corrupt behavior by law-enforcement agency representatives.

3. The application of repressive means for the same motives to persons surrounding political figures that the authorities wish to discredit. As far as law enforcement agencies are concerned, their actions, depending on the presence (or absence) of grounds for applying the appropriate measures, may be either legal or illegal. However,
One of the most dangerous factors in using slogans of opposition to corruption in political battle is the enlistment of law enforcement agencies in the political process. In these circumstances, the law enforcement agencies themselves become combatants in the political fight.

4. The rhetoric of the fight against corruption can also be invoked by particular representatives of government for the purpose of creating a positive image among citizens or for self-promotion in the world of politics. In order to retain one's position. Traditionally, statements about intensifying the fight against corruption resound more frequently and loudly prior to regular elections.

Essentially, such actions by corrupt politicians are directed at solving a twofold problem: first, to stay in power at any cost; and second, by remaining in power, to avoid any liability for crimes committed while in office.[22]

In this connection, it is necessary to take a closer look at the advisability of maintaining parliamentary immunity. In a legal and political situation where the prosecution of parliamentarians for political motives is not unknown, parliamentary immunity ought to be looked upon as a means of protecting democracy. The basic purpose would be to provide legal guarantees for the proper execution by deputies of their duties. It is apparent that the limited application of parliamentary immunity can be considered useful under these conditions as a means of fighting with parliamentary immunity proceeding from political goals may turn into a sort of "vaccination" against political opposition that will not facilitate the development of democracy in Ukraine.[24]

Nor can instances be ignored of a corrupt individual being a People's Deputy who was exposed as having committed abuses or taken bribes and who then attempted to represent accusations directed at him as political persecution. As practice has shown, a political defense of this kind can be rather effective.

Corruption also manifests itself in that it can substantially influence the implementation of domestic and foreign policy. As far as the latter is concerned, the high level of corruption in the country, and the fact that corruption exists at high levels, can be used by other states to put pressure on the country's leadership when it is in the process of reaching decisions on issues of either foreign or domestic policy. The ruling elite of the state falls into political dependence on the leaders of other states and international organizations if these external actors are informed about the real state of affairs and about the scale of corruption of the country, particularly regarding individual politicians or high-level leaders.

Knowledge about such corruption can create problems in relations with other states or international organizations during the process of concluding international treaties and contracts, receiving credits, investment of foreign capital, or restructuring debts. The possibility should not be ruled out that corrupt officials could fall into dependence on representatives of foreign states or international organizations and be used by them in their own interests, as "agents of influence."[25]

The facts that problems of corruption have acquired a political nature in Ukraine and are an important factor in the attitude taken toward Ukraine by the international community are remarked by political and specialists as an indisputable fact and is confirmed by numerous polls of Western experts.[35] This is affirmed both by the evaluation of Ukraine made by the leading international organizations on which the political image of our country in the world in significant measure depends, and by individual instances of pressure on Ukraine's political leadership.

By indices of corruption, Ukraine is a member of the group of world "leaders." In the analytical reference work prepared by the U.S. for one of the recent economic forums in Davos, it was emphasized that Ukraine is one of the leaders among countries with the highest level of bribery, corruption in politics, and tax evasion.[27] At the end of 2000, the World Bank named Ukraine as one of the most corrupt countries in the CIS.[28]

Political pressure on the part of other states prompted by their worries over the level of corruption in Ukraine can take on various forms, including diplomatic ones. One may assume that in the context of the operation of many members of government and diplomats regarding corruption in Ukraine on the eve of President Leonid Kuchma's visit to the U.S. in the fall of 1999. U.S. Deputy Secretary of State Strobe Talbott, characterizing the state of corruption in Ukraine, pointed out that "corruption has become one of the greatest obstacles to achieving economic prosperity and democracy in Ukraine." If Ukraine wishes to restore investor confidence, which serves as the basis for economic prosperity, then success in the battle with corruption is vitally important.[29] U.S. Ambassador to Ukraine Steven Pifer expressed himself even more explicitly in this regard. He stated that the highest leaders of Ukraine "must break their ties with persons involved in corrupt activities or having a relation to criminal groups."[30]

According to reports in the mass media, during President Leonid Kuchma's stay in the U.S. one of the basic issues that arose in talks with the leadership of the U.S. was the issue of the need for a concerted effort against corruption in Ukraine. Moreover, there were reports that, during the meeting of the President of Ukraine with the Vice President of the U.S., there was talk of particular Ukrainian politicians and businessmen having links to corruption. According to information from the weekly Zerkalo nedeli, in April 2000 President Bill Clinton sent a letter to President Leonid Kuchma in which he made the recommendation that those forces "which are a brake on the road to market reforms and which pursue personal profit at the expense of the state" should be put in their place.[31]

It is apparent that one of the conditions for fruitful cooperation between the United States and Ukraine, including the granting of credits to Ukraine by the U.S. and the IMF, is the need for the government of Ukraine to implement decisive anti-corruption measures, including measures against identified individuals currently at the apex of Ukrainian political life. That, in turn, will entail changes in Ukraine's legal framework and personnel changes at the highest levels of power in our country.[32]

Corruption is one of the basic factors dividing society. Symbolically speaking, society is divided into an official society and an unofficial—and partially criminal—society. As a consequence, two social subsystems exist in parallel within its framework. One subsystem is oriented toward legal and moral norms, the other toward the utilization of illegal relations to society, because in that event, at least according to the logic of civil society and the rule of law, a reaction to their acts on the part of law-enforcement community would be impossible.

It probably is impossible to completely eliminate the system of unofficial relations, including corrupt relations, in any society or state. Statements about the complete eradication of corruption, bribery, and crime are naively to say the least. The socio-political climate in a society depends on what place is held by the various subsystems discussed above, and on which of them is the dominant subsystem. Opposition to corruption can be implemented in part by the localization of unlawful relations and the curtailment of the influence of the unofficial subsystem on the functioning of society.

If one is to evaluate the state of affairs in Ukraine proceeding from this position, then it ought to be noted that the correlation of the official and unofficial subsystems warns of an extraordinarily dangerous situation that has taken shape.

The criminalization of all spheres of economic and political life by mass corruption—including the highest echelons of governmental authority—is a fact that has been established by the official statistics of the Ukrainian government. The portion of Ukraine's economy that is dominated by the "shadow economy" stands between 45 and 60 percent; it has become at least equal to the official part of the economic activity. Million's of Ukraine's citizens work in this shadow sector of the economy. According to data from the "Intellectual Perspective" Fund and the Center for Social Expertise at the Institute of Sociology of the National Academy of Sciences of Ukraine, which conducted a poll of Ukraine's citizens on the topics of the population's employment in the shadow economy, 45 percent of those polled claimed to work in the "shadow."[34] According to calculations by specialists, the aggregate shadow capital of Ukrainian citizens amounts to approximately US$40 billion.[35] About half the money supply is outside of bank turnover and, according to estimates by experts, the illegal turnover of domestic currency in Ukraine reaches about US$12 billion. The volume of foreign currency accounts, having been taken beyond the borders of the country and invested in accounts in foreign banks is estimated at US$20 billion.[36]

Such a situation has been brought about, on the one hand, by excessive tax pressure on domestic producers, and on the other by the cultivation of corrupt relations in Ukrainian society. Such a development was brought about by the activities of those political leaders who did not restrain, and in some cases even stimulated, the transformation of corruption from a social anomaly into the social norm.

Conclusions and proposals

The effectiveness of opposition to corruption depends, first of all, on the attitude toward this problem taken by the leading figures in the nation and on their moral and legal purity. Political will is the decisive factor in countering corruption. The manifestation of political will means that, where there are legal grounds, the law can be applied to anyone regardless of the position he holds, his political views, his proximity to the leadership of the state, or other subjective elements. In the absence of political will, even the most perfect anticitizenship legislation is doomed to complete inefficacy, and the activities of law enforcement structures, to only the pretense of fighting corruption.

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In the estimation of foreign investigators, not a single serious step has been taken in the battle with corruption. All that has been done is to make some gestures for show such as, for example, the creation of the government “Clean Hands” program, in order to calm Western critics. The only ones who, in the opinion of foreign investigators, have undertaken a serious battle with crime and corruption in Ukraine are the law enforcement agencies of the United States, Switzerland, and Belgium.[37] Radical though such a statement may be, that point of view is not without foundation.

Corruption threatens the national security and the social order of Ukraine, influences the formation and activities of governmental institutions, subverts the trust of citizens in government, and complicates Ukraine's relations with foreign partners. Therefore, the battle against corruption is a task of the highest priority, and is tied to the achievement of the following basic goals:

- a decrease in the number of so-called “bribery-intensive” functions of governmental control (issuance of permits, licenses, certificates, etc.)
- a precise legislative definition of procedures for making governmental decisions
- assuring transparency of decision-making by means of competitive bids and other mechanisms
- increasing criminal liability for corrupt activities.

To achieve these goals, it is advisable to undertake the following measures. At the legislative level, a Code of Behavior for government employees