

NATIONAL SECURITY & DEFENCE

№ 7 (111)
2009

Founded and published by:



UKRAINIAN CENTRE FOR ECONOMIC & POLITICAL STUDIES
NAMED AFTER OLEXANDER RAZUMKOV

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This magazine is registered with the State Committee of Ukraine for Information Policy, registration certificate KB №4122

Printed in Ukrainian and English
Circulation: 3 800

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Photos:
Novynar – cover

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CONTENTS

POLITICAL CORRUPTION IN UKRAINE: ACTORS, MANIFESTATIONS, PROBLEMS OF COUNTERING (Analytical Report)	2
SECTION 1. POLITICAL CORRUPTION AS A PHENOMENON: APPROACHES TO DEFINITION	3
SECTION 2. POLITICAL CORRUPTION IN UKRAINE: POTENTIAL ACTORS, AREAS, MANIFESTATIONS, TRENDS	8
SECTION 3. FACTORS INFLUENCING THE EFFECTIVENESS OF COUNTERING POLITICAL CORRUPTION	33
SECTION 4. CONCLUSIONS AND PROPOSALS	40
ANNEX 1 FOREIGN ASSESSMENTS OF THE POLITICAL CORRUPTION LEVEL IN UKRAINE (INTERNATIONAL CORRUPTION RATINGS)	43
ANNEX 2 POLITICAL CORRUPTION: SPECIFICITY, SCALE AND WAYS OF COUNTERING IN EXPERT ASSESSMENTS	44
ANNEX 3 POLITICAL CORRUPTION: SCALE AND WAYS OF COUNTERING IN PUBLIC PERCEPTIONS AND ASSESSMENTS	49
ARTICLE	
POLITICAL CORRUPTION: ESSENCE, FACTORS, COUNTERMEASURES Mykola MELNYK	67
POLITICAL CORRUPTION IN UKRAINE: THE STATE, FACTORS AND COUNTERMEASURES (Presentations by Expert Discussion Participants)	
Heike DÖRRENBÄCHER	73
Eleonora VALENTINE	73
Volodymyr STRETOVYCH	74
Serhiy MISHCHENKO	74
Ihor POPOV	75
Ihor KOHUT	76
Denys KOVRYZHENKO	76
Oksana MARKEYEVA	77
Volodymyr RUSSKOV	78
Roman ZVARYCH	78
Taras STETSKIV	79
Vyacheslav KOVAL	80
Volodymyr FESENKO	80
Yuliya TYSHCHENKO	81
Oleksiy KHMARA	81
Mykhaylo BUROMENSKYI	82
Oleksandr LYTVYVENKO	82
Mykhaylo SEMENDIAY	83
Serhiy DRIOMOV	83
Hryhoriy USATYI	83
Roman SHLAPAK	84

This research is supported by Democracy and Governance programme of USAID mission to Ukraine, Moldova and Belarus within Parliamentary Development Project: Legislative Policy Development Programme, according to grant agreement №121-A-00-03-00008-00. Publication of the journal is sponsored by the National Endowment for Democracy (USA). Thoughts and statements expressed in this journal reflect personal position of the authors and may not coincide with those of USAID.

The publication's on-line archive may be found at:
<http://www.razumkov.org.ua/magazine>

POLITICAL CORRUPTION IN UKRAINE: ACTORS, MANIFESTATIONS, PROBLEMS OF COUNTERING

In recent years, the problem of political corruption has become especially pressing in Ukraine. The scale of that phenomenon in governmental and political institutes lets us describe political corruption as an attribute of their everyday activity.

Political corruption poisoned all branches and institutes of state governance, local self-government, and presents the main obstacle on the road of Ukraine's development into a truly democratic state. Political corruption may be identified as the main reason for the political crises of 2006-2009, and in more general terms, did not let Ukraine use its chance of fundamental internal modernisation and approach to EU standards in different sectors that arose after the presidential elections in 2004.

Ukraine's political elite proved unprepared to accept an incorrupt model of politics and governance, and therefore unprepared for large-scale and, most of all, effective fighting political corruption. As a result, accusations of political corruption became only a tool of political struggle and public rhetoric of politicians.

Meeting no effective counteraction, political corruption gradually evolved from deviant behaviour into a norm of relations in the state and political circles. "Hierarchic corrupt pyramids" and "closed corrupt cycles" were created in the system of governance, involving representatives of different institutes of governance. Political corruption is nourished by the activity of the most potent financial and industrial groups, and structures of the shadow economy that have enough resources to finance politics behind the scene and influence the authorities in that manner.

Political and state figures secured themselves against political responsibility. Channels of public influence on the authorities are effectively obstructed. The system of parliamentary elections and most of local self-government bodies bars voters' influence on its personal membership. Exercise of the citizens' right to organisation and conduct of referendums, accomplishment of the procedures of presidential impeachment or bringing members of the parliament to criminal responsibility are next to impracticable.

The structures primarily called to oppose corruption – courts and law-enforcement bodies – proved the most vulnerable to it. Internally corrupt, affected by varied managerial and political influences, they cannot effectively discharge their functions of fighting political corruption. The peculiarities of such inability are, on one hand, failed attempts of prosecution of top officials in cases of corruption, on the other – persecution of political opponents under invented pretexts.

Further spread of political corruption in Ukraine endangers its national security, since it impairs the effectiveness of the authorities, undermines their public legitimacy, promotes legal nihilism in society, disappointment about the values of democracy and the rule of law. This results in impairment of the country's competitiveness on the world scene, its ability to effectively counter inner and outer challenges.

This study by Razumkov Centre was intended to identify the specificities and scale of political corruption in Ukraine, the fields and reasons of its growth, to provide the basis for formulation of the optimal strategy of countering that phenomenon.

The analytical report consists of four sections.

- The first section** analyses the features of political corruption as such, its difference from other kinds of corruption by actors, their goals, substance and nature of activity, gives a working definition of political corruption.
- The second section** reviews manifestations of political corruption in separate sectors and actions of specific actors – in political parties and during elections, in the Verkhovna Rada and in the legislative work, in the activity of the President and advisory bodies working under his auspices, in the work of the Cabinet of Ministers, judicial and law-enforcement bodies.
- The third section** outlines the specificity of countering political corruption, conditioned by its nature, and the factors that influence the effectiveness of such countering.
- The fourth section** produces brief conclusions as to the nature, scale and peculiarities of political corruption in Ukraine, suggests principles of formulation of the strategy to fight political corruption, its main lines and specific elements.

Abbreviations in the report have the following meaning: **BYuT** — Yuliya Tymoshenko Bloc, **CC** — Constitutional Court, **CEC** — Central Election Commission, **CIS** — Commonwealth of Independent States, **CPU** — Communist Party of Ukraine, **GDP** — gross domestic product, **MAP** — Membership action plan (NATO), **MPs** — members of the parliament, national deputies, **NBU** — National Bank of Ukraine, **NCC** — National Constitutional Council, **NSDC** — National Security and Defence Council, **NUNS** — Nasha Ukrayina — Narodna Samooborona bloc ("Our Ukraine — People's Self-Defence" bloc), **SES** — Single Economic Space (with Belarus, Kazakhstan and Russia), **SPF** — State Property Fund, **SPU** — Socialist Party of Ukraine, **UAH** — Ukrainian hryvnia (national currency), **VAT** — value added tax.

1. POLITICAL CORRUPTION AS A PHENOMENON: APPROACHES TO DEFINITION

The subject of corruption in general and political corruption in particular became especially topical in the international agenda in 1990s – in response to its spread and ruinous economic and political consequences.¹ In that period, problems of fighting corruption came in sight of international and regional organisations, relevant international legal documents appeared, special anticorruption organisations with different statuses were set up.² Political corruption is deemed inherent mainly in developing and/or transitional countries. However, public scandals that regularly arise in developed democracies prove that they have no firm immunity against political corruption either.³

In Ukraine, the notion of “political corruption” appeared in the political vocabulary in the period of 2006-2009, that saw permanent conflicts among the top institutes of state power and acute political crises.⁴ On the top state level, accusations of political corruption were vocalised by Ukraine’s President Yushchenko addressing the Verkhovna Rada of Ukraine of the 5th convocation.⁵

Exactly at that time, society learned a lot about politically corrupt behaviour of the top officials, institutes of governance, political parties and their parliamentary factions. Accusations of political corruption became a usual method of public squabbling among politicians. This politicised the very term of “political corruption” and expanded, sometimes unreasonably, the context of its use.

APPROACHES TO DEFINITION OF POLITICAL CORRUPTION

There is no commonly accepted definition of political corruption in domestic and foreign theoretical studies of those problems⁶ and in the practice of various organisations and structures active in the field of fighting corruption. As a result, different authors and organisations produce (or accept) different definitions of that phenomenon.

Wide-spread definitions and their elements. Western studies also widely refer to such definitions of political corruption as “any transaction between private and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs”,⁷ “any actions by officials deviating from their legislatively provided duties in exchange for personal benefits”.⁸ The global anticorruption organisation *Transparency*

¹ By and large, the phenomenon of political corruption has deep historic routes, associated with the emergence of parliamentary democracies in the West in the 18th century, division of branches and introduction of general elections. For instance, it was noted with respect to English Parliament: “Over a long period, English ministers made sure of substantial majorities by buying the votes, if not the consciences, of Members of Parliament. The procedure was semi-official: in the House of Commons itself there was a desk where members came to receive the price of their vote on a division”. See: Duverger M. Political parties. – Moscow, 2007, p.25.

² For more detail see: *Specialized anti-corruption institutions: review of models*. 2006, – Organisation for Economic Cooperation and Development, *Anti-Corruption Network for Eastern Europe and Central Asia*, p.13, 16; OECD official web site, <http://www.oecd.org>

³ In particular, Italian researchers Della Porta and Vanucci cast doubt on the idea of interdependence of corruption and economic and political development, whereby the level of corruption is reversely proportionate to the level of democratic “maturity” of a state. They refer to the *Transparency International* data, whereby highly corrupt countries include Belgium, Greece, Spain, Italy, “intermediary” – Austria, the USA, France, Japan, and note growth of political corruption and evolution of corrupt practices in developed democracies. See: della Porta D., Vanucci A. *Corrupt Exchanges: Actors, Resources, and Mechanisms of political corruption*. – Kyiv, 2006, p.16.

⁴ It should be noted that during the 2004 presidential election campaign, that term was actually out of use – the focus was on “corruption in general”, including in the top echelons of power.

⁵ “What has happen last March was the same manipulation, this time, manipulation with mandates, standing for elector votes. Migration of MPs from one faction to another, in fact, partially abolished elections in one or another random territory. So, if we speak about the origins of that process, the origins of the political crisis in Ukraine, it is based on the parliamentary crisis, it is based on the illegitimate processes that are becoming a norm, kind of a tradition in Ukrainian Parliament. It involves not just technical migration – it involves political corruption. Democratic prospects of a nation cannot be built on political corruption... Political corruption has become a problem for the nation. Corruption, beginning within the walls of Parliament, political, reaches every village council, every person, it touches your interests”. – Press conference of the President of Ukraine Yushchenko “Responsibility. Law. Choice of the people”, April 12, 2007; official web site of the President of Ukraine <http://www.president.gov.ua>

⁶ Some foreign researchers note a “morass of definitions”. See: Michael W.Collier. *Explaining Political Corruption: An Institutional Choice Approach*. – Washington, D.C., 1999, p.34; www.ciaonet.org.isa

⁷ See: Inge Amundsen. *Political corruption. An Introduction to the Issues*. – Chr. Michels Institute, Bergen, 1999, p.3; <http://www.cmi.no>

⁸ See: Political corruption of the transitional age: A sceptical view. – Kyiv, 2004, p.2.

International defines political corruption as “abuse of **political** power for private benefit”.⁹

The cited definitions also refer to a few main aspects (elements) of political corruption:

- actors (in the cited definitions – persons vested with political power, officials);
- goals – receipt of personal benefits, private wealth;
- content of actions – conversion of collective goods (resources) into private by means of power;
- character of actions – abuse, illegitimate actions, violation of certain norms established by the law.

Meanwhile, the cited definitions are not fully adequate. In particular, they do not provide for proper distinction between political and “ordinary” (bureaucratic) corruption – which is of primary importance for the analysis of that phenomenon and design of the ways of its countering.

Political and bureaucratic corruption. The distinction between political and bureaucratic forms of corruption is mainly based on their place in policy-making. Political corruption is deemed inherent in the stage of policy formulation (adoption of political decisions, establishment of “rules of the game”), while bureaucratic (“ordinary”, “small-scale”) – in its pursuance (implementation of relevant decisions).

Introduction of that criterion is prompted by differences in the nature of political (law-making activity) and bureaucratic (administrative and executive activity) functions. For instance, actors of political corruption can use power for establishment of legal norms meeting their private interests, plan “bypass ways” to ignore other norms, etc. Meanwhile, corrupt acts by actors of bureaucratic corruption violate the established norms and rules.

However, such distinction is not clear enough, given the problem of division between political and administrative functions in general, and in the Ukrainian situation – given the absence of clear legislative distinction between political and administrative posts and possibility of combination of political and administrative functions in duties of the same officer (being a usual practice for top officials).

This conclusion is confirmed by results of an expert poll conducted by Razumkov Centre. For instance, the overwhelming majority (73.5%) of the polled experts believes that political corruption exists on the levels of both state policy formulation and implementation; on the formulation level alone – 20.5%.¹⁰

Political and bureaucratic corruption can exist both separately from each other and in functional connection. Such connection arises when bureaucratic corruption becomes an element of the “extraction pyramid”, created through politically corrupt actions (that scheme envisages accumulation of small bribes on the top of the corrupt scheme). However, even in absence of schemes combining bureaucratic and political corruption, the latter promotes the former, since it “is contagious to lower-level officials, as these will follow the predatory examples of, or even take instructions from, their principals”.¹¹

Said specificity of political corruption brings about definite approaches to its fighting. While fighting bureaucratic corruption usually covers “...auditing, legislation, and institutional arrangements, the degenerative effects of political corruption cannot be counteracted by an administrative approach alone. Endemic political corruption calls for radical political reforms”,¹² a system of checks and counterbalances, deep democratisation.

In view of the above, the distinction between political and bureaucratic corruption by the nature of functions of their actors – state policy formulation (or the desire to get a status envisaging such function – if we speak about political parties or candidates during an election campaign) or its implementation – is taken into account in this report, but applied separately, in each particular case.

ACTORS OF POLITICAL CORRUPTION

According to the above-mentioned specificities, actors of political corruption may include persons or groups of persons involved in the political process, possessing or seeking to possess power to adopt and/or implement political decisions.

Additionally, actors of political corruption may also include those not immediately involved in the political process but by virtue of their functions, powers and resources capable of influencing it (both legitimately and illegitimately).

In this context, actors of political corruption may include representatives of the judicial branch, law-enforcement bodies, the Central Election Commission and inferior election commissions, as well as individual representatives of financial-industrial groups influencing political actors via financial and other mechanisms.

Actors of political corruption may be individual (separate politicians, officials) and collective (political parties, parliamentary factions). The world anticorruption practice may refer as to actors of political corruption also the state bureaucracy or government of a specific country as a whole.¹³ The possible collective nature of political corruption actors complicates sanctions against them and, therefore, struggle with that phenomenon.

⁹ See: Information from U4 web site – <http://www.u4.no>

¹⁰ Used hereinafter, unless specified otherwise, are the data of an expert poll conducted by the Razumkov Centre Sociological Service on September 23 – October 7, 2009. 102 experts were polled in all regions of Ukraine.

¹¹ Jens Chr. Andvig and Odd Helge Fjeldstad with Inge Amundsen, Tone Sissener and Tina Soreide. *Corruption, A Review of Contemporary Research*. – Chr. Michels Institute, Bergen, 2001, p.11; <http://www.u4.no>

¹² Inge Amundsen. *Political corruption. An Introduction to the Issues*. – Chr. Michels Institute, Bergen, 1999, p.4; <http://www.cmi.no>

¹³ For more detail about the actors of political corruption see the article by Mykola Melnyk “Political corruption: essence, factors, countermeasures”, published in this magazine.



Actors of political corruption: functional approach

From the functional viewpoint, actors of political corruption may be generally divided into four groups.

The first group is made up of principals. Potential principals are people empowered to take political decisions or immediately take part in the passage of such decisions. For passed decisions, they get bribes or other services, and extend “political cover” to client groups and other actors. In Ukraine, principals include political parties, MPs, Ukraine’s President, heads of central executive bodies, judges of supreme courts.

The second group is made up of state agents. Such actors normally include people possessing powers in the judicial and executive branches, law-enforcement bodies. They take necessary administrative decisions for bribes and other services.

The third group is made up of clients. As a rule, they include large business groups, oligarchs ordering required decisions and services, investing funds in politicians to get profits or other benefits. They may include large organised criminal groupings. Those actors act as bribers. They also produce the “blood” feeding corrupt schemes – grey money.

The fourth group is made up of intermediaries, if the corrupt scheme allows their existence (aides to MPs, officers of the staff of top state officials, lawyers, etc.). The value of intermediaries depends on their ability to access the “system”, to find and maintain personal connections, experience, strong patrons.

Sometimes, **dishonest voters** may also be actors of political corruption. They join corrupt schemes when they consciously sell their votes or take part in different schemes aimed at distortion of true election results (“carousels”, mass voting with absentee ballots, etc.).

Actors are valued dependent on their market potential and effectiveness, lying in creation of corrupt networks – profit-making organisations involving different groups of actors. The lower the probability of detection and punishment, risks of a possible partner’s “trick” are, the lower the cost is, and the higher is their profitability.

- politically created possibilities for getting rent;
- politically created market advantages for business owned by political elites;
- extrabudgetary transfers, manipulations in course of privatisation;
- extraction of funds to finance political parties and election campaign out of public (state) funds, private sector and voters.¹⁴

In the second case, the goal of political corruption is to get, keep and/or expand political power. Actors of political corruption can use for the attainment of such goals both lawful and unlawful/corrupt means, including, in particular:

- purchase of political support and loyalty (purchase of votes, favouritism, clientelism, cooptation, “patronage policy”);
- manipulation of controlling, supervisory, law-enforcement institutions to guarantee their impunity;
- purchase of required decisions of the authorities;
- use of public funds to finance political parties and election campaigns, use of private funds for that purpose in exchange for a promise of preferences for business or access to public resources in case of coming to power and so on.

In that case, politically corrupt acts are committed not only by actors possessing political power but also by those seeking it (including the opposition). This can be done at the stage of the election campaign, as well as for “cooptation” of non-governing actors in the system of governance through purchase of posts, etc.

Politically corrupt acts can contain both components and make up a so-called “full corrupt cycle”. Its essence is that public and private resources extracted using corrupt schemes are used to preserve and/or expand power of actors of political corruption. In other words, the “full cycle” appears when the authorities pursue the goal of enrichment, and the gains are used to preserve (expand) powers. It should be noted that the “full corrupt cycle” can be created by actors vested with political power, while those deprived of it can use only its second component.

The issues of the balance between the first and second components, the relevancy of each of them for definition of corrupt acts as *politically* corrupt, are disputable. In particular, according to some western analysts, presence of material interest measured in money terms is an essential element of political corruption.¹⁵ Instead, many national analysts pay more attention to the political component when defining political corruption for instance, as a “totality of different by their character and degree of social danger corrupt offences committed for attainment of political goals (at least, such goals should prevail)”.¹⁶

GOALS OF POLITICAL CORRUPTION

Political corruption is shaped by the specific motivation of its actors. Two main goals groups of politically corrupt actions are distinguished.

In the first case, the goal of political corruption lies in personal or collective enrichment. Actors of political corruption use political power for seizure of public or private resources in a way that may be formally unlawful or not, but breaks moral norms and commitments of those actors to society. That variety of political corruption is internationally defined with the terms of *accumulation* and *extraction*.

Corrupt means of accumulation and extraction include:

- bribes, “commission” and rewards (fees) collected from private businesses; undue extraction at collection of taxes and customs duties;
- fraud and economic crime;

¹⁴ See: *What is political corruption?* – U4 web site, <http://www.u4.no>

¹⁵ *Ibid.*

¹⁶ Melnyk M. Corruption – erosion of power (social essence, trends and effects, countermeasures). – Kyiv, 2004, p.33.

CHARACTER OF ACTIONS BY POLITICAL CORRUPTION ACTORS

The peculiarity of political corruption is that the actions may or may not bear traits of criminal offences. "Political corruption is something *more* than a deviation from formal and written legal norms, from professional codes of ethics and court rulings. Political corruption is when laws and regulations are more or less systematically abused by the rulers, side-stepped, ignored, or even tailored to fit their interests".¹⁷

Politically corrupt acts involving violation of the effective legislation are apparently the easiest to qualify and to bring culprits to responsibility. Meanwhile, actors of political corruption, by the virtue of their status and capabilities, can create a legal framework, intentionally "embedding" opportunities for further corrupt acts, creating legal "safe havens", "bypass routes", etc. In that case, proof of the intent of political corruption actors and their bringing to account pose a problem.

Furthermore, some actions that can bear evident traits of political corruption (e.g., appointment of representatives of the opposition to executive posts in order to prompt that political force to support the authorities) can be done in full compliance with the existing legal norms and procedures, while their corrupt essence can not even be concealed.

Therefore, actors have a possibility to commit political acts corrupt by their nature but formally not maleficent. Respectively, some manifestations of political corruption may involve no legal responsibility, only political and moral one. This largely limits legal application of the term of "political corruption", complicates assessment of the actual level of political corruption and its fighting.

From the analytical viewpoint, an isolated action by an actor (official, political force, etc.) may have no direct signs of political corruption. However, it may acquire such signs in a wider context of activity (corrupt political schemes) aimed at preservation (expansion) of power.

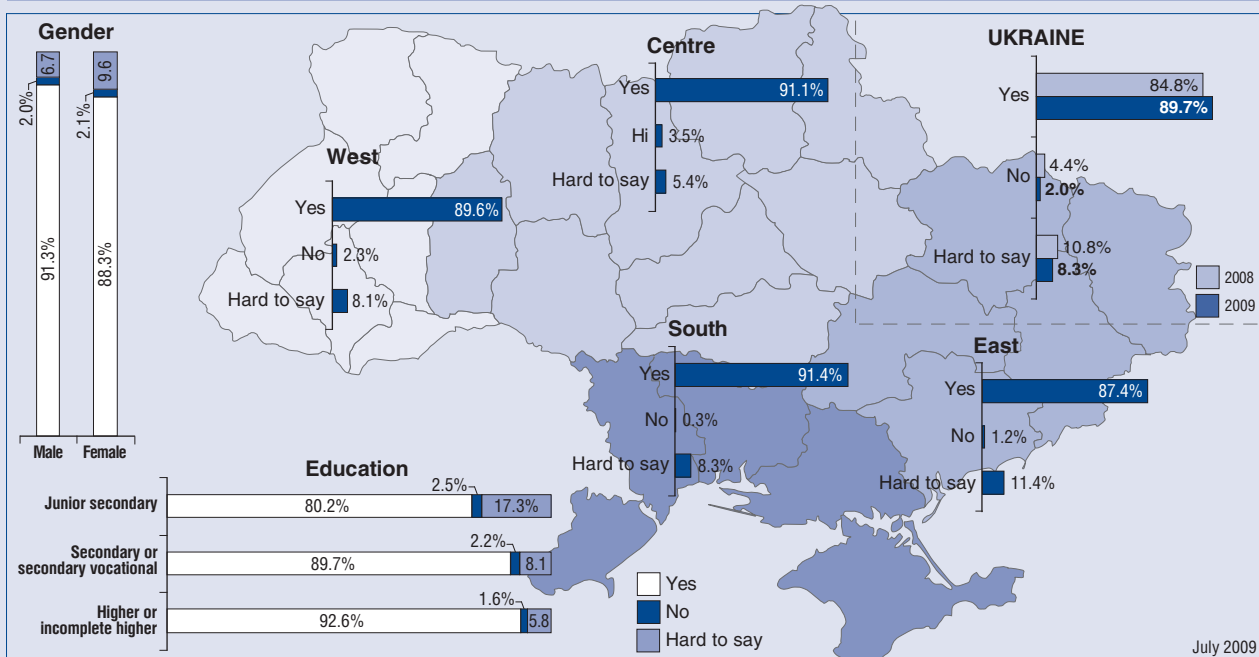
According to assessments by Western analysts, "...The formal legal framework of the state is... insufficient as terms of reference to assess and judge the problem of political corruption. Moral, normative, ethical, and indeed political benchmarks will have to be brought in, not at least because it will be necessary to discern legality from legitimacy".¹⁸ Standards and principles accepted by the international community are important for assessment of the political corruption level, since political corruption violates them, too, along with the national legislation.

Perception of political corruption by Ukrainian citizens

According to the nation-wide opinion polls conducted by Razumkov Centre, the existence in Ukraine of political corruption alongside with ordinal one admits an overwhelming majority of citizens.¹⁹

Does political corruption exist in Ukraine, along with ordinary corruption?

% of those polled



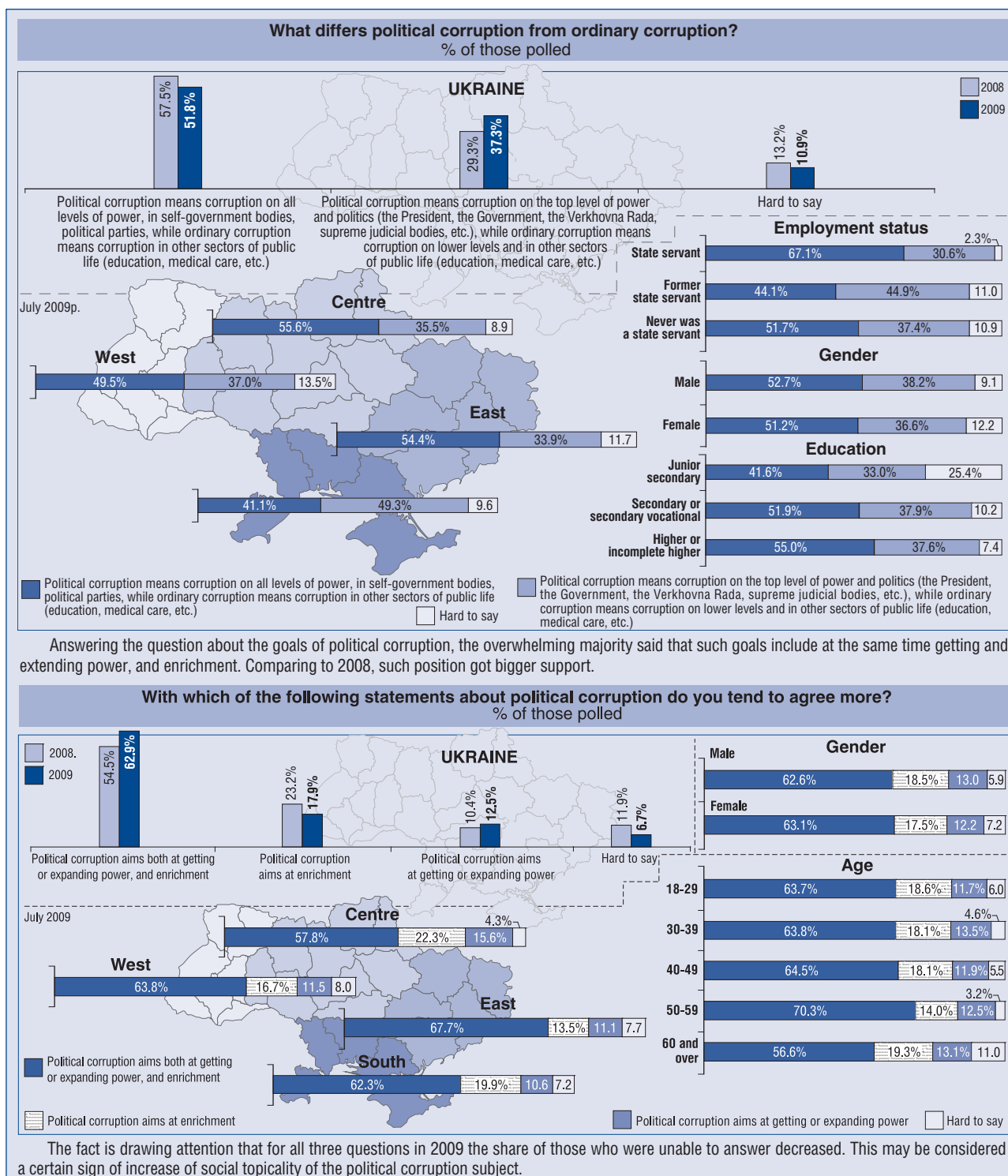
The majority of those polled are intended to suggest that political corruption differs from ordinary corruption by the sphere of its spread (government, local self-government, political parties, but not the sphere of education or healthcare, etc.).

At the same time, a significant part of the respondents agree that political corruption differs from ordinary by sphere and by the level of its actors. Moreover, comparing to the survey of 2008, the share of citizens who stick to that opinion considerably grew.

¹⁷ Inge Amundsen. *Political corruption. An Introduction to the Issues*. – Chr. Michels Institute, Bergen, 1999, p.3; <http://www.cmi.no>

¹⁸ *Ibid.*, p.4.

¹⁹ Unless specified otherwise, used hereinafter are results of nation-wide public opinion polls held, respectively, on June 19-25, 2008, and July 20-28, 2009. 2,016 and 2,006 respondents above 18 years were respectively polled in all regions of Ukraine. The theoretical margin of error of each sample does not exceed 2.3%.



WORKING DEFINITION OF POLITICAL CORRUPTION

Taking into account the above specificities of political corruption understanding as a phenomenon both theoretically and in the public opinion, we will use in this study the following working definition of political corruption:

Political corruption means illegitimate use by political actors and bearers of public power of their capabilities and powers with the purpose of getting personal or group benefits (rent). At that, benefits (rent) may have different forms – from immediate material to symbolic (power for the sake of power, social prestige, etc.), and mechanisms of use of powers (capabilities) may acquire unlawful forms.

Meanwhile, the specificity of political corruption as a phenomenon bars unambiguous qualification of specific actions or intentions of political actors as politically corrupt, only *admitting the possible presence* of politically corrupt motives there (first of all, pursuing such goals of political corruption as preservation or expansion of power).

That is why this study uses both terms: “politically corrupt acts”, where the presence of elements of political corruption in those acts is beyond doubt (for instance, if the monetary equivalent of the relevant actions is involved), and “possibility of political corruption”, where the relevant actions are more difficult to qualify.

2. POLITICAL CORRUPTION IN UKRAINE: POTENTIAL ACTORS, AREAS, MANIFESTATIONS, TRENDS

Political corruption is inherent both on the stage of formation of authority and in its exertion. That is why actors potentially vulnerable to political corruption include different by their nature and character institutes – political parties and other actors of the election process, as well as authorities representing different branches, and local self-government bodies.

After amendments to the Constitution went into effect and a proportional system of election of the Verkhovna Rada and some local councils was introduced, political parties became the main actors forming representative bodies. This fact imparts particular importance to political corruption in parties – since a corrupt nature of the actors and the process of formation of the authorities makes the whole authorities corrupt.¹

The specificity of political corruption, namely – the possibility to establish corrupt “rules of the game”, makes the supreme institutes of governance the most vulnerable to corruption, along with the agencies called to ensure observance of the law, i.e., the state judicial and law-enforcement systems.

This section examines preconditions for and trends of political corruption, its manifestations in political parties and the election process, in the activity of the Verkhovna Rada, the President, the Government, supreme judicial and law-enforcement bodies.

2.1. POLITICAL PARTIES AND ELECTION PROCESS

The analysis of the past election campaigns in Ukraine and specificities of the political process in general enables identification of preconditions and manifestations of political corruption in the activity of political parties – actors of the election process. As the international experience proves, merger of business with the authorities starts with funding the political activity of parties by big capital, which, on one hand, causes corruption in the authorities, on the other – deprives parties, and consequently – the authorities, of public support.

In particular, according to the conclusions of the “Octopus” international anticorruption conference organised by the Council of Europe (November 2006), “corruption related with funding political activity presents the most critical factor undermining people’s confidence in political parties in many European countries”.²

Specific character of the majority of political parties in Ukraine, their susceptibility to political corruption. The overwhelming majority of political parties in Ukraine are not ideological by their nature. According to the Razumkov Centre experts’ assessments made before the parliamentary elections of 2002, “ideological factors

of party building... seriously yield by their influence to administrative, business and personal factors”, and among parties registered at that time, those that had no ideological basis made a majority.³ Only a third of Ukrainian citizens who could identify their ideological and political preferences said that there was a party in the country meeting them.⁴

The true goal of establishment of most political parties may lie in attainment not of interests of some social groups (whose rough exponent can be found among “classic” political ideologies), but of pragmatic individual or group economic interests, with power being only a means to achieve that end.

This largely explains the popularity of “party design” technologies among Ukrainian politicians, whereby a party is viewed as a technological project, an organisational/legal mechanism of coming to power, not as something rooted in the social structure of society and reflecting interests of a certain social group.

This also may explain the phenomenon of the extremely great number of parties in Ukraine.⁵ The overwhelming majority of them takes no active part in political life, since they were established, in particular, with a view of possible “sale” to politicians who have no party structures of their own but need them before elections.⁶

¹ Combination of those issues in international anticorruption practices is witnessed by the Committee of Ministers of the Council of Europe Resolution “Twenty guiding principles for the fight against corruption”, one of them being “to encourage the adoption, by elected representatives, of codes of conduct and promote rules for the financing of political parties and election campaigns which deter corruption”. See: Resolution (97) 24 of the Committee of Ministers of the Council of Europe On the twenty guiding principles for the fight against corruption. (Adopted by the Committee of Ministers on 6 November 1997 at the 101st session of the Committee of Ministers). – Official web site of the Council of Europe, <http://www.coe.int>

² See: *Octopus Interface conference on Corruption and democracy*. [Reverse translation – Ed.] – Council of Europe, Strasbourg, November 20–21, 2006, Official web site of the Council of Europe.

³ See: The state and trends of the multi-party system in Ukraine: Razumkov Centre analytical report. – *National Security & Defence*, 2001, No.12, p.23–25.

⁴ See: 2006 parliamentary elections: conditions, actors, and implications. Razumkov Centre analytical report. – *National Security & Defence*, 2005, No.10, p.20–21.

⁵ As of November 11, 2009, 172 political parties were registered in Ukraine, 12 of them – in 2009. See: Official web site of the Ministry of Justice Ukraine, <http://www.minjust.gov.ua>

⁶ See, e.g.: Yatsenyuk got a party. – *Ukrayinska Pravda* Internet publication, October 27, 2009, <http://www.pravda.com.ua>; Yanukovych’s associate says, sale of parties cannot be banned. – *Ibid.*, April 29, 2009 (in Ukrainian).



Instances of political corruption also include national deputies' defection from the political forces by whose lists they were elected (i.e., got a mandate from voters supporting their election programmes), without a formal exit from their factions (which leaves the MP mandate for them), and establishment of their own parties that took no part in elections and therefore have no right to representation in Parliament.⁷

Therefore, many political parties in Ukraine from the very beginning are created in the conditions of political corruption and for attainment of a definite goal. Later, this applies to the everyday activity of party structures and not only makes them vulnerable to instances of political corruption but often makes involvement in politically corrupt schemes the only possible condition of their existence.

Non-transparent funding of party activity, critical dependence on sponsors, including big financial/industrial groups. The growing influence of money on politics is not a Ukrainian but a common European trend.⁸ In Ukraine, parties are susceptible to corrupt funding for a number of reasons, specifically:

- impossibility of funding full-scale activity at the expense of membership fees alone;
- absence of state funding of statutory party activity;
- absence of effective mechanisms of control (state and public) of party funds.

Provisions of membership fee payment by party members are found in the statutes of all main parliamentary parties in Ukraine. However, according to expert assessments, membership fees are not the main source of their funding.⁹ The reasons include inconsistency between expenses necessary for normal party activity, and incomes of the overwhelming majority of citizens.¹⁰

State funding of statutory party activity not associated with participation in elections was legislatively envisaged in November 2003, but not implemented.¹¹ State support for party activity is provided only in the form of reimbursement of expenses on canvassing that, in the conditions of continuous growth of the value of election campaigns, does not meet true expenses.

Ukraine's legislation on transparency of party funding is imperfect and bars identification of its sources, scale and lines of use, neither does it guarantee availability of such information to the public.¹² In particular, media more than once reported cash payments by political parties and blocs for participation in mass rallies.¹³ However, such reports never resulted in investigations by agencies empowered to control observance of the legislation on political parties in Ukraine.¹⁴

By and large, parties are reluctant to make their finances transparent, the overwhelming majority of them (with few exceptions¹⁵) does not abide by the legislative requirement of annual publication of reports of funds and property in the national media, but escapes responsibility for that.

Said factors make parties dependent on "donors" – as a rule, large financial/industrial groups. Analysis of election lists of the main political parties and blocs before the parliamentary elections of 2007 reveals presence of heads or representatives of all mighty Ukrainian financial/industrial groups. According to media estimates, "each of the three leaders of the parliamentary campaign – the Party of Regions, "Our Ukraine – People's Self-Defence" Bloc and BYuT – has at least one sponsoring billionaire and a number of donors whose capital exceeds \$300 million".¹⁶ Participation in political party and bloc funding was reported by representatives of big business themselves.¹⁷ At that, funds might be invested in one

⁷ E.g., establishment of the "Single Centre" party, whose parliamentary group was made up of national deputies elected with the NUNS bloc.

⁸ E.g., one publication of the Council of Europe says: "Citizens of European democracies today express ever greater concern with the undesired influence of money on passage of political decisions and corrupt practices associated with political parties... Since the latter are an essential element of pluralist democracies, gradual loss of their independence presents a grave and alarming situation" (reverse translation – Ed.). See: Ingrid van Biezen "Financing political parties and election campaigns". – Official web site of the Council of Europe.

⁹ According to assessments of the Committee of Voters of Ukraine representatives, membership fees are rather important only for CPU, where they are really collected and cover "if not half, then 10-15% of local organisation expenditures". See: Interview of the Committee of Voters of Ukraine Head Popov to the *Delo* newspaper: There are no parties in Ukraine existing for membership fees. – *Ukrayinska Pravda* Internet publication, January 12, 2007 (in Ukrainian).

¹⁰ According to calculations of one of Ukrainian party leaders, monthly costs of maintenance of an "average" political party make \$250 thousand. See: Internet conference of Oleksandra Kuzhel on September 28, 2007. – Portal of Liga Businessinform information news agency, <http://www.liga.net>

¹¹ Law "On Amendment of Some Legislative Acts of Ukraine in Connection with Introduction of Political Party Funding in Ukraine". The funding clause was actually cancelled by the Law "On State Budget Ukraine for 2008 and on Amendment of Some Legislative Acts of Ukraine", later – formally restored by the Constitutional Court of Ukraine rulings (May 2008), but not actually implemented, since the relevant norms of the Law lost effect.

¹² For more detail see: Chebanenko O., Kovryzhenko D. Effectiveness of political parties: problems and prospects. – *Parlament*, 2007, No.1, p.16-21.

¹³ See, e.g.: "Blue Maydan" valued \$73 million – *Ukrayinska Pravda* Internet publication, May 30, 2007; The closer to Kyiv, the cheaper payment for the Party of Regions' meeting is. – *Vovremya.info* Internet publication, April 3, 2009, <http://vovremya.info>. See also employment web sites, e.g.: <http://jooble.com.ua>, *Rabota.ria.ua*, *rabotaslando.com.ua*, etc (all in Ukrainian).

¹⁴ According to Ukraine's MP Shenchuk: "The Ministry of Justice does not perform such checks, and the General Prosecutor's Office, according to the effective legislation, has no right to carry out such checks without signals". See: Samar V. Party coffers. – *Dzerkalo Tyzhnya*, October 17, 2009, <http://www.dt.ua> (in Ukrainian).

¹⁵ "Our Ukraine" Party's press service alone reported: "We transparently make payments and pay contributions to the Pension and other funds and the tax on individual incomes. The total amount of such payments... monthly makes over UAH 1.2 million. Our employees get legal salaries on bank cards". See: "Our Ukraine" organisations have wage arrears exceeding UAH 20 million. – *GolosUA* news agency, September 17, 2009, <http://www.golosua.com> (in Ukrainian).

¹⁶ Millionaires will get a quarter of the next Rada. – *Delo*, September 9, 2007, <http://delo.ua> (in Russian).

¹⁷ See, e.g.: Nayem M., Leshchenko S. Ihor Kolomoyskyi: "If Tymoshenko becomes president, I see myself in emigration". – *Ukrayinska Pravda* Internet publication, March 28, 2008 (in Ukrainian).

party or bloc, or in different, even competing political forces, to diversify risks.¹⁸

Out of 14 Ukrainian citizens who appeared in the Polish *Wprost* magazine's rating of the richest people of Central and Eastern Europe in 2006, seven were elected to the Verkhovna Rada Ukraine of the 5th convocation (by lists of four out of six political forces that passed the election barrier).¹⁹ Seven out of 24 Ukrainians included in the rating in 2007 were elected to the Verkhovna Rada of the 6th convocation (from the Party of Regions and BYuT).

The cited facts expressly witness "oligarchisation" of the party policy in Ukraine.

Violation of legislative norms of election campaign funding, its non-transparency.²⁰ The effective Ukrainian legislation on election campaign funding has drawbacks that leave space for political corruption in the activity of the election process actors – candidates for elected posts, political parties and blocs.

First of all, this refers to the actual ban on legal entity contributions to election funds (while such funds can be used in election campaigns),²¹ as well as the absence of:

- limitations of the number of contributions and amounts transferred to the election fund by one individual;²²
- prescription of election fund uses;
- norms that establish strict accounting of actual expenses during an election campaign (not only expenditures paid out of election funds);
- effective mechanisms of accounting and control of legitimacy of use of funds during election campaigns, adequate and effective sanctions for violations of the relevant norms;
- effective means to guarantee transparency of election campaign funding, financial reporting.²³

Accordingly, the most serious instances of political corruption at election campaign funding in Ukraine include:

- campaign funding outside election funds, violation of the established procedure of spending (payment in cash, etc.);
- violation of the legislation on sources of election campaign funding, including funding by actors legislatively banned to do so (for instance, individuals who are not citizens of Ukraine);
- presentation and release of knowingly untrue information of expenses.

According to the conclusions of Ukrainian non-governmental organisations monitoring election campaigns, in 2002-2006, actual expenditures of candidates and political parties (blocs) steadily exceeded the declared.²⁴ According to the Central Election Commission, the election funds of political parties and blocs that took part in the early parliamentary elections in 2007 totalled UAH 581.4 million, while according to expert assessments, the actual expenditures of the election campaign participants hit some UAH 2 billion.²⁵

Furthermore, elections in Ukraine get more expensive every year. While in 2006, reimbursement of election funds from the state budget amounted to 126 million UAH, during an even shorter election campaign in 2007 – by half more (186 million UAH).²⁶

Apparently, only a part of party and bloc expenses is covered out of their election funds. The rest may be covered from the party's current account, accounts of its local organisations, accounts of outside structures or even with "grey cash". Funding comes from big financial/industrial groups and representatives of big business, and the sums they spend on election campaign funding are measured in tens of millions US dollars.²⁷

Political corruption is also witnessed by election campaign funding from foreign actors (legal entities and/or individuals), which is directly banned by the effective legislation²⁸ – as well as funding of current party activity.²⁹ Information about such funding was more than once published in the media but involved no legal consequences for the actors, since it was not examined and investigated by concerned state agencies. Meanwhile, according to the

¹⁸ *Ibid.*

¹⁹ 100 najbogatszych w Europie Środkowej i Wschodniej. – *Wprost*, September 6-9, 2006, p.8.

²⁰ On corrupt risks of the election process see: Corruption in Ukraine. Report on the results of the Ukrainian-Canadian integrity promotion project. – Institute for Applied Humanitarian Research, 2004. Razumkov Centre archives.

²¹ E.g., the Law "On Election of National Deputies of Ukraine" bans legal entities to finance election funds of political parties and blocs (part 2, Article 53). However, it does not ban transfers to election funds of party (bloc) own funds, not limited by amount or number of transfers, that, according to the Law "On Political Parties", may be made up of legal entity contributions.

²² Refers to the Law "On Election of the President of Ukraine".

²³ For more detail see: Technical paper – expert opinion on proposals for further reform regarding funding of political parties and electoral campaigns in Ukraine. Support to good governance: Project against corruption in Ukraine (UPAC), 2008, p.23.

²⁴ See, e.g., reports of results of the project of public monitoring of election campaign funding in 2002, 2006 and monitoring of political advertising in the 2004 election campaign. – Web site of the Freedom of Choice corporation, www.coalition.org.ua

²⁵ See: Parliamentary elections of 2007 became the most expensive in Ukraine's history. – *Newsru.ua* Internet publication, <http://newsru.ua> (in Ukrainian).

²⁶ Technical paper – expert opinion on proposals for further reform regarding funding of political parties and electoral campaigns in Ukraine, p.23.

²⁷ For instance, Ihor Kolomoyskyi said that the election campaigns of 2006 and 2007 cost him personally some \$40 million. See: Nayem M., Leshchenko S. Ihor Kolomoyskyi: "If Tymoshenko becomes President, I see myself in emigration". Another known politician and businessman David Zhvania assessed his spending on the election campaign of "Our Ukraine" in 2002 at \$9-10 million. See: Leshchenko S. David Zhvania: Yushchenko got earful of the attempt talk. – *Ukrayinska Pravda* Internet publication, July 7, 2008 (in Ukrainian).

²⁸ For this and other aspects of external influence on elections in Ukraine see: External factor in the 2004 presidential elections: Razumkov Centre analytical report. – *National Security & Defence*, 2004, No.5, p.2-35.

²⁹ See, e.g.: Berezovsky called "Orange" revolution his best investment. – *Korrespondent.net* Internet publication, November 22, 2006, <http://korrespondent.net>; Ivanov L. Do "Russians" want boot...History of one political deal. – *Obkom* Internet publication, September 25, 2009, <http://www.Obkom.net.ua>; Klymovych S. Why did they kill Kurochkin? – *Podrobnosti* Internet publication, March 28, 2007, <http://podrobnosti.ua> (all in Russian)



Deputy Chairman of the Central Election Commission Mahera, there are mechanisms to bar election funding from abroad – “if one wishes to bar it”.³⁰

A similar situation is observed with the use of state budget funds in election campaigns, which may also be seen as a form of the administrative resource. Such reports, as a rule, appears in the media during election campaigns, mainly in the form of opposition politicians accusing their opponents in power,³¹ and after elections – in “memories” of separate participants of election campaigns.³² However, even those reports are not investigated, and culprits are not brought to responsibility.

Corruption during election list drawing (direct purchase and sale of seats in election lists, “political bribery”). The effective legislation on election by lists of political parties (blocs) enables political corruption in the form of entry of some persons (their relatives) on election lists for reward either in cash (“purchase and sale of seats”), or in the form of commitments of loyalty (“political bribery”).³³

This is caused by reference of the powers of election list drawing and the order of candidates therein to the competence of congresses (assemblies, conferences) of political parties (blocs), along with “strict” regulation of the candidates’ order (closed lists) and inability of voters to influence that order by voting.³⁴

The subject was raised in many media publications, including by politicians themselves. For instance, one of CPU leaders Adam Martyniuk said that “the 60th rank in the list of one bloc cost \$5 million. One can imagine how much the 30th rank cost then”.³⁵ According to media reports, during the 2006 elections, a place in the “passing” top of the list of the Party of Regions could be bought for \$5 million, in the “risk zone” – for \$3 million.³⁶ The motives of “investment” in a parliamentary mandate were elaborated by some MPs of previous convocations.³⁷

The system of purchase and sale of seats is also in place at local elections. There, according to media assessments, a place in the list in 2006 cost: in a city council – \$15-30 thousand, in a regional council – \$30-70 thousand, in the Kyiv city council – \$150-300 thousand.³⁸

Therefore, “purchase and sale” of places in election lists is a known fact. In particular, according to the Razumkov Centre public opinion poll, the overwhelming

majority (almost 73%) of citizens heard of such cases. Meanwhile, its fighting is greatly complicated by the following: *first*, such facts are very difficult to prove; *second*, those facts may be “disguised” as legal funding of an election campaign; *third* – such facts are spread in next to all parties (blocs) and seen by the parties as a usual practice.

Voter subornation technologies. Subornation of voters is a manifest example of political corruption, since it involves influence on citizens’ will, encouraging its exercise in a way conducive to gaining (keeping) power by a certain political force or its candidate.³⁹

Subornation varies by forms and technologies. At that, we leave “ordinary” subornation unattended – when a voter gets in exchange for a “vote” money, goods or services for free, which is qualified by the effective legislation as a crime. Such schemes were rather widely used in Ukraine at elections of different levels (the most defiantly – at extraordinary elections of the Kyiv Mayor in May, 2008).⁴⁰

More difficult to qualify as politically corrupt acts are other forms of election activity of political actors. This refers to the content of election programmes and speculations on social promises; use of public resources by officials – heads of authorities and local self-government bodies to raise the popularity of the political force they represent.

The problem is that those actions do not formally break the law – there are strict limitations of the content of election programmes that, however, do not apply to the nature and scope of social promises contained therein. The activity of the mentioned actors of authorities and local self-government bodies may be quite legal, too. Meanwhile, the thrust of their actions may be politically corrupt.

For instance, election programmes of political parties (blocs) at the extraordinary elections in 2007 may be described as a “race of social commitments”. Say, the BYuT programme envisaged an increase in birth allowances: for the first child – to UAH 12 thousand, second – 25 thousand, third and so on – to UAH 50 thousand. The Party of Regions’ programme promised to allocate UAH 1 billion to housing construction for young specialists and free housing for employees of the budget sector on the condition of conclusion of an employment contract for 20 years. NUNS promised

³⁰ See: Mahera: Without passage of 2010 budget, there will be no elections at all. – *Ukrainian Business Resource* Internet publication, October 9, 2009, <http://ubr.ua> (in Ukrainian).

³¹ See, e.g.: “Regions” accuse Tymoshenko of suborning voters. – *Ukrayinska Pravda* Internet publication, November 13, 2009 (in Ukrainian).

³² See, in particular: Leshchenko S. Taras Chornovil: Yanukovych punched nobody in the face, but that image was used at the utmost. – *Ukrayinska Pravda* Internet publication, November 16, 2009 (in Ukrainian).

³³ This report does not address the phenomenon of party leadership influence on MPs to ensure its stable leadership, since the latter mainly deals with the problems of party internal democracy development.

³⁴ See Article 57 of the Law “On Election of National Deputies of Ukraine”, Article 34 of the Law “On Election of Members of the Supreme Council of the Autonomous Republic of Crimea, Local Councils, and Village, Settlement, City Heads”.

³⁵ Adam Martyniuk. “60th rank in the election list of one bloc cost \$5 million”. – *Fakty*, February 21, 2007, p.4 (in Russian).

³⁶ Chalenko A. \$5 million for an MP badge. – *Segodnia*, July 3, 2007 (in Russian).

³⁷ See, e.g.: Kulchynskiy R. Price was no problem. – *Kontrakty*, 2006, No.14, p.16.; Syrotiuk Yu. Verkhovna Rada of Ukraine of 6th convocation: problems of parliamentarianism functioning in Ukraine. – *Deputat* Internet resource, November 7, 2007, <http://www.deputat.org.ua> (all in Ukrainian).

³⁸ Shurkhalo D. From rags to riches. – *Vlast Deneg*, 2007, No.24, p.14 (in Russian).

³⁹ Noteworthy, this phenomenon is spread enough even in developed democracies. In particular, Western analysts cite the example of Italy, where “party bosses are trying to win votes of voters not only with funds allocated to the election campaign but also through mobilisation of state resources, protection at employment and provision of other kinds of state preferences for creation of a net of mutual commitments”. See: Rose-Ackerman S. Corruption and governance. Causes, effects and changes. – Kyiv, 2004, p.153.

⁴⁰ See, e.g.: BYuT told how votes were bought. – *Ukrayinska Pravda* Internet publication, June 2, 2008 (in Ukrainian).

to raise average wages to UAH 2.100, etc.⁴¹ All in all, according to expert estimates, implementation of social commitments of CPU would cost UAH 290 billion, of the Party of Regions – up to 200 billion, Lytvyn's Bloc – 190 billion, BYuT and NUNS – UAH 100 billion each.⁴²

Such commitments may be assessed from two points of view. If a party (bloc) realises that its commitments cannot be met, evidently, there are signs of political corruption, since it actually deceives voters.

And if a party (bloc) has real chances of coming to power and is aware that it will have to bear responsibility for the assumed commitments, that is, try to meet them, this may involve a political risk (or political adventurism, if fulfilment of election promises may pose a risk for the situation in the country (for instance, boost the budget deficit⁴³)).

Actions by authorities' and local self-government bodies' officials intended to win public support before elections are also difficult to qualify from the viewpoint of corruption. In terms of the law, they do not present an abuse of power, in terms of the trend – are not contrary the interests of society (community). However, they have such signs of corruption as: (1) personal interest of an official in keeping power after elections; (2) use of powers by one of the actors, which undermines the principle of equality of election participants. In particular, the extraordinary elections of 2008 in Kyiv let us conclude that the victory of Leonid Chernovetskyi and his bloc was a result of a target "focus" on their voters – people with low incomes, for whom an effective system of target social support was created.⁴⁴

Use of administrative resource. The use of the administrative resource may be defined as "influence of officials using their powers on political developments in Ukraine, in particular the course, results and other elements of the election process with the purpose of staying in power".⁴⁵

Different forms of such use were observed at actually all elections in Ukraine after it gained independence. However, its scale was steadily growing and reached its climax during the presidential elections in 2004. This is expressly witnessed by the very fact of mass protests of Ukrainian citizens against falsification of results of the 2nd round of voting during presidential elections-2004.⁴⁶ Some instances of the administrative resource use were observed (on a far smaller scale and in a decentralised form) also at elections in 2006 and 2007.

Technologies of the administrative resource use at elections of different levels are rather thoroughly studied.⁴⁷ Relevant violations of the election legislation in Ukraine entail administrative or criminal responsibility, while violations themselves may be qualified rather clearly, which facilitates their countering.

However, the results of such countering will largely depend on the political will of the top political leadership. Here, another problem arises, which by itself may be a sign of political corruption: the thing is that responsibility for violations (if any) rests with lower level actors. Sponsors and organisers of falsification schemes remain unknown, are not brought to responsibility or manage to escape it (flee the country, sometimes – even get a foreign citizenship).⁴⁸

For instance, during the first 100 days after the inauguration of President Yushchenko the General Prosecutor's Office initiated 388 criminal cases for election falsifications in 2004. However, it appeared that the majority of those brought to responsibility were just executants or "organisers" of offences at the lower level – heads of district or local election commissions, officers of local state administrations or their departments, local self-government bodies, etc.⁴⁹ Despite personal applications of the President to the General Prosecutor's Office,⁵⁰ organisers and participants of falsifications on the top level remained "officially" undiscovered and escaped punishment⁵¹ (although information about them was published in the media).⁵²

⁴¹ See: Programmes of political parties and blocs of 2007 election participants. – Official web site of the Central Election Commission, <http://www.cvk.gov.ua>

⁴² Ukraine in 2007: internal and external situation and prospects of development. Expert report. – Kyiv, Institute for Economic Research and Policy Consulting, 2007, p.31.

⁴³ E.g., fulfilment of BYuT's promise recorded in the Agreement of Coalition of Democratic Forces in the Verkhovna Rada of Ukraine of the 6th convocation to pay compensations for depreciated deposits with the former *Sberbank* to Ukrainian citizens within two years, in experts' opinion, was fraught with the growth of inflation pressure, which proved true. See: 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values. – *National Security & Defence*, 2008, No.2, p.59.

⁴⁴ See, e.g.: Hasanova I., Kalynovska E., Voloshyn O. Invincible pensioners. – *Ekspert*, 2008, No.22, <http://www.expert.ua> (in Russian).

⁴⁵ See: *National Security & Defence*, Ukraine's political parties on the eve of parliamentary elections ..., p.33.

⁴⁶ According to assessments of an influential Western periodical, the 2004 presidential elections in Ukraine ranked fourth among the top 10 most dishonest elections in the world, and the Orange Revolution was referred to as a reaction to corruption in the election process. See: *The 10 most corrupt elections*. – Timesonline, June 30, 2008, <http://timesonline.typepad.com/>

⁴⁷ See: Ukraine's political parties on the eve of parliamentary elections ..., p.38-47; 2004 presidential elections: how Ukrainians saw them. – *National Security & Defence*, 2004, No.10, p.13-18.

⁴⁸ See, e.g.: Lutsenko says that Bakai has Ukrainian citizenship but does not rule out a second citizenship. – Interfax Ukraine, May 11, 2005 (in Russian).

⁴⁹ According to the Ministry of Internal Affairs, among 319 established organisers of falsification of elections, two persons were deputy heads of regional state administrations; 20 – officials of district state administrations; more than 70 – heads of territorial and local election commissions; over 200 – election commission members. See: Militia detected over 5.5 thousand facts of abuses with absentee ballots during the 2004 elections. – UNIAN, December 8, 2005 (in Ukrainian).

⁵⁰ See: Yushchenko requests personal report on those guilty of machinations with transit server and fighting in front of Central Election Commission. – Interfax Ukraine, December 5, 2005 (in Russian).

⁵¹ Instead, the persons mentioned in the context of falsification of elections in 2004 later became MPs, took responsible posts in the system of executive power, got state decorations, etc.

⁵² In particular, according to then General Prosecutor Piskun, investigation proved no episode of falsification of elections by CEC members, criminal cases against some regional state administrations heads who personally took part in organisation of falsifications were closed, and so on. See: Piskun set to establish falsifiers of Kolesnikov's case. – Interfax Ukraine, December 5, 2005; Piskun says, investigation has no grounds to bring former CEC members to responsibility. – UNIAN, December 5, 2005; General Prosecutor's Office plans to close the case against Shcherban. – Interfax Ukraine, February 26, 2006 (all in Russian).



Such facts make the public agree with justification of use of the administrative resource by the authorities during elections, with political rather than legal motives of bringing to responsibility. By and large, this creates a favourable climate for such things during future election campaigns.

Moreover, all the above-mentioned instances of political corruption in the activity of political parties and in the election process promote its further growth. The political community feels absolutely unpunishable for offences; citizens get the feeling of “two realities” with respect to the election process – “virtual”, provided by the law, and true, whereby election campaigns are actually held. This, in turn, promotes people’s distrust in the tools of the authorities’ formation (parties and elections), and in their institutes – which reduces the level of their public legitimacy.

2.2. VERKHOVNA RADA OF UKRAINE

As we noted above, the constitutional reform greatly expanded the powers of the Verkhovna Rada, enhanced its independence.⁵³ This made Parliament the main scene of conflict and tool of attainment of the interests of political actors and financial/industrial groups, which, in combination with the character of the election process, makes the supreme state representative body susceptible to political corruption.

Meanwhile, the specificity of political corruption as a phenomenon bars clear qualification of some acts or intentions of political actors as politically corrupt, only assuming politically corrupt motives therein (first of all, the motive of getting/keeping/expanding power for its subsequent use in personal interests).

Politically corrupt aspects of organisation of Parliament’s work

Structural preconditions for political corruption in the Verkhovna Rada. In view of the above specificities of the nature of most political parties in Ukraine (including those presented in Parliament) and the specificity of the election system whereby drawing of the lists of MP candidates is controlled both by the formal party leaders and their financial donors, the structure of parliamentary factions in the Verkhovna Rada acquires specific traits.

Peculiarity of it is the growth among newly elected MPs of the share of persons directly falling within the “sphere of influence” of leaders of financial/industrial groups (who are not always MPs themselves): operating personnel (secretaries, aides, etc.) and employees (of various ranks) of enterprises and organisations controlled by or related with financial/industrial groups. This in a way resembles “allegiance”, since it rests on both material dependence and on the MPs’ “sense of duty” before colleagues or persons not present in Parliament.⁵⁴

Comparative analysis of the Verkhovna Rada membership shows that the share of that category of people therein leaped between the 4th and 5th convocations, with the passage to the proportional election system.⁵⁵

In such conditions, the structure of parliamentary factions is fragmented, a group of controlled MPs is formed around each “leader”, voting the way he does. At that, such centres of influence in different factions are more or less controlled by the official (political) faction leader. Therefore, **the legislative process is effectively influenced by a few persons (dozens of persons) who control voting by the relevant MP groups.** Such “informal” structure of Parliament exists alongside with the “formal”, factional one, but exactly the former practically decides voting results.⁵⁶

As a result, the Parliament structure is separated from voters by two intermediary layers: political parties (blocs), and business structures controlling MP groups. Hence, **this makes the Verkhovna Rada a body reflecting interests not as much of social groups of Ukrainian society as of the actors influencing its personal membership.**

This fact by itself is a sign of political corruption. Furthermore, it creates preconditions for other its manifestations, due to substitution for many MPs, of the voters’ will as the main motive of activity with the will of structures or persons to whom they owe their presence in Parliament.

Influence on political structures of Verkhovna Rada. The Ukrainian Constitution provides for creation of a coalition of parliamentary factions in the Verkhovna Rada, whose participants have access to the whole plenitude of administrative powers. This makes the process of formation of the coalition susceptible to political corruption.

Attempts of interested political actors to use imperfection of constitutional provisions on formation of the coalition were the main reason for early termination of powers of the Verkhovna Rada of the 5th convocation and appointment of extraordinary parliamentary elections.

The most evident signs of political corruption in that period of Parliament’s activity included:

- development of the relevant regulatory framework to enable the attainment of the set political objective (expansion of the coalition);
- “encouragement” of MPs to join the coalition.

In particular, the Verkhovna Rada Procedures were amended to allow “individual MP” membership in the coalition, although the Constitution expressly provides that the coalition is made up of parliamentary factions.

⁵³ For more detail see: Constitutional reform in Ukraine: progress and prospects. Razumkov Centre analytical report. – *National Security & Defence*, 2007, No.1, p.21.

⁵⁴ See, e.g.: Amchuk L. Oligarch orbits 2006: whom do Akhmetov, Surkis, Pincjuk lead to elections? – *Ukrayinska Pravda* Internet publication, February 13, 2006; Vlasnyuk O. (Ed.) Ukraine: strategic priorities. Analytical assessments 2006. – Kyiv, 2006, p.42-45 (all in Ukrainian).

⁵⁵ For assessments of the Parliament membership by the President of Ukraine see: There are killers, drivers, secretaries in Rada – Yushchenko. – *Ukrayinska Pravda* Internet publication, November 8, 2009 (in Ukrainian).

⁵⁶ This once again proves the secondary character of parties and blocs, *de jure* being the sole source of formation of the Verkhovna Rada, compared to the influence of financial/industrial groups.

With the same purpose, the status of “non-aligned” was reinstated for MPs expelled from their factions.⁵⁷

The technology of “encouragement” to join the coalition envisaged both incentives (executive posts,⁵⁸ cash⁵⁹), and pressure (first of all, on business), since at that time the executive branch was controlled by representatives of the anti-crisis coalition.⁶⁰

Corrupt influences in the political structuring process were also observed in Parliament of the 6th convocation. In particular, BYuT MPs said that they were offered from \$10 million to \$20 million for disruption of agreements of a coalition establishment with NUNS.⁶¹ In its turn, BYuT was accused by Lytvyn’s Bloc representatives of “solicitation” to join the coalition in exchange for posts.⁶²

In view of the constitutional norm of formation of the parliamentary coalition by the Verkhovna Rada factions, politically corrupt influences sometimes concentrate on election or replacement of the leadership of some faction. The latest example was presented by attempts to replace the NUNS faction leader.⁶³

In addition to corrupt influences on MPs intended to change the coalition structure, there is a wide practice of creation of a situational “majority” in the Verkhovna Rada for voting on politically sensitive issues, in particular, appointments and dismissals.

In February 2009, before the review of the issue of responsibility of the Cabinet of Ministers on their initiative, representatives of the Party of Regions said that they were holding negotiations of support not only with the opposition CPU faction but also with MPs from the “Single Centre” and some MPs from NUNS that belonged to the coalition.⁶⁴ Demonstratively, the Party of Regions acted in the same way during the previous attempts to replace the Tymoshenko Government in July, 2008. After a failed attempt, due to the CPU refusal to vote for dismissal, despite a prior consent, the Party of Regions accused CPU of political corruption,⁶⁵ and its representative even called upon the President to “promptly react” to such facts.⁶⁶ On the other hand, according to media reports, BYuT “encouraged” the CPU faction not to support the Government’s dismissal by making some appointments in its interests.⁶⁷

Since the mentioned cases witness “encouragement” of MPs by offering them some personal privileges, this means political corruption, where one (offering) party pursues the goal of getting or keeping power, while the other (recipient) meets its offer, using powers granted by citizens.

However, *first*, the existence of “encouragement mechanisms” is almost impossible to prove, and the relevant actions of MPs may be reasoned by “ideological motives”. *Second*, the experience shows that such methods are used by different parliamentary forces, so, investigation may be obstructed by the corporate solidarity of MPs and unofficial parliamentary “rules of the game”.

No wonder that subornation of national deputies, many times reported by representatives of the MP corps themselves, has never been proven. On July 25, 2006, a Temporary investigative commission was set up in the Verkhovna Rada to investigate accusations of subornation of Ukrainian MPs. However, its work brought no result. The possible reasons, in addition to those mentioned above, may include that its members questioned the persons said to be involved in subornation schemes,⁶⁸ and the stand of law-enforcement bodies and other structures.⁶⁹ Similar results were produced by other parliamentary investigative commissions, in due time tasked to investigate cases of corruption in Parliament.

Violation of the principle of personal voting of MPs. According to Article 85 of the Constitution, “Voting at the meetings of the Verkhovna Rada of Ukraine is performed by a National Deputy of Ukraine in person”. However, that constitutional norm is violated actually every day of plenary meetings in the Verkhovna Rada, broadcast live and watched by Ukraine’s citizens.

The main violations include voting of faction members instead of absent MPs and collection of voting cards by persons empowered by faction leaders, to prevent unauthorised voting by faction members (contrary to the stand of their leadership).

⁵⁷ Verkhovna Rada Resolutions: “On Amendment of Articles 64-66 of the Verkhovna Rada of Ukraine Procedures” No.74 of August 3, 2006; “On Amendment of Articles 59, 61 of the Verkhovna Rada of Ukraine Procedures” No.157 of September 19, 2006.

⁵⁸ E.g., the Party of Industrialists and Entrepreneurs of Ukraine leader Kinakh, elected by the list of “Our Ukraine” bloc, got the post of the Minister of Economy in the Government of Yanukovych for joining the coalition.

⁵⁹ According to opposition MPs, the “price” of the SPU leader Moroz changing his mind was \$300 million, individual defection of an MP cost \$37 million, and the money for that might be taken from budget funds. See: SPU recommends BYuT representative Lyashko to beg pardon from MPs whom he accused of subornation. – UNIAN, August 8, 2006 (in Ukrainian); First Vice Speaker admitted that Yanukovyches were buying opposition MPs. – *Gazeta po-Kievski*, March 29, 2007 (in Russian).

⁶⁰ For more detail see: Leshchenko S., Nayem M. From opposition to Yanukovych. Majority replenishment technology. – *Ukrayinska Pravda* Internet publication, March 29, 2007 (in Ukrainian).

⁶¹ Tymoshenko’s people said, Regions raised price. – *Ukrayinska Pravda* Internet publication, November 26, 2007; BYuT MP bought for \$29 million today. – *Ibid* (in Ukrainian).

⁶² BYuT entices MPs from other factions to coalition – mass media. – UNIAN, June 20, 2008 (in Ukrainian).

⁶³ See: Leshchenko S. Conspiracy in NUNS: Ihor plus Ihor minus Yuliya. – *Ukrayinska Pravda* Internet publication, November 7, 2009; Zhvania: Martynenko’s dismissal is the beginning of disruption of elections. – *Ibid* (in Ukrainian).

⁶⁴ See: So far, Regionals have no votes for Tymoshenko’s dismissal. Negotiated. – *Ukrayinska Pravda* Internet publication, February 3, 2009 (in Ukrainian).

⁶⁵ CPU actions were termed like that by the Party of Regions’ representative H.Herman. See: Regions get ready to turn Tymoshenko down in fall. – *Ukrayinska Pravda* Internet publication, July 11, 2008 (in Ukrainian).

⁶⁶ Party of Regions requests Yushchenko to immediately punish venal communists. – *Obkom* Internet publication, July 24, 2008 (in Russian).

⁶⁷ For more detail see: Leshchenko S. Yuliya Tymoshenko repeats “HR carousels” of Viktor Yanukovych. – *Ukrayinska Pravda* Internet publication, April 15, 2009 (in Ukrainian).

⁶⁸ Verkhovna Rada Resolution “On Report of Temporary Investigative Commission of the Verkhovna Rada of Ukraine for Investigation of Accusations of Subornation of National Deputies of Ukraine” No.188 of September 22, 2006.

⁶⁹ In particular, according to the Commission Chairman Borshchevskiy, the Commission officially sent relevant inquiries to the General Prosecutor’s Office, the Security Service of Ukraine, the Foreign Intelligence Service. However, none of the law-enforcement structures provided the requested information. See: Temporary Investigative Commission got from law-enforcement bodies no information proving facts of MP subornation. – UNIAN, September 14, 2006 (in Ukrainian).



Such actions may be seen as cases of political corruption, since they obstruct free manifestation of the will of MPs (and therefore of voters who delegated to them the relevant powers).

Meanwhile, those violations became a norm of parliamentary life. No Chairman of the Verkhovna Rada, except Arseniy Yatsenyuk, ever took measures to stop them. However, the technical means that were proposed by him and even installed have not become operational – due to MP resistance.⁷⁰

Problem of parliamentary immunity limitation.

Article 80 of the Constitution guarantees MPs a high level of parliamentary immunity – they cannot be brought to criminal responsibility, detained or arrested without the Verkhovna Rada consent. The essence of immunity is elaborated and expanded by the Law “On Status of National Deputies of Ukraine”.⁷¹

Parliamentary immunity should not be seen as a sign of political corruption, but under certain conditions it turns a factor of corruption. On one hand, it protects an MP from persecution, including for commitment of corrupt acts, on the other – leaves space for corruption in the process of getting parliamentary consent to responsibility of an MP (cases of “corporate solidarity” or, on the contrary, “political revenge”).⁷²

International standards of countering corruption demand “to limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society”.⁷³

Cancellation of parliamentary immunity is seen by both the public and experts polled by Razumkov Centre as one of the most effective means of fighting political corruption.⁷⁴

At the extraordinary elections of the Verkhovna Rada, actually all political forces in their election programmes put forward the slogans of abolition or limitation of parliamentary immunity, involving amendment of the Constitution.⁷⁵

The first two sessions of Parliament saw several vain attempts to take a decision on that issue. On March 20, 2008, the Verkhovna Rada sent to the Constitutional Court the Bill “On Amendment of the Constitution of Ukraine” (authors – V.Kyrylenko, I.Kyrylenko) that envisaged complete cancellation of parliamentary

immunity. However, in October, 2009, the Verkhovna Rada rejected the bill, sending instead to the Constitutional Court a bill submitted by representatives of the Party of Regions.⁷⁶

By contrast to the previous one, it also envisaged limitation of the immunity of Ukraine’s President. Experts suggest that such decision of the Verkhovna Rada is unlikely to further the task of immunity limitation in line with the EU standards, given, *first*, the imperfection of the formula suggested for parliamentary immunity, *second*, equation of the parliamentary and presidential immunities, essentially different, *third*, the doubtful prospects of adoption of those changes by current Parliament in the current political situation.

Instances of political corruption in constitutional and lawmaking process⁷⁷

As we noted above, one of the key differences of political corruption from bureaucratic is that its actors can influence “rules of the game”, changing them dependent on their goals and interests.

First of all, this refers to the Constitution as the basic legislative act, which the Verkhovna Rada is empowered to amend, and in fact – also to adopt. This makes such line of Parliament’s activity susceptible to politically corrupt acts.

The process of passage of legislative acts regimenting the election process, status and powers of specific governing structures, the procedure of exercise of specific functions by the state and its separate institutes is also vulnerable.

Initiatives of constitutional reform. Analysis of the approaches and initiatives of parliamentary political actors regarding reformation of the Constitution in 2005-2009⁷⁸ proved the conclusion that “every political force views the constitutional process through the prism of its own, mainly short-sighted interests dependent on the present status (staying in power or in opposition) and perception of its prospects under a reformed Constitution.”⁷⁹

In particular, starting from 2005, the leading Ukrainian politicians more than once seriously changed their ideas of the content of desired changes to the Constitution, the way and terms of their introduction.⁸⁰ Meanwhile, mass media published reports of alleged arrangements between some parliamentary forces concerning the

⁷⁰ See: Yatsenyuk demands activation of modernised *Rada* system, barring MP voting for others. – UNIAN, July 13, 2009 (in Ukrainian).

⁷¹ For instance, even if an MP is detained red-handed on the scene of a grave crime, in presence of eyewitnesses, no criminal case may be initiated against him, let alone procedural actions without the Verkhovna Rada consent. This allows him to do anything to escape responsibility, in particular, leave Ukraine and hide from investigation.

⁷² In its history, the Verkhovna Rada only three times gave consent to bring MPs to criminal responsibility and arrest them – Lazarenko, Ahafonov, Zherdytskyi. See the Verkhovna Rada Resolutions No.434 of February 17, 1999, No.1815 of June 22, 2000, No.2093 of November 2, 2000. Regarding national deputy V.Loizynskyi, accused of grave crimes, his powers were terminated early on his personal request. See: Verkhovna Rada Resolution No.1610 of July 3, 2009.

⁷³ See: Committee of Ministers of the Council of Europe Resolution (97) 24 On the twenty guiding principles for the fight against corruption. (*Adopted by the Committee of Ministers on 6 November 1997 at the 101st session of the Committee of Ministers*). – Official web site of the Council of Europe.

⁷⁴ For more detail see the results of expert and nation-wide polls, presented in Annexes 2 and 3 to this Report.

⁷⁵ This requirement is present in election programmes of four out of five parties and blocs represented in the Verkhovna Rada of the 6th convocation (except the Party of Regions).

⁷⁶ Bill “On Amendment of Constitution of Ukraine (regarding immunity guarantees for some officials)” (reg. No.3251 of October 3, 2008).

⁷⁷ For more detail see: Influence of Legislation on Corruption (corrupt effects of legal norms). – Analytical report of the Institute for Applied Humanitarian Research, Kharkiv, 2003. Razumkov Centre Archives.

⁷⁸ For more detail see: *National Security and Defence*, 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values ..., p.9-16.

⁷⁹ *Ibid.*, p.31.

⁸⁰ See: Constitutional reform in Ukraine: progress and prospects..., p.30-33; 100 days of Ukrainian authorities in the new format..., p.12-15.

substance of the changes. The most showy example is presented by the BYuT and Party of Regions factions discussing amendments to the Constitution envisaging election of the President in the Verkhovna Rada.⁸¹ Some politicians and experts argue that provisions pursuing preservation of power are also contained in the draft Constitution proposed by President Yushchenko.⁸²

A “technological” approach to reformation of the Constitution may be seen as an instance of political corruption, since in such case political forces empowered by the people to amend the Constitution may ignore the opinion of citizens about the substance of such changes, being guided by their own desire to keep or expand power instead.

Collisions with the Law “On Cabinet of Ministers of Ukraine”. Given the controversy and imperfection of constitutional provisions regulating the procedures of the Government formation, exertion of its powers and interaction with other institutes of governance (first of all – the President of Ukraine⁸³), the Law “On Cabinet of Ministers of Ukraine” is especially important, since it can be used as a tool for curtailment or expansion of powers of the Government and/or the President, being a subject of tough rivalry, if those institutes are led by mutually opposing or competing politicians.

Instances of political corruption during passage of the Law “On Cabinet of Ministers of Ukraine”

- unilateral submission by the Cabinet of Ministers (then led by Yanukovych) of the Bill “On Cabinet of Ministers Ukraine” for consideration to the Verkhovna Rada. In that way, it broke the agreement of joint submission of the bill by the Government and the President, recorded in the Universal of National Unity;
- presence in the draft of norms expanding powers of the Cabinet of Ministers and the parliamentary coalition above those specified in the Constitution;⁸⁴
- overriding the presidential veto on the law passed in the Verkhovna Rada on January 12, 2007, by votes of the governmental coalition and BYuT faction, neglecting the President's proposals. Contrary to prior statements of its leadership, the BYuT faction, guided by its political interests, helped the governmental coalition to override the veto, including – in exchange for the governmental coalition support for the BYuT legislative initiative regarding the bill on opposition (in the first reading) and change of the status of the Supreme Council of the Autonomous Republic of Crimea and local council members (introduction of the imperative mandate);
- involvement of a judicial body into the conflict as a technological tool of legitimisation of the stand of one party (*on January 22, 2007, the Mukacheve Intercity Court, acting in violation of subject and territorial jurisdiction, banned the Verkhovna Rada Chairman to sign the Law “On Cabinet of Ministers of Ukraine” and to publish it*).

Legislative initiatives regarding the election legislation. In 2006-2009, Parliament saw legislative initiatives intended to give preferences to some political forces.

In particular, before the parliamentary elections of 2006, representatives of “Our Ukraine” (including the President) and BYuT discussed and submitted bills (e.g., MP Pozhyvanov) raising the election barrier from 3% to 5-7%.⁸⁵ Representatives of less influential parties (including parliamentary) denounced that initiative and applied to Parliament with a request not to raise the barrier.⁸⁶

Other instances are presented by bills that proposed:

- a ban on participation in parliamentary elections for blocs of political parties⁸⁷ (that initiative met the interests of the political forces interested in a weaker BYuT – first of all, the Party of Regions and the pro-presidential wing of the NUNS faction);
- a substantial decrease or cancellation of the election barrier⁸⁸ (mainly to the advantage of MPs representing parliamentary parties whose victory at extraordinary elections aroused doubt);
- conduct of elections in two rounds, with the winners of the 2nd round getting a majority in Parliament⁸⁹ (given then support for the political forces, the bill was more advantageous for the Party of Regions).

The process of passage of a new version of the Law “On Election of President of Ukraine” may also be deemed susceptible to political corruption, since the content of that Law was actually determined by the two largest parliamentary faction – of the Party of Regions and BYuT, that had the top rated candidates for the presidential post (respectively, Yanukovych and Tymoshenko).

Analysis of the Law does not produce an ultimate conclusion of giving advantages to those candidates. However, the relevant conclusions are prompted by the unanimity of the opponent factions – of the Party of Regions and BYuT, their joint efforts for its passage and overriding the presidential veto.⁹⁰

Law on state procurement. State procurement is potentially associated with corruption even in the most developed democratic countries, as witnessed by the extremely strict control over that sector and its actors.

In Ukraine, the strong “corrupt appeal” of state procurements, in combination with interest of certain persons and influential political actors, gave birth to a legislation on state procurement that legitimised a corrupt scheme of appropriation of public resources by its authors. According to expert assessments, creation of corrupt schemes provided by that law involved MPs

⁸¹ See, e.g.: Yushchenko says, he did not agree to Tymoshenko proposal to elect President in Rada. – Internet publication *ProUA*, April 23, 2009, <http://ua.proua.com>; Portnov denies talks of BYuT with Party of Regions on amendment of Constitution. – *Ibid.*, April 25, 2009; Bohoslovka calls upon MPs to examine “conspiracy” in BYuT and PR – *Novynar* Internet publication, June 2, 2009, <http://novynar.com.ua/> (all in Ukrainian).

⁸² See: Petro Symonenko: Presidential draft of Constitution is another venture from Yushchenko. – Official web site of CPU, October 7, 2009, <http://www.kpu.net.ua>; Tymoshenko's associate beat Yushchenko's Constitution all to pieces. – *Ukrayinska Pravda* Internet publication, 31 March 2009; Shestoporova V. Political reform. To be continued? – *Stolichnye Novosti*, April 8, 2009, <http://www.inosmi.ru> (all in Ukrainian except the latter).

⁸³ See: 240 days of the government activity in the new format: a view of non-governmental think tanks. Analytical report by a consortium of non-governmental think-tanks. – *National Security & Defence*, 2007, No.3, p.6.

⁸⁴ *Ibid.*

⁸⁵ Bill No.8041 of July 25, 2005, was not considered by Parliament of the 5th convocation and not submitted afterwards. The current Parliament registered bill No.3190 of September 3, 2009, suggesting an increase of the barrier to 10% (submitted by Teryokhin).

⁸⁶ See: 30 political parties called upon VR not to raise election barrier. – UNIAN, September 7, 2005 (in Ukrainian).

⁸⁷ E.g., Bill No.4799 of 9 July 2009 (submitted by Lavrynovych).

⁸⁸ E.g., Bill No.31091 of September 30, 2009 (submitted by Katerynychuk), suggesting a decrease of the election barrier to 2%.

⁸⁹ Submitted by BYuT and the Party of Regions (reg. No.3150 of September 15, 2008, submitted by Portnov, Lavrynovych).

⁹⁰ See, e.g.: Yushchenko's people again saw a “conspiracy” of Tymoshenko and Yanukovych and promised veto. – *Ukrayinska Pravda* Internet publication, July 6, 2009 (in Ukrainian).



from different factions, and losses of the state from its passage hit astronomic sums.⁹¹

The collisions with cancellation of the law and passage of its new wording stopped short of prompting a break-up of the parliamentary coalition and were often used by the President and his Secretariat to accuse Prime Minister Tymoshenko and her political force of political corruption.⁹² The extremely strong corrupt implications of the legislation on state procurement in Ukraine was also noted by international experts.⁹³

Due to the echo in the state and political circles, mass media, the public, the law was cancelled in March, 2008. Since then, state procurements have been made on the basis of Provisional regulations approved by a Governmental Resolution.⁹⁴ The new bill submitted by the Cabinet of Ministers yet in May 2008 is still considered in Parliament.

Legislative regimentation of lobbying business interests. Given the specificity and scope of the Verkhovna Rada functions and powers, that institution is especially attractive as a tool of attainment of economic interests. This explains the concentration of businessmen with the highest incomes and representatives of different branches of the economy in Parliament.⁹⁵

As we noted above, the growing influence of business on politics is a world trend. However, that trend is met cautiously due to its possible negative effects (undermining of the principle of citizens representation), democratic countries take legislative and other measures for its limitation. Such measures include prevention of a conflict of interests – a situation whereby private interests of an official can influence his impartiality at exercising official powers.

In Ukraine, an opposite approach remains a norm, whereby a parliamentary seat (or an official post) is mainly seen as quite a legitimate tool of attainment of personal or group economic interests.

The issue of a conflict of interests for MPs is not regulated by the national legislation. Article 103 of the Constitution and the Law “On Status of National Deputy of Ukraine” contain only a formal demand of non-combination of offices, Article 8 of the Law also provides that “a national deputy shall not use the deputy mandate in personal, in particular, lucrative goals”.⁹⁶ Ukraine

has no other mechanisms of prevention of a conflict of interests, found in the international practice (such as a code of parliamentary ethics, sanctions for violation of principles of behaviour in case of a conflict of interests), or they are ineffective (requirement of income and property declaration).⁹⁷ Hence, the lack of proper legal regulation encourages Ukrainian MPs to use parliamentary powers for attainment of their business interests.

Another factor, conducive to political corruption in Parliament, is presented by non-regimentation of civilised lobbying mechanisms. So far, this phenomenon in the Ukrainian parliamentarianism has the character of arrangements among MPs, their separate (formal and informal) groups, factions, of support (or blockage) of specific legislative initiatives, that envisage exchange of such support for some monetary or political equivalent. In some cases the “price of the question” can be rather accurately calculated of the basis of the content of a bill and explanatory materials to it.⁹⁸

Bills aimed at legislative regulation of lobbying and lobbyist activity were submitted to the Verkhovna Rada of the previous convocations, but they seriously differed by conceptual approaches.⁹⁹ Furthermore, there are limitation for the use of the international experience of lobbying regulation in Ukraine.¹⁰⁰ In particular, in the USA and West European countries, lobbyists are usually non-parliamentary actors – persons or organisations, the targets of lobbyism are MPs. In Ukraine, actors of lobbyism (lobbyists) are MPs, targets – other deputies. “Outside” organisations can influence the law-making process only via individual MPs with whom they maintain contacts. This distinction should be taken into account at attempts of legislative regulation of the lobbyist activity in Ukraine.¹⁰¹

By and large, different phases of the law-making process are potentially susceptible to political corruption. The reasons include imperfection of certain norms and procedures,¹⁰² but to a greater extent – the desire of concerned actors to use them for their goals.

Meanwhile, there is still no state agency to perform regular anticorruption expert examination of the effective legislation and drafts of legal acts. Only on February 1, 2008, the President by his Decree requested the

⁹¹ See, e.g.: Bazhan A. Once again about private interests in state procurement. – *Ekonomichna Pravda*, February 8, 2008, <http://www.epravda.com.ua>; Semchenko M. Tender corruption. Why does the state lose millions of hryvnias? – *Den*, January 26, 2008, <http://www.day.kiev.ua> (all in Ukrainian).

⁹² See, e.g.: Yushchenko criticises existing system of state procurement. – UNIAN, February 7, 2008; President will not sign the law on state procurement expanding opportunities for corrupt deals – Baloha. – *Ibid.*, February 13, 2008 (all in Ukrainian).

⁹³ See: Investment Climate Statement 2008 – Ukraine. – Official web site of the US Embassy in Ukraine, http://kiev.usembassy.gov/files/investment_climate.pdf

⁹⁴ Cabinet of Ministers' Resolution “On Procurement of Goods, Works and Services for State Funds” No.274 of March 28, 2008.

⁹⁵ For instance, the Verkhovna Rada of the 5th convocation had five biggest sectoral lobbyist groups: for agriculture, metallurgy, fuel and energy sector, construction, the financial sector. Each parliamentary factions, as a rule, included representatives of not one but several sectoral lobbies. See, e.g.: Lobbyist always right. Lobbyist groups in the Verkhovna Rada of the 5th convocation. – *Kontrakty*, 2006, No.14, p.22-23 (in Ukrainian). The situation in the Verkhovna Rada of the 6th convocation is just the same.

⁹⁶ Meanwhile, the notion of a conflict of interests and the mode of action in case of its emergence are already provided in the national legislation on finance and banking, as well as in the new anticorruption legislation, that was to enter into effect on January 1, 2010, but by Parliament's decision of December 23, 2009, its effectiveness was postponed till April 1, 2010.

⁹⁷ On the contrary, starting from 2005, candidates for MPs are not obliged to declare incomes and property of the closest relatives, which gives broad opportunities for corruption. See: Ministry of Finance Order “On Approval of Form of Declaration of Incomes and Property of a Candidate for National Deputy of Ukraine” No.780 of November 14, 2005.

⁹⁸ See, e.g.: Investment attractiveness of the Verkhovna Rada. – *Ukrayinska Pravda* Internet publication, December 7, 2006 (in Ukrainian).

⁹⁹ For more detail see: Fedorenko V., Bazylevych D. et al. Problems of legitimisation of the institute of lobbying in Ukraine and ways of their solution. – Materials of public discussion, Kyiv, October 12, 2009 (in Ukrainian).

¹⁰⁰ For more detail see: Technical paper – expert opinion regarding lobbying and corruption in Ukraine. Support to good governance: Project against corruption in Ukraine (UPAC), 2008

¹⁰¹ For more detail see: Technical paper – presentation “Regulating lobbyists – a comparative analysis”. Support to good governance: Project against corruption in Ukraine (UPAC), 2008

¹⁰² See, e.g.: Parliament in Ukraine: the trends and problems of establishment. Razumkov Centre analytical report. – *National Security & Defence*, 2003, No.2, p.20-21.

Potentially corrupt areas in the legislative process¹

Procedure	Possible targets, lines and methods of corrupt influence	Results	Instances and comments
Registration of a bill and its submission for consideration to the Verkhovna Rada			
Registration of a bill, choice of the main committee	Agreements with Verkhovna Rada Chairman and First Deputy Chairman Influence on Verkhovna Rada staff (bill registration sector)	Choice of the main committee, the most "convenient" for the bill author (if the law contains issues shared among committees), sooner registration (or drag of bill registration)	<i>Review of draft resolution on suspension of first vice speaker of the Verkhovna Rada from his post, November 18, 2008²</i>
Review of the bill by the main and concerned committees	Influence on committee chairmen and members, their encouragement to pass the required decision on the bill	Priority review of the bill by the committee and recommendations of its inclusion in the agenda, for support (or drag of the bill registration)	
Review of the bill by the Main Scientific Expert Department and the Main Legal Department of the Verkhovna Rada staff	Influence on department heads and officers	Desired conclusions and recommendations concerning the bill (in particular, its passage or rejection)	<i>Precedents of issue of different conclusions on actually identical bills</i>
Review in the first reading (repeated first reading)			
Inclusion of the bill in the agenda	Preliminary agreement with Verkhovna Rada Chairman and his deputies Agreement with parliamentary faction heads	Decision on the bill inclusion in the agenda, its prioritisation	<i>On influence of the Verkhovna Rada leadership on voting see the interview by First Deputy Chairman of the Verkhovna Rada of the 5th convocation Martyniuk³</i>
Review of the bill in the first reading	Agreement with parliamentary faction heads	Attainment of the desired voting result: - passage in the first reading and simultaneously in general; - passage in the first reading and preparation for the second reading; - rejection of an undesired bill	<i>In the conditions of MP dependence on party (bloc) leaders under the proportional election system, such agreement present a serious guarantee of the bill support by the concerned faction</i>
Review in the second reading (repeated second reading, third reading)			
Preparation of the bill for the second reading	Influence on chairmen of concerned committees	Introduction of amendments not changing the substance of the bill, preparation for final voting	<i>Amendments to bills No.0975 and No.0971⁴</i>
	Influence on the Main Legal Department leadership and employees	Obtaining a positive conclusion of legal expert examination	
Line-item review of the bill in the second reading	Influence on individual MPs, behind-the-scene agreements with their aides (speechwriters)	Presentations with desired assessments of the bill during line-item voting. "Correct" interpretation of separate amendments to ensure the required substance of the bill and the voting results in general	<i>Interest may be indirectly witnessed by activity of specific MPs at discussion of concrete bills</i>
Passage of a decision in the second reading	Agreement with parliamentary faction heads, individual MPs on voting for the required decision	Required voting	<i>Practiced both by inside (MPs themselves) and outside (branch associations, companies) lobbies⁵</i>
	Exchange of services (scratch my back and I'll scratch yours), "package voting"	Required voting for each bill in the "package"	<i>Package voting by itself may be seen as a sign of corrupt acts and witness secret (behind-the-scene) arrangements⁶</i>
Review of the Law by Ukraine's President			
Review of the Law by the President	Arrangement with the President, his milieu or auxiliary structures (officers of the Secretariat, Ukraine's NSDC staff) of the desired stand regarding the Law (signing or vetoing)	Signing or vetoing of the Law	<i>According to Martyniuk, access to presidential structures, to convince him to sign or veto the Law, is the most difficult task⁷</i>
Review of the President of Ukraine proposals in case of his veto			
Review of the President's proposals in case of his veto	Agreement with parliamentary faction heads, individual MPs regarding voting for the required decision	Consent to or rejection of specific proposals of the President, overriding or not overriding the presidential veto	

¹ For more detail on the procedure and stages of the legislative process see: Law-making: key aspects of the legislative process. – Parliamentary Development Project, Kyiv, 2006.

² See: Tretyakov accused Party of Regions of barring registration of the bill on Lavrynovych's dismissal. – Novynar Internet publication, November 18, 2008, <http://novynar.com.ua/politics/44123> (in Ukrainian).

³ See: Kulchynskiy R., Hubenko N. Friends in class. Interview with First Deputy Chairman of the Verkhovna Rada Martyniuk. – Kontrakty, No.11, March 12, 2007, http://kontrakty.com.ua/show/ukr/print_article/32/1120078642.html (in Ukrainian).

⁴ See: Marusov A. Legislative mines, corrupt acts. – Dzerkalo Tyzhnya, No.36, September 27, 2008, <http://www.dt.ua/1000/1550/64206> (in Ukrainian).

⁵ We can without much difficulty collect \$500 thousand, which is enough for the Rada majority to vote for our bill, – admits a representative of one branch organisation. – Kontrakty, No.40, October 6, 2008, http://kontrakty.com.ua/show/ukr/print_article/4/40200811030.html. See also: Pyetsukh M. How much does an MP vote cost. – Hrynia Internet publication, No.42, 13 October 2005, http://www.grivna.ks.ua/skiki_koshtu_golos_deputata.html; BYUT named 4 persons who offered millions to MPs. – UNIAN, November 30, 2007 (all in Ukrainian).

⁶ For instance, by package voting on January 12, 2007, BYUT and the Party of Regions jointly overrode the presidential veto on the Law "On Cabinet of Ministers of Ukraine" and passed in the first reading the laws on opposition and on imperative mandate for local council members, meeting BYUT interests. See: Tymoshenko stresses that BYUT and Party of Regions can have no fundamental cooperation. – UNIAN, January 12, 2007 (in Ukrainian).

⁷ See: Kulchynskiy R., Hubenko N. Friends in class. Interview with... Martyniuk.

Government to assign such functions to the Ministry of Justice, but they envisage expert examination of only the drafts prepared by executive agencies.¹⁰³ The question of Parliament and the President remained open.

Those factors facilitate political corruption in Parliament. In such situation, even "lawful" passage of

a bill involving some economic interests may require politically corrupt acts.¹⁰⁴ According to media reports, there are even unofficial pricelists of specific actions of MPs (parliamentary inquiries and requests, "required" voting at consideration of bills or passage of political decisions in Parliament, lobbying of the State Budget items and so on).¹⁰⁵

¹⁰³ Presidential Decree "On Some Measures at Perfection of Formulation and Implementation of State Anticorruption Policy" No.80 of February 1, 2008.

¹⁰⁴ According to former MP Volkov, for passage of business-related bill, "from tens of thousands to tens of millions dollars" are needed. Talks are held with leaders or authorised representatives of factions, who "say the sum for which a faction can give 100% of votes". See: Kulchynskiy R. Price was no problem. – Kontrakty, 2006, No.14, p.17 (in Ukrainian).

¹⁰⁵ E.g.: an MP inquiry or request is valued from \$2,000 to \$10,000; "intermediary services" – 10% of the contract value, or \$1,000-2,000 to \$10-20 thousand, voting for a lobbyist law (taxation, branch support) – 10% of the contract value or a fixed amount, \$200-500 thousand; pushing a budget item – 10% of the amount allocated to the item funding; voting for a political decision (in the interests of an alien faction) – \$2-10 million. See: Meleshchuk N. MPs live for a "tithe". – *Gazeta po-Kievski*, October 5, 2009, p.89 (in Russian).



Exercise of controlling powers by Parliament

According to the effective legislation, the Verkhovna Rada has vast controlling powers, exercised by Parliament in general, parliamentary committees, temporary ad hoc and investigative commissions, special institutes established by Parliament (the Verkhovna Rada Human Rights Commissioner and the Accounting Chamber). Meanwhile, the existence of such powers with respect to other branches and institutes of governance gives an opportunity for their use for politically corrupt goals.

Analysis of the work of the Verkhovna Rada of the two past convocations lets us conclude that the most susceptible to political corruption are the following controlling functions:

- hearing of reports by the Cabinet of Ministers, separate members of the Government, heads of other state institutions (in that case, political corruption may take forms of influence on MPs to somehow encourage them to vote for resolutions of no-confidence in the Government or dismissal of separate ministers);¹⁰⁶
- establishment of temporary ad hoc and investigative commissions (possible manifestations of political corruption – establishment of the relevant commissions “to a political order”, bias in their activity and reports);¹⁰⁷
- parliamentary inquiries and requests (manifestations of political corruption – inquiries “to order” and requests in the interests of “third” parties or organisations).¹⁰⁸

Specificities and social effects of political corruption in Parliament

Detection of political corruption in Ukrainian Parliament is greatly complicated by the “disguise” of corrupt acts as “political expediency”. This requires application of certain criteria to distinguish the relevant things.

For instance, there are more grounds to term politically corrupt actions of the political force that, supporting an opponent, acts contrary to its programme principles or position on a specific issue. However, such acts may involve only moral and political responsibility, since they do not break the law.

The reasons for the deep penetration of political corruption into Parliament in general are common for the entire political system. They include the nature of the party and election systems, and drawbacks in the legislation regimenting the activity of MPs of Ukraine and the Verkhovna Rada in general.

Instances of political corruption in Parliament’s activity are especially dangerous, since political corruption:

- **in the legislative process** leads to passage of corrupt regulatory acts that legitimise corrupt activities, in that way promoting further spread of corruption;
- **in the process of appointments** in executive and judicial bodies, made by Parliament, directly or indirectly promotes spread of corruption in the relevant agencies;
- **in the exertion of parliamentary control** deflects the thrust of the relevant activity, making it a tool of unlawful influence on the system of governance in general, discredits the concerned controlling institutes.

Especially dangerous is the trend to the decline of public attention to political corruption in Parliament, growth of its “latency”, evolution from “defiant behaviour” into an everyday method of communication between MPs and factions. That trend is threatening, since it leads to further de-legitimisation of Parliament as the supreme representative body in the system of governance in Ukraine.

2.3. PRESIDENT OF UKRAINE AND ATTACHED ADVISORY INSTITUTIONS

Pursuant to the Constitution, the President of Ukraine is “the guarantor of state sovereignty and territorial indivisibility of Ukraine, the observance of the Constitution of Ukraine and human and citizens’ rights and freedoms”.

Therefore, the legal conscience and integrity of the Head of State strongly influence not only the moral and political image of Ukraine in the world but also the character of relations in the system of state governance, and therefore – the level of political corruption in the country. Meanwhile, the scope of presidential powers, in actual absence of control over his activity, lays down preconditions for manifestations of political corruption.¹⁰⁹

Some political acts and decisions of the President

Dismissal of Tymoshenko Government. On September 8, 2005, the President signed the Decree dismissing the Cabinet of Ministers led by Yuliya Tymoshenko. The President publicly reasoned that decision by intrigues “in the team”, along with economic miscalculations of the Government. While the first part of his arguments seemed reasonable,¹¹⁰ the second looked not too convincing, since those miscalculations did not prevent the President from praising the Government in his speech on the Independence Square on the occasion of the 14th anniversary of Ukraine’s independence.¹¹¹

Furthermore, according to media reports, before the Government resignation the President accompanied with State Secretary Rybachuk, held talks with Prime Minister Tymoshenko and Ukraine’s NSDC Secretary Poroshenko that ended in an agreement of dismissal of Poroshenko,

¹⁰⁶ See, e.g.: *National Security and Defence*, 240 days of the government activity in the new format: a view of non-governmental think tanks ..., p.8.

¹⁰⁷ *Ibid.* See also: Potyomkin S. Temporary fair commissions. – *Obkom* Internet publication, November 18, 2009; Lutsenko’s row will be investigated by two Rada’s commission at a time. – *ForUkraine* Internet publication, May 19, 2009 (in Russian).

¹⁰⁸ See: Meleshchuk N. MPs live for a “tithe”...

¹⁰⁹ This text does not address the President’s decisions, actions or opinions on concrete economic or business issues, e.g., schemes and conditions of gas supply, cases involving specific business actors (such as *RosUkrEnergo*, *Vanco*), although each of them may bear politically corrupt aspects. The focus was on the political acts and decisions that might be motivated by getting, keeping or expansion of powers.

¹¹⁰ This refers to public accusations of corruption by then Secretary of State against a number of politicians close to Yushchenko. See: Scandalous press conference of Zinchenko. – *Ukrayinska Pravda* Internet publication, September 5, 2005 (in Ukrainian).

¹¹¹ See: Speech by President of Ukraine Yushchenko on Independence Square on August 24, 2005. – Official web site of the President of Ukraine (in Ukrainian).

First Aide to the President Tretiyakov, Security Service of Ukraine Head Turchynov, Vice Prime Minister Tomenko, Minister of Economy Teryokhin and some other officials by the President. However, due to the breach of those agreements, the President dismissed, along with Poroshenko and Tretiyakov, the Prime Minister.

So, it may be assumed that the main reasons for the dismissal of Tymoshenko Government lied not in its economic miscalculations but in the political competition among representatives of the “Orange team” and the President’s desire to avoid a shift of the balance of forces to the Premiere’s advantage.

Signing of the Memorandum of Understanding between the Authorities and the Opposition on September 22, 2005. On September 22, 2005, two weeks after the dismissal of Tymoshenko Government, President Yushchenko, acting Prime Minister Yekhanurov and the Party of Regions’ leader Yanukovych signed the Memorandum of Understanding between the Authorities and the Opposition. One hour later the Verkhovna Rada gave 289 votes for the appointment of Yekhanurov Prime Minister Ukraine, and the Party of Regions’ faction unanimously voted “for” it.

The political background of that document is quite evident: the “price” of the voting is witnessed by some items of the Memorandum (Insert “*Comments to some items of the Memorandum*”).¹¹² Its signing was to bring accord not between the authorities and the opposition but between the authorities and the Party of Regions’ leadership,¹¹³ for voting for Yekhanurov as the Prime Minister, being in fact a “political barter”.

Signing of the Universal of National Unity on August 3, 2006. The Universal of National Unity signed on August 3, 2006, by the President, the Verkhovna Rada Chairman, the acting Prime Minister and leaders of all parliamentary factions (except BYuT leader Tymoshenko) was another example of “political barter”. For the Party of Regions, signing of the Universal was the price of the President’s submission of the candidacy of Yanukovych for the post of Ukraine’s Prime Minister in the Verkhovna Rada.

For the President, the rationale of signing that political document with an uncertain legal status lied, in particular, in at least outward preservation of his position of a national leader in the new political and legal conditions formed after constitutional amendments came into effect, maintenance of some influence on the Government’s activity through ministers appointed under the “presidential” quota (that in fact included the Minister of Internal Affairs and the ministers representing “Our Ukraine” Bloc – of justice, culture and arts, for family and sports affairs, public health).

Participation of representatives of the faction that did not belong to the coalition in the Government broke the constitutional logic of formation of the supreme executive agency and in fact paved the way for violation of the formation of the parliamentary majority logic in 2007.

Further developments showed the vanity of hopes associated with the Universal. Its signatories at different

Comments to some items of the Memorandum

Item 2: “Non-admission of political reprisals against opposition”¹¹⁴ may be seen, on one hand, as self-defamation of the authorities indirectly admitting the fact of such reprisals. On the other – as a commitment not to prosecute the organisers and executors of mass falsifications during the 2nd round of the presidential elections in 2004.

Item 3: “Submission of the draft Law of Ukraine “On Amnesty” with a reference to Articles 157 and 158 of the Criminal Code of Ukraine” – in view of the titles of those articles (“Prevention of exercise of election right” and “Unlawful use of voting ballots, forgery of election documents or incorrect calculation of votes or incorrect announcement of election results”), that item was intended to release falsifiers sentenced earlier.

Item 4: “Immediate effectiveness of the Law on Amendment of the Law of Ukraine “On Status of Local Council Members” providing immunity for members of local councils – could be designed to give guarantees of escape of criminal responsibility to local council members involved in violations of the election legislation and organisation of the “separatist” congress in Siverodonetsk.

Item 8: “Legislative regulation of ownership right guarantees” – in fact, meant non-admission of re-privatisation, irrespective of lawfulness or unlawfulness of privatisation, since the ownership right by itself is guaranteed by the Constitution and requires no additional legislative guarantees.¹¹⁵

times and on different occasions recalled their signatures, and the document actually lost all sense.

Early termination of powers of the Verkhovna Rada of Ukraine in 2007. The political crisis of 2006-2007 was started by the passage of the new wording of the Law “On Cabinet of Ministers of Ukraine” by Parliament in the first reading (December 21, 2006) that seriously limited presidential powers to the benefit of the Government, continued by the above-mentioned attempts of knocking up a constitutional majority together in a way termed by the President as unconstitutional, and reached its climax with early termination of the Verkhovna Rada powers by the President.

Exactly during that crisis, President Yushchenko began to speak of “political corruption” in public speeches and interviews, naming the Verkhovna Rada as its source, and the December 2004 amendments to the Constitution – as its precondition.

Formation of a constitutional majority in the Verkhovna Rada with factions of the Party of Regions, CPU and SPU as its core could pose a serious threat for the President’s authority – from triggering the impeachment procedure (with strong chances of its completion) to further curtailment of his powers. An option of constitutional changes was also discussed, involving election of Ukraine’s President in the Verkhovna Rada. However, **from the legal viewpoint, the situation in Parliament did not fall under any item of Article 90 of Ukraine’s Constitution, listing grounds for early termination of the Verkhovna Rada powers.**

The weakness of the President’s legal stand and prevalence of the political aspect in his actions was witnessed by the issue of as many as four Decrees on early

¹¹² See: Memorandum of Understanding between the Authorities and the Opposition. – Party of Regions web site, <http://www.partyofregions.org.ua> (in Ukrainian).

¹¹³ Except representatives of the authorities, the document was signed only by Yanukovych.

¹¹⁴ According to some reports, such wording of that item was pushed by the Party of Regions’ representatives.

¹¹⁵ Constitution of Ukraine, Article 41: “No one shall be unlawfully deprived of the right of property. The right of private property is inviolable”.



termination of powers of the Verkhovna Rada, each of them reversing or amending the previous one.¹¹⁶

Signing of the first and second Decrees of early termination of the Verkhovna Rada powers, under certain conditions, could be qualified as an act of political corruption – excess of powers to stay in power. On the other hand, they were issued in response to an even more evident instance of political corruption – formation of the parliamentary majority in an unconstitutional way. This instance may illustrate the complexity of detection and qualification of manifestations of political corruption in the conditions of a controversial legal framework and attempts of political actors to use that fact in their interests.

Positions and approaches in law-making

Constitutional initiative. As soon as in May 2005, the President publicly spoke of the need to “reverse” the constitutional reform.¹¹⁷ Practical steps to passage of a new Constitution were made by the President at the end of 2007, when he signed the Decree setting up the National Constitutional Council (NCC), tasked to perform “preparation of the concept of systemic renovation of constitutional regulation of social relations in Ukraine and a draft of the new wording of the Constitution”.¹¹⁸

On February 20, 2008, Yushchenko speaking at the first NCC meeting presented his idea of the content of the new Constitution. By and large, it lied in more distinct division of powers among the President, Parliament and the Government, not changing their scope provided by the effective Constitution.¹¹⁹ Some of the presidential proposals however were controversial enough, for instance, regarding the institute of people’s legislative initiative (submission of bills for consideration to the Verkhovna Rada on the initiative of a group of citizens) and a “popular veto” – referendum on the people’s initiative for cancellation of a law passed by Parliament or its separate provisions. The President also said that he did not rule out a constitutional referendum on the people’s initiative as the last resort for passage of the new Constitution. This gave grounds for speculations about a scenario of adoption of the Constitution outside the Verkhovna Rada.¹²⁰

On August 24, 2009, the President announced submission of his draft of the Constitution for nation-wide discussion. In addition to questions to the draft content as such (e.g., institution of a bicameral Parliament, change of the administrative-territorial system, introduction of the above-mentioned mechanisms of direct popular rule and so on), the draft was strangely submitted at the end of the presidential term and had no chances of passage in the Verkhovna Rada.

This gave grounds for new speculations about plans of extra-parliamentary passage of the Constitution, indirectly confirmed by the presence in the election programme of Yushchenko as a candidate for the presidential post of the provision of his intention, in case of election, to dissolve Parliament, if it fails to introduce amendments to the Constitution within 100 days, and to hold extraordinary parliamentary elections simultaneously with a referendum on passage of the Constitution.¹²¹

By and large, it may be said that the above-mentioned actions and initiatives, as well as similar actions by parliamentary political forces, can bear an element of political corruption, since they envisaged use of the constitutional process with the purpose of gaining or keeping personal powers.

Position on the Law “On Amendment of Law of Ukraine “On Status of Local Council Members”. On October 5, 2005, the President signed the Law granting immunity to local council members – although right before that, on October 4, he said that he stood for “cancellation of immunity of council members in general – irrespective of the level”.¹²² On the following day, October 6, the President said that he planned to inquire in the Constitutional Court about the constitutionality of the Law he signed, noting that he “stood against parliamentary immunity in general, but respected the Verkhovna Rada decision on that issue”, and that he has signed the law because he saw “no prospects of regulation of that issue in the Verkhovna Rada”.¹²³

The President’s Arguments in that case looked doubtful, since in other cases he not only vetoed laws that for some reasons did not suit him but refused to sign laws after Parliament overrode his veto. This gives additional grounds to view signing of said Law in connection with the Memorandum of Understanding between the Authorities and the Opposition, discussed above.

Situation with the Law “On Establishment of Subsistence Level and Minimum Wages”. The Law was initiated by the Party of Regions that pushed it by all possible means, including a long blockade of Parliament. Not assessing its content, it should be said that given the economic situation in Ukraine, before elections, it naturally gave electoral advantages to the presidential candidate of the Party of Regions Yanukovych and at the same time complicated the situation for his main rival – the BYuT leader Tymoshenko, who, as the Prime Minister, was to ensure implementation of that Law.

Passage of that Law caused an extremely negative reaction of the Government due to its expected negative

¹¹⁶ Decrees: “On Early Termination of Powers of the Verkhovna Rada of Ukraine” No.264 of April 2, 2007; “On Early Termination of Powers of the Verkhovna Rada of Ukraine and Appointment of Extraordinary Elections” No.355 of April 26, 2007; “On Appointment of Extraordinary Elections to the Verkhovna Rada of Ukraine” No.497 of June 5, 2007; “On Amendment of President of Ukraine Decree of June 5, 2007, No.497” No.675 of July 31, 2007.

¹¹⁷ See: Yushchenko considers referendum on implementation of political reform handy. – UNIAN, May 8, 2005 (in Ukrainian).

¹¹⁸ Decree “On National Constitutional Council” No.1294 of December 28, 2007.

¹¹⁹ However, at the same time mass media more than once published references to the draft Constitution, allegedly drawn up in the Presidential Secretariat, that provided for expansion of presidential powers at the expense of the Government and Parliament. See, e.g.: Rakhmanin S. Yushchenko strikes a balance. *Dzerkalo Tyzhnya*, February 2, 2008; Yushchenko wants to surpass Kuchma by powers? – *Ibid* (in Ukrainian).

¹²⁰ See: 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values ..., p.10-11.

¹²¹ See: Election programme of the candidate for the post of the President of Ukraine .Yushchenko “A free, fair and strong Ukraine”. – Official web site of the Central Election Commission, <http://www.cvk.gov.ua> (in Ukrainian).

¹²² See: President signed the law providing immunity for local council members. – *Mediaport* Internet publication, October 6, 2005, <http://ukr.mediaport.ua> (in Ukrainian).

¹²³ Yushchenko promises to send an inquiry about the immunity of local council members to CC shortly. – UNIAN, October 7, 2005 (in Ukrainian).

effects for the economic situation and Ukraine's relations with international financial institutes.¹²⁴ NBU warned that passage of the Law "raised the risk of deterioration of inflation forecasts, which might have negatively influenced the dynamic of inflation processes".¹²⁵

Nevertheless, on October 30, 2009, the President signed the law. According to his own calculations, implementation of that law in 2009 required some UAH 1 billion to raise pensions, and UAH 300-350 million – to raise salaries in the budget sector. At that, the President expressed confidence that the state had the required funds.¹²⁶

Meanwhile, some time later the President vetoed the Government-sponsored law on amendment of the state budget for 2009, allocating UAH 1 billion to fighting the flu epidemic. He argued that implementation of that law "could lead to distortion of the monetary policy pursued by NBU., require uncovered additional emission by the National Bank, which would cause acceleration of the inflation rate".¹²⁷

Such actions of the President may witness "dual standards" in his approaches, when one or another decision concerning state expenses is assessed dependent on its initiators. In this context, the President's signing of the Law that involves raising of social standards may be viewed as conscious assistance to the Party of Regions and its candidate Yanukovych competing with Tymoshenko.

Exercise of human resources management powers

Appointment of NSDC secretaries. On February 8, 2005, the President appointed Petro Poroshenko NSDC Secretary. The appointment was accompanied with serious expansion of the competence of the newly-elected Secretary, to whom the Decree of the appointment gave vast powers not envisaged by the Law "On National Security and Defence Council of Ukraine" in the fields of law-making, appointments (first of all, in the Armed Forces, law-enforcement and judicial bodies), control of bodies of state power.¹²⁸

The same Decree abolished the Coordinating Committee for Fighting Corruption and Organised Crime under the President of Ukraine, and transferred its functions, funds and facilities to NSDC.

The agenda of some NSDC meetings held at that time revealed attempts to go beyond the competence of that agency provided by the law and in fact make it a "parallel Government".¹²⁹ According to experts, said presidential acts were intended to balance the interests of the political teams working by his side, or, more exactly, to create a counterbalance to Ukraine's Prime Minister, at that time – Tymoshenko. At that, the status of NSDC and the head of its staff "were transformed specially for a concrete person".¹³⁰

On December 24, 2007, the President appointed deputy head of the opposition Party of Regions, national deputy of Ukraine Bohatyriova NSDC Secretary. The President described that appointment as another step to the unity of the entire Ukrainian society, since Bohatyriova, according to his words, "demonstrates that people from different political forces can take a constructive position, when it deals with the national priorities".¹³¹ However, the political and expert community spoke of other possible motives of the President's decision: first – to create a link between the President and some the Party of Regions' leaders ready for a compromise with him; second – to create a counterbalance to Tymoshenko as Ukraine's Prime Minister.¹³²

The Party of Regions denounced Bohatyriova's appointment (later, she was expelled from the party).¹³³ The pro-presidential NUNS faction similarly negatively met the President's decision.¹³⁴ In addition, it invoked the question of professionalism of the newly-appointed NSDC Secretary in national security and defence issues.¹³⁵

NSDC led by Bohatyriova became, along with the Presidential Secretariat, one of the sources of permanent criticism of the Government and personally the Prime Minister, and apology of acts of the Head of State, proving the words of the politically situational character of that appointment.

Appointment of local state administration heads in violation of the constitutional procedure. The President's right to appoint (and dismiss) state administration heads gives him control of local executive power. Although such appointments, according to the Constitution and the Law "On Local State Administrations", are to be made on the Government's proposal, the President more than once broke that principle.

¹²⁴ In particular, First Vice Prime Minister of Ukraine Turchynov said that if the Law entered into effect, IMF would not give Ukraine another tranche of the credit. He also said: "If Yushchenko signs that provocative law, pushed by the Party of Regions only to destabilise the situation on the eve of the presidential elections, I guess, it will be betrayal of national interests, it will be an attempt to push Ukraine to the situation of early 90s". See: Turchynov: IMF may refuse money because of Yushchenko and Yanukovych. – *Ukrayinska Pravda* Internet publication, October 29, 2009 (in Ukrainian).

¹²⁵ Inflation analysis (October 2009). – Official web site of the National Bank of Ukraine, <http://www.bank.gov.ua> (in Ukrainian).

¹²⁶ See: Yushchenko approved "half-standards". – *Obkom* Internet publication, October 30, 2009 (in Russian).

¹²⁷ See: Yushchenko did not give Tymoshenko a billion. – *Ukrayinska Pravda* Internet publication, November 16, 2009 (in Ukrainian).

¹²⁸ Decree "On Some Issues of Organisation of Work of Ukraine's National Security and Defence Council" No.208 of February 8, 2005.

¹²⁹ See, e.g.: Decree "On Ukraine's National Security and Defence Council Decision of March 14, 2005 "On Principles of Reformation of the System of Central Executive Bodies" No.658 of April 15, 2005.

¹³⁰ For more detail see: The new government's performance in 2005: a view of non-governmental think tanks. Analytical report by a consortium of non-governmental think-tanks. – *National Security & Defence*, 2005, No.12, p.36.

¹³¹ Yushchenko explained why he needed Bohatyriova. – *Ukrayinska Pravda* Internet publication, December 27, 2007 (in Ukrainian).

¹³² See: 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values ..., p.45.

¹³³ See, e.g.: Yanukovyches banned Bohatyriova to go to NSDC. – *Ukrayinska Pravda* Internet publication, December 25, 2007 (in Ukrainian).

¹³⁴ According to Rukh's leader Tarasyuk, "many people in the faction will probably disagree with the President regarding possible appointment of opponents to the top state posts dealing with national security". See: Tarasyuk ready to attack Yushchenko – not as the President. – *Ukrayinska Pravda* Internet publication, December 24, 2007 (in Ukrainian).

¹³⁵ E.g., according to former Defence Minister Hrytsenko: "Bohatyriova as the NSDC Secretary showed that she had no proper education". See: Appointment of a military defence minister runs contrary to democratic customs. – *Gazeta po-Kievski*, June 12, 2009 (in Russian).

In particular, the head of state made appointments without relevant governmental proposals, appointing by his decrees, contrary to the norms of part 3, Article 39 of the Law “On Local State Administrations”, acting local state administration heads (including persons not working in those agencies – such cases were reported in a letter from Prime Minister Tymoshenko to the President No.4829/0/2-08 of April 17, 2008).¹³⁶ He also barred amendment of the effective legislation regimenting the terms and procedures of consideration of the candidacies submitted by the Government for appointment to the posts of local state administration heads by the President.¹³⁷

Presidential appointments in local state administrations bypassing the Government, contrary to the constitutional procedure, may be seen as an attempt to extend his influence on the executive branch in an unconstitutional manner.

In the same context one may view accusations of “purchase and sale” of posts of local state administration heads. For instance, Deputy Chairman of the Verkhovna Rada Tomenko said that “the post of a district state administration head in a prestigious district costs from 5 to 7 million dollars, to start talking with the right man in the Presidential Secretariat”.¹³⁸ The President’s press service requested Tomenko to name the Secretariat officers whom he accused of bribery, stating its intention to apply to court if such information is not provided.¹³⁹ Tomenko gave no information, but there have been no reports of relevant legal action.

Exercise of powers at award of state decorations

Some of the President’s decisions on awarding state decorations give grounds for assumption of politically corrupt motives therein.

For instance, on November 28, 2007, one of the leaders of the Party of Regions, MP Kolesnikov got the Order of Merit of the 2nd rank pursuant to the Decree “On Awarding State Decorations of Ukraine” No.1162. The fact of decoration might stay unnoticed if Kolesnikov was not among the most active figures at the All-Ukrainian Congress of National Deputies and Local Council Members held on November 28, 2004, in Siverodonetsk.¹⁴⁰ However, according to media reports, at the time of the decoration Kolesnikov belonged to the wing of the Party of Regions leadership inclined to the idea of formation of a “broad coalition” with NUNS Bloc and took part in some humanitarian presidential initiatives.¹⁴¹

Facts of corruption in the system of state decorations were publicly claimed by MP Senchenko (BYuT faction). According to his words, “there is a price list for every decoration, including the highest – Hero of Ukraine”.¹⁴² President Yushchenko on September 9, 2009, requested General Prosecutor Medvedko to verify Senchenko’s report within 20 days. However, the General Prosecutor’s Office found no proof of corruption.¹⁴³

In the opinion of Tomenko, Ukraine’s system of awards has been reduced to an absurdity: awarding state decorations depended on support for President Yushchenko, and even the highest award – the title of the Hero of Ukraine – might be obtained for proximity to the presidential team.¹⁴⁴

Although scandalous statements of corruption in Ukraine’s system of state decorations were made by representatives of the political force actually opposing the President, and their main goal was to compromise the head of state, one may assume that those statements had some real grounds.

Discharge inorganic functions by advisory agencies under the President of Ukraine

President of Ukraine Secretariat. The Secretariat is a permanent auxiliary agency established by the President pursuant to Article 106 of the Constitution (item 28, part 1).¹⁴⁵ However, under the presidency of Leonid Kuchma it happened that the presidential structure acted as an independent actor of power relations in absence of appropriate legal grounds and was used as the President’s tool in political struggle.

During the 2004 election campaign, Yushchenko spoke of his intention to change the functions and role of that agency: “I promise that the Presidential Administration will no longer mean “the first government of Ukraine”. It should be termed a chancery and support the President’s activity”.¹⁴⁶ However, at the very beginning of Yushchenko’s presidency there appeared a trend to departure from the declared intentions.¹⁴⁷ With time, the practice of discharge of inorganic powers by the Secretariat and its representatives was renewed.

For instance, representatives of the Secretariat leadership from time to time give various assignments to state power and law-enforcement bodies. One example is presented by a request from the Head of the Presidential Secretariat Baloha to Prime Minister Tymoshenko on

¹³⁶ See: Report of continued practice of violation of requirements of the Constitution and laws of Ukraine during preparation and issue of the President of Ukraine acts dealing with appointment and dismissal of local state administration heads. – Public Relations Department of the Cabinet of Ministers of Ukraine Secretariat, June 18, 2008, Governmental portal, <http://www.kmu.gov.ua> (in Ukrainian).

¹³⁷ Such an attempt was made on September 4, 2008, when Parliament passed the Law “On Amendment of Some Laws of Ukraine Concerning Acting Heads of Local State Administrations”. Those amendments, in particular, obliged the President to take decisions of appointment/dismissal of local state administration heads within 15 days from the date of receipt of the Government’s proposal. In case of rejection of the submitted candidacy by the President, the Government was empowered to appoint acting local state administration heads, vested with all rights and duties provided by the Law “On Local State Administrations”. The Law was vetoed down by President Yushchenko, the veto was not overridden. See: President of Ukraine proposition to the Law of Ukraine “On Amendment of Some Laws of Ukraine Concerning Acting Heads of Local State Administrations” of September 4, 2008. – *Ligazakon* Internet portal, <http://search.ligazakon.ua> (in Ukrainian).

¹³⁸ See: Yushchenko’s Secretariat is paid 7 million for a district head? – *Ukrayinska Pravda* Internet publication, May 14, 2009 (in Ukrainian).

¹³⁹ Tomenko says, Yushchenko’s “plumbers” are no rivals to him. – *Ibid.*, May 15, 2009 (in Ukrainian).

¹⁴⁰ In Siverodonetsk, Kolesnikov, then Chairman of the Donetsk Regional Council, said that referendums should be held in regions to express distrust in all state institutions, vote for establishment of a new South-Eastern state in the form of a federal republic, and announce Kharkiv its capital. See: Yushchenko demands from General Prosecutor to finish cases of separatism and transfer them to court. – UNIAN, November 29, 2005 (in Ukrainian).

¹⁴¹ See composition of the Board of Trustees of the charitable programme “Children’s Hospital of the Future”. – Official web site of the President of Ukraine, <http://www.president.gov.ua>

¹⁴² Ilchenko A. Country’s saleable glory: \$250 thousand for Star of Hero. – *Segodnia*, September 8, 2009 (in Russian).

¹⁴³ See: Men of Medvedko “laundered” Yushchenko’s people from bribes for awards. – *Ukrayinska Pravda* Internet publication, October 2, 2009 (in Ukrainian).

¹⁴⁴ Yushchenko wonders who trades in orders and medals by him. – *Obkom* Internet publication, September 9, 2009, <http://Obkom.net.ua/news/20090909/1505.shtml> (in Russian).

¹⁴⁵ See: Decree “Issues of the President of Ukraine Secretariat” No.1548 of November 4, 2005.

¹⁴⁶ Yushchenko will have no Medvedchuk, but a striking clock. – *Ukrayinska Pravda* Internet publication, December 29, 2004 (in Ukrainian).

¹⁴⁷ See, e.g.: Amchuk L. Zinchenko’s Secretariat and Medvedchuk’s Administration – won’t find 10 differences? – *Ukrayinska Pravda* Internet publication, February 14, 2005 (in Ukrainian).

February 21, 2008, suggesting that she reverses the assignment to audit the Kyiv City State Administration activity.¹⁴⁸ Although in that case the Secretariat Head turned to the Head of Government “on the commission of the President of Ukraine”, it should be noted that even such requests are not envisaged by the Regulations of the President of Ukraine Secretariat, whereby the Secretariat only “provides for preparation, execution and submission to the head of state for signing of draft decrees, directives and assignments of the President of Ukraine”.

One may consider also in the same context a request of the Secretariat Deputy Head Pukshyn addressed to the Security Service of Ukraine Head Nalyvaychenko on February 15, 2008, to audit the activity of entities involved in the procedure of procurement of goods, works and services for state funds.¹⁴⁹

An abuse of powers is presented by the Secretariat’s public activity – numerous statements and comments of its executives regarding the political situation in the country, activity of Parliament and the Government, problems of interstate relations. Although functions of the Secretariat Head include presentation, on the President’s assignment, of his position in the Verkhovna Rada, in relations with executive and local self-government bodies, political parties, public organisations and mass media, international organisations,¹⁵⁰ the opinion of the Secretariat Head was usually presented in mass media as his personal, without reference to the President’s commission.¹⁵¹ Even more questions are prompted by the Secretariat deputy heads making such comments. Especially often this was made by its deputy head (from September 2007 till June 2009) Kyslynskyi, with the lion’s share of those comments defaming Prime Minister Tymoshenko.¹⁵²

By and large, the analysis of public statements of the Presidential Secretariat and its separate representatives gives grounds to state that the activity of that agency largely focused on defamation of political opponents of the President, which evidently falls beyond the competence of a consultative/advisory agency under the head of state.

National Security and Defence Council. By contrast to the presidential Secretariat, NSDC is a constitutional agency, whose legal status, along with its staff, is prescribed by the law. However, vast legislatively provided powers of that agency combined with rather a wide interpretation of the national security and its separate domains in the effective legislation, lay down preconditions for the use of that agency by its head – Ukraine’s President – as a tool of expansion of his influence and interference in the Government’s area of responsibility.

This phenomenon became especially spread during the office of Prime Minister Tymoshenko and continuous confrontation between the President and the Premiere. In that period, NSDC meetings often dealt with problems already addressed or planned to be addressed by the Government,¹⁵³ and considered issues falling within the Government’s competence.¹⁵⁴

The above examples show that some actions and decisions of Ukraine’s President may also bear signs of political corruption.¹⁵⁵ The main motive of those acts was to preserve or enhance his influence in the system of power, somehow make up for the powers lost following the constitutional reform.

Sometimes the President was prompted to do so by the actions of his political opponents and rivals, that also had signs of political corruption. Therefore, political corruption on the level of supreme institutes of governance has a multiplicative effect, since cases of political corruption in one of them prompt similar cases in others.

2.4. CABINET OF MINISTERS OF UKRAINE

The Cabinet of Ministers of Ukraine is a collective body that brings together different corporate and personal interests. After the amendments to the Constitution entered into effect, the Cabinet of Ministers is formed by the parliamentary coalition and is to implement its political course. That is why it is more difficult to detect politically corrupt acts in the activity of the Government as the agency passing collective decisions, than, for instance, in the activity of the President, acting independently and in his own name.

¹⁴⁸ Baloha suggests that Tymoshenko should revise the assignment to audit Kyiv City State Administration activity. – UNIAN, February 21, 2008 (in Ukrainian).

¹⁴⁹ Yushchenko’s men decided to tar Security Service on Tymoshenko’s. – *Ukrayinska Pravda* Internet publication, February 15, 2008 (in Ukrainian).

¹⁵⁰ Decree “Issues of the President of Ukraine Secretariat” No.1548 of November 4, 2005.

¹⁵¹ On the other hand, exactly that part of the regulations seems doubtful, since both Parliament and the Government have representatives of the President, in relations with mass media his position is presented by the press service, and in relations with international organisations – by the Foreign Ministry. Some instances: Baloha warns coalition against cross-demands to opposition that can aggravate tension in parliament. – UNIAN, February 12, 2008; Baloha does not rule out early elections, if the Verkhovna Rada work remains paralysed. – *Ibid.*, February 24, 2008 (by the way, on February 27, the President said that he did not want to dissolve Parliament, even if it did not work for 30 days, so, a question arises whose opinion was expressed in that case by the Secretariat Head); Coalition of 227 votes will not ensure permanent stability in VR work – Baloha. – *Ibid.*; Baloha dissatisfied with Ukraine’s settlement for consumed gas. – *Ibid* (all in Ukrainian).

¹⁵² See, e.g.: Andriy Kyslynskyi surprised with Yuliya Tymoshenko’s stormy reaction to reports of possible return of Pavlo Lazarenko to Ukraine this year. – *Ukrayinske Radio* Internet publication, September 30, 2008, <http://www.nrcu.gov.ua>; Acts by acting Premiere bear signs of high treason and political corruption. – Official web site of the President of Ukraine (all in Ukrainian).

¹⁵³ See, e.g.: the Decrees “On Ukraine’s National Security and Defence Council Decision of October 30, 2009 “On Immediate Measures to Ensure National Security in the Conditions of Pandemic Flu Outbreak in Ukraine” No.887 of October 31, 2009, “On Ukraine’s National Security and Defence Council Decision of February 10, 2009 “On Immediate Measures to Ensure Energy Security of Ukraine” No.82 of February 10, 2009, “On Ukraine’s National Security and Defence Council Decision of May 16, 2008 “Issues of the State Property Fund of Ukraine” No.449 of May 16, 2008.

¹⁵⁴ See: 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values ..., p.56.

¹⁵⁵ Instances of the President going beyond the constitutional and legal framework were noted by the Verkhovna Rada National Security and Defence Committee. See: Verkhovna Rada National Security and Defence Committee Letter to the President of Ukraine, Other State Leaders, and Memorandum reviewed by the Committee on February 13, 2008. – Verkhovna Rada National Security and Defence Committee web site, <http://kompnbo.rada.gov.ua> (in Ukrainian).



Presented below are some instances in the Government's activity that may bear signs of political corruption of potentially can facilitate it.¹⁵⁶

Deficiencies in organisation of the Cabinet of Ministers' work

The activity of all governments in 2005-2009 witnessed their unreadiness to reform the system of state governance drawing it closer to the EU standards.

In particular, Tymoshenko Government in 2005 refused from the institute of governmental committees, contrary to its Programme provision that promised "to turn governmental committees into effective working agencies of the Cabinet of Ministers and a tool of coordination of the activity and interaction of central executive agencies, coordination of draft decisions".¹⁵⁷ Experts attributed that step to the Prime Minister's desire to control passage of all decisions, which led to replacement of preparatory work with hours-long Government meetings.

The Yanukovych Government in 2006-2007 practiced passage of decisions without meetings, by interview. That approach was clearly inconsistent with the principles of work and responsibility of the Government as a collective body and undermined the transparency of its work. Unwelcome developments, from the viewpoint of potential corrupt implications, included a large increase (by a third) in the number of administrators of budget funds,¹⁵⁸ which undermined political and legal responsibility of the Government for their use, along with the resumed practice of the increase in the number of deputy heads in ministries and other central executive agencies. The latter step was associated with the desire of utmost political unification of the leadership of central executive agencies, stricter control of their activity.¹⁵⁹

Seen as a driver of political corruption, if not facts of corruption proper, may be the sharp increase in the number of patronage services within the Secretariat of Yanukovych Government, in particular, establishment of the Prime Minister's Staff as an agency that could influence governmental decisions, for instance, through expert examination of draft documents submitted to the Prime Minister for signing.

Principles of publicity and transparency in the Government's work were compromised by the wide application of the classification code "for official use only" to governmental directives and resolutions, contrary to the Constitution and the Law "On Information". None of the governments ceased that practice and cancelled the Resolution regimenting it.¹⁶⁰

Another potential factor of corruption, featured by all governments since 2005, is that the Cabinet of Ministers' Secretariat is led by a Government member – the Minister of the Cabinet of Ministers, which adds the political influence on that institution, falling within the sector of state service.

By and large, the fact that no government made enough efforts for practical delimitation of political and administrative posts may also point to the desire to retain maximum political influence on the state service, keep officials under the threat of dismissal on political grounds and in that way ensure their absolute loyalty to the current leadership, no matter whether it is guided by state or private/corporate interests in its activity.¹⁶¹

The practice of the government work without a Programme of Action approved by Parliament deserves a negative assessment. None of the four Cabinets of Ministers in 2005-2009 had a programme approved by Parliament. In the best case, a programme was approved by the Cabinet of Ministers' Resolution. The Yanukovych Government in 2006-2007 worked without a formal programme whatsoever. This was facilitated by "gaps" in the Constitution that sets no terms for submission of a programme of action by the Government for consideration to the Verkhovna Rada, or terms for the review of such programme in Parliament. Meanwhile, the Constitution expressly says that the issue of the Government's responsibility cannot be considered for one year after the approval of its programme of action.

The situation has three aspects that may involve corruption: *first*, the Government's work without a programme impairs its transparency, responsibility, controllability for society; *second*, delay of drafting and submission of a programme may be seen as an attempt to postpone the beginning of the term while the Verkhovna Rada cannot consider the issue of the Government's responsibility; *third*, the absence of an approved programme deprives Parliament of the important tool of control over the Government's activity, since it renders reporting on implementation of its commitments impossible. It should be added that even the programmes of governments approved by decisions of the Cabinet of Ministers after 2005 had no binding character and bore only some connection with their activity.

Signs of political corruption can be found in actions of the Government leaders trying to expel ministers that had different than the Premiere political views or were not loyal enough for other reasons. The instances included the resignation of Baranivskiy (SPU

¹⁵⁶ Analysis and assessments of the Government's activity in 2005-2008 are set out in analytical reports following monitoring of the authorities' activity performed by a Consortium of non-governmental think tanks: 100 days of the new authorities: a view of non-governmental think tanks. – *National Security & Defence*, 2005, No.5, p.37-5; The new government's performance in 2005: a view of non-governmental think tanks. – *National Security & Defence*, 2005, No.12, p.2-110; 100 days of the coalition government: a view of nongovernmental think tanks. – *National Security & Defence*, 2006, No.10, p.3-73; 240 days of the government activity in the new format. – *National Security & Defence*, 2007, No.3, p.2-92; 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values. – *National Security & Defence*, 2008, No.2, p.2-88.

¹⁵⁷ Cabinet of Ministers of Ukraine Programme of Action "To the People". – Governmental portal, <http://www.kmu.gov.ua>

¹⁵⁸ Cabinet of Ministers' Directive "On Amendment of Annex 1 to the Cabinet of Ministers of Ukraine Directive of May 31, 2006, No.296" No.469 of August 17, 2006.

¹⁵⁹ For more detail see: 100 days of the coalition government: a view of nongovernmental think tanks ..., p.15-16.

¹⁶⁰ Cabinet of Ministers' Resolution "On Approval of Instruction of the Procedure of Account, Keeping and Use of Documents, Files, Publications and Other Media Containing Confidential Information Owned by the State" No.1893 of November 27, 1998.

¹⁶¹ For more detail see: 100 days of Ukrainian authorities in the new format: assessment of actions in the context of democratic values ..., p.19.

representative) as the Minister of Agricultural Policy in Tymoshenko Government in 2005, dismissals of the Ministers of Internal Affairs Lutsenko, of Foreign Affairs Tarasiuk, “ousting” of other ministers representing “Our Ukraine”, and the attempt to dismiss the Defence Minister Hrytsenko from the Yanukovych Government in November-December, 2006, resignations of the Minister of Finance Pynzenyk, the Minister of Transport and Communications Vynskyi, the Minister of Defence Yekhanurov from the Tymoshenko Government in 2009.

Some of those attempts involved controlling agencies, in particular, the Main Control and Audit Department Head (e.g., in the cases of Hrytsenko and Yekhanurov) – while the accusations made found no factual proof. Such facts may be seen as apparent instances of political corruption, since they point to the employment of the Main Control and Audit Department for settling political scores or defamation of representatives of political opponents.¹⁶²

Some acts and decisions of the Government

Fulfilment of social commitments in 2005. Those commitments were present in the election programme of Yushchenko as the candidate for Ukraine's President – “Ten Steps toward the People”, and the Cabinet of Ministers formed under the provisions of the 1996 Constitution was to meet them. This however did not release the Government of political responsibility for economic performance, since the Prime Minister had an opportunity to propose to the President sound, for long-term state development, adjustments of the terms and methods of fulfilment of those commitments. This did not happen, probably also because the Premiere did not want her image defaced in the eyes of many potential voters (before the parliamentary elections of 2006), interested in implementation of the social programme of Yushchenko.

So, efforts of Tymoshenko Government in 2005 largely concentrated on political promises made during the 2004 election campaign, dealing with the social sector. For that, it initiated amendment of the state budget for 2005, in particular, raising minimum pensions and wages, birth allowances and other social payments.¹⁶³

The state budget was amended several times, with an increase in its incomes, expenditures and deficit. To fill the budget, such methods as non-refund of VAT, advance payment of corporate profit tax, cancellation of preferences for free economic zones and priority development territories were used. Given the negative effects of such steps for the economy (in particular, growth of pressure on the official sector, deterioration of the investment climate, etc.), it may be assumed that the Government was guided not by economic expediency but by political interests – the need to secure extra budget proceeds, to meet social commitments, and/or the desire to undermine the position of financial/industrial groups supporting political opponents.

Politically motivated economic activity of the Government ran contrary to the goals and objectives of sustainable development, enhanced factors of inflation, indefinitely postponed economic reforms, promoted expansion of the “grey” sector. Although such activity by itself was not corrupt, in a broad sense, winning popularity at the expense of future economic development, conscious replacement of reformist tasks with short-term goals may be seen as acts bearing signs of political corruption.

Breach of Universal of National Unity by Yanukovych Government. Signing of political documents that have no legal effect is a sign of a crisis of state governance, where legal factors have limited effects and cannot remedy the situation. Implementation of such agreements entirely depends on the honesty of their signatories, readiness for a compromise for the sake of national interests. Meanwhile, violation of such agreements, as a rule, leads to another political crisis and discredits the whole national authorities in the eyes of its citizens and the international community.

The Universal of National Unity signed on August 3, 2006, was to ensure mutual understanding and coordination of actions among the President, the future Yanukovych Government, the parliamentary coalition and the opposition. Despite the declarative character of some provisions, the document, in presence of a good will of its signatories, might provide the basis for political compromise and stable development. Yanukovych highly praised the Universal signing, saying that “... from August 2006, a new notion appeared in our usual vocabulary – “political integrity””.¹⁶⁴

However, the good will was not shown. Instead, the Government and its political ally – the parliamentary coalition – did their utmost to fully and unrestrictedly use their governing powers, which was reflected by their observance of the Universal provisions (insert “Some provisions of the Universal...”).

Some provisions of the Universal and their observance

Item 6 of the plan of action for the national unity: “reformation of structures of executive power and non-admission of politicisation of state service through priority passage of the Laws “On Cabinet of Ministers of Ukraine” and “On State Service” (a new wording), prepared for submission by the President to the Verkhovna Rada”.¹⁶⁵ However, in early October 2006, the Government on its own submitted the Bill “On Cabinet of Ministers of Ukraine” for consideration to Parliament – and it was passed on December 21, 2006.¹⁶⁶

By and large, the Law substantially expanded the powers of the Government and the parliamentary coalition at the expense of the President's powers, especially in appointments. Therefore, instead of an equilibrium in the in system of state governance, it laid down preconditions for a conflict that later led to a sharp political crisis of 2007, when the Government made so doubtful, from the legal viewpoint, and dangerous, from the social and political one, steps as used police units to seize the General Prosecutor's Office.

¹⁶² Excess of legislatively provided powers, dissemination of untrue information and other violations of the effective legislation by the Main Control and Audit Department Head are also witnessed by the Interdepartmental Commission for State Procurement report No.01/27bc of December 20, 2007. See: *Laws of Ukraine* Internet resource, <http://www.uazakon.com>

¹⁶³ Law “On Amendment of Law of Ukraine “On State Budget of Ukraine for 2005” and Some Other Legislative Acts of Ukraine” of March 25, 2005.

¹⁶⁴ See: Yanukovych believes that with Universal signed, “the vicious circle of Ukrainian political egoism” is broken forever. – UNIAN, August 18, 2006 (in Ukrainian).

¹⁶⁵ Universal of National Unity. – Official web site of the President of Ukraine (in Ukrainian).

¹⁶⁶ And with that data of passage published on February 2, 2007, despite a repeated review on January 12, 2007, after the President returned it to the Verkhovna Rada.

Item 12: “all-round development and functioning of the Ukrainian language as the state and official language in all sectors of public life across the territory of Ukraine – as the basis for self-identification of the people and the state”. However, just two weeks after Prime Minister Yanukovich signed the document, following a meeting with the Russian President Putin and Prime Minister Fradkov in Sochi, he told journalists that the language issue in Ukraine would be regulated after the coalition had a constitutional majority in Parliament, and optimistically predicted that it could happen if not current, then the following year.¹⁶⁷ Such “regulation” was to be provided by making Russian the second official language in Ukraine.

Item 25: “Continuation of the course of European integration of Ukraine with a view of Ukraine joining the European Union. Steadfast implementation of the “Ukraine-EU” Action Plan...”. However, on October 12, 2006, Yanukovich spoke in favour of passage of a new law on fundamentals of the national home and foreign policy. At that, he said that “today, there are relevant attitudes in society, they are reflected in Parliament”.¹⁶⁸ Evidently, the Premiere meant attitudes in the parliamentary coalition that in the first place reflected the ideology of its members – the Party of Regions, CPU and SPU. Noteworthy, the Premiere’s statement was also contrary to Item 27: “Mutually advantageous cooperation with NATO in compliance with the Law of Ukraine “On Fundamentals of National Security of Ukraine” (in the wording effective on the Universal signing date)”.¹⁶⁹

Disagreement in foreign political activity of the Government and the President. Non-coordination of executive agencies acts in the field of foreign policy was observed in the governments of Tymoshenko (2005) and Yekhanurov (2005-2006), in particular, some ministry and agency heads neglected the Foreign Ministry as the foreign policy coordinator. The situation became more serious under Prime Minister Yanukovich, since that period saw the greatest foreign policy rift between the Government and the President.

In particular, the President and the Premiere took a different stand regarding the terms of Russia’s Black Sea Fleet stationing on the territory of Ukraine, European and Euro-Atlantic integration of Ukraine. For instance, the Premiere, not denying the use of MAP for Ukraine, postponed passage of the relevant decision “to the time when greater awareness of the population about the Alliance is achieved, in the process of consolidation of society”. Breaking the President’s prerogative to represent the state in international relations, Yanukovich after a meeting of the Ukraine–NATO Commission in Brussels on September 14, 2006, said that Ukraine was postponing its plans of joining the Alliance.¹⁷⁰

In that case, the Head of Government not only broke the constitutional prerogative of the President to represent the state in international relations, steer the foreign political activity, but also contributed to undermining Ukraine’s image on the international scene, presenting it as a country whose leadership had no coordinated foreign policy.

In the issues of EU and Euro-Atlantic integration, sharp disagreement arose between the Prime Minister, on one hand, and the Ministers of Defence and Foreign Affairs – on the other. This could be well expected, since the latter two were appointed on the President’s proposal. Finally, at the end of 2006, the Prime Minister moved for the dismissal of Foreign Minister Tarasyuk, and on December 1, the Verkhovna Rada dismissed him – although, according to the Constitution, dismissal of the Foreign Minister was to be proposed by the President. Although Yanukovich reasoned the dismissal by the Minister’s improper exercise of official duties,¹⁷¹ it was clearly politically based, since the “pro-Western” trend of Tarasyuk was inconsistent with the Government’s ideology and policy.¹⁷²

On the other hand, it may be logically assumed that the stand of Yanukovich concerning the terms of the Black Sea Fleet stationing in Ukraine and prospects of its accession to NATO was intended to get political support from the Russian leadership.¹⁷³ It seems not accidental that the relevant statement was made by Yanukovich on the eve of the above-mentioned meeting with Russia’s President Putin in Sochi.

In this context, one should recall the situation of early August 2008 when Prime Minister Tymoshenko did not publicly support the President’s statements and initiatives regarding the Russian-Georgian conflict, for which, an officer of the Presidential Secretariat accused her of betrayal of national interests,¹⁷⁴ or the situation of late 2009, when the Head of Government was the only capable negotiator with Russia to settle gas supply problems, while the President in such (and in any other) capacity was flatly ignored by the Russian side, and other instances.

The above gives grounds to note the wide-spread practice of top state officials using foreign relations to boost their rating, obtain tactical advantages over opponents at the expense of national interests and international prestige of the country, which may be seen as instances of political corruption.

¹⁶⁷ See: Yanukovich promises final solution of the language issue after the coalition has a constitutional majority. – UNIAN, August 16, 2006 (in Ukrainian).

¹⁶⁸ Ukraine’s Premiere stands for revision of the law on fundamentals of home and foreign policy of the country. – Interfax Ukraine, October 12, 2006 (in Russian).

¹⁶⁹ Earlier, First Vice Prime Minister Azarov said that the European choice of Ukraine did not run contrary to integration processes taking place in the CIS and within the framework of SES establishment, although this did not quadruple with facts and ran contrary to the mentioned clause. See: European choice of Ukraine is not to offset integration processes in CIS and SES – Azarov. – UNIAN, August 15, 2006 (in Ukrainian).

¹⁷⁰ See, respectively: Yanukovich does not rule out possible extension of Russia’s Black Sea Fleet stationing in Ukraine beyond 2017. – UNIAN, October 30, 2006; Ukraine’s Government delays passage of final decision on NATO membership till better awareness of the population about that issue – Yanukovich. – Interfax Ukraine, August 10, 2006. Yanukovich says, Ukraine delays plans to join NATO. – UNIAN, September 14, 2006 (all in Ukrainian except the second).

¹⁷¹ Yanukovich waits for President’s reaction to his stand on the Foreign Minister’s dismissal and is ready for compromise on the new candidacy for that post. – Interfax Ukraine, November 14, 2006 (in Russian).

¹⁷² On December 5, 2006, the President signed a Decree whereby Tarasyuk was to continue duties of Foreign Minister. On January 30, Tarasyuk submitted his resignation, accepted by the President.

¹⁷³ Yanukovich’s statement of delay of joining NATO was dictated by Kremlin’s demand of revision of Universal’s provisions– expert. – UNIAN, August 11, 2006 (in Ukrainian).

¹⁷⁴ Yushchenko’s Secretariat says, Russia is going to invest in Tymoshenko one billion dollars. – *Obkom* Internet publication, August 18, 2008 (in Russian).

Lobbying corporate and private interests¹⁷⁵

Political corruption is manifested in the use of granted powers by authorities and their officials to the benefit of specific economic actors. There were repeated reports about the Cabinet of Ministers, separate ministries and agencies unlawfully lobbying interests of business structures.

In particular, some observers associated active steps of Tymoshenko Government in 2005, aimed at re-nationalisation of the Nikopol Ferroalloy Factory, not with revision of the results of its allegedly unlawful privatisation but, first of all, with lobbying for the *Privat* group, interested in privatisation of that enterprise.¹⁷⁶

In March 2005, the Minister of Justice Zvarych accused some Government members, not mentioned by name, of lobbying corrupt schemes in the oil refining industry, through which, VAT was refunded to some companies twice.¹⁷⁷ He, in turn, was criticised for, demanding cancellation of the Governmental Resolution banning re-export of oil, he lobbied the interests of the company where his wife was employed as the deputy general director.¹⁷⁸

Political opponents of Prime Minister Tymoshenko attributed difficulties in the Ukraine-Russian gas supply talks in 2009 to her lobbying a gas supply contract between the Russian side and *FKRt Universal Swissland* company.¹⁷⁹ The Government of Yanukovich was accused of pushing the interests of *RosUkrEnergo*¹⁸⁰ and financial/industrial groups in metallurgy.¹⁸¹

Experts saw as a potential factor of corruption, that raised the risks of the Government becoming a target of unlawful lobbyist activity, the Law "On Management of State-Owned Facilities" (2006), whereby "the Cabinet of Ministers is the actor of management identifying state-owned facilities for which it discharges management functions, as well as facilities... whose management powers are assigned to other managing actors".¹⁸² On one hand, the Law was welcomed as the one that might raise the effectiveness of state enterprises management; on the other – fears were expressed that with its passage, financial/industrial groups would get a possibility to *acquire* control over specific enterprises directly through the concerned ministry.¹⁸³

The statement made by Prime Minister Tymoshenko on September 5, 2009, at an all-Ukrainian meeting with

heads of village and settlement councils devoted to drafting the state budget for 2010, that the BYuT faction would push amendment of the Constitution to elect all branches for five years, starting from 2011, was also interpreted as lobbying the interests of the concerned group of officials, to win political support at presidential elections in 2010.¹⁸⁴

To be sure, the cited examples are for illustration only. Nevertheless, frequent media references to state institutions as lobbyists (potential or actual), not indicating the degree of their affect by that form of political corruption though, may still point to areas susceptible to corruption.

Although the Cabinet of Ministers is a collective body, instances of political corruption involving it have actually always been personified. The most significant of them were in one or another way tied with politicians who occupied the Prime Minister's post – as one of the highest and most influential state positions.

2.5. JUDICIAL AND LAW-ENFORCEMENT BODIES

Judicial and law-enforcement bodies play a particular role in countering corruption, since their main tasks are to provide for implementation of the rule-of-law principle – while corruption, especially political, undermines its effect.

Each of those agencies has specific tasks and functions in the system of anticorruption activity, but all of them are interrelated. That is why vulnerability of each of them taken separately to political corruption reduces the effectiveness of countering corruption in general, and corruption of the entire system compromises the state's ability to oppose corruption in general.

Constitutional Court of Ukraine. The Constitutional Court (CC) has a special role in the system of state institutions, since it is designed as the arbiter between the top institutes of governance. However, its powers in combination with the principle of its formation¹⁸⁵ make that institution susceptible to politically corrupt influences of the mentioned supreme institutes of governance and the political forces represented therein. On the other hand, the possibilities for such influence largely depend on observance of the anticorruption legislation and standards of official ethics (at least those established by the effective legislation) by the CC judges.¹⁸⁶

¹⁷⁵ See also: Corruption in Ukraine. Report on the results of the Ukrainian-Canadian integrity promotion project. – Institute for Applied Humanitarian Research, 2004. Razumkov Centre Archives.

¹⁷⁶ Government lobbies interests of *Privat* group. – *Narodnyi Ohlyadach* Internet publication, September 2, 2009, <http://sd.org.ua> (in Ukrainian).

¹⁷⁷ People in Tymoshenko's Government lobby corrupt schemes – Zvarych. – *Ukrayinska Pravda* Internet publication, March 28, 2005 (in Ukrainian).

¹⁷⁸ Roman Zvarych (dossier). – *Liga Business Inform* Internet publication, January 14, 2008 (in Russian).

¹⁷⁹ Regions: Lady Yu lobbies Medvedchuk's gas company. – Ukrainian business resource – business news from Ukraine and the world, February 9, 2009, <http://events.ubr.ua> (in Ukrainian).

¹⁸⁰ Speaker's dismissal was demanded by gas lobby. – *UkrRudProm* information-analytical portal, November 17, 2008, <http://www.ukrrudprom.ua> (in Russian).

¹⁸¹ See, e.g.: Havrylyuk O. Yanukovich opened energetic embrace to metallurgical oligarchs. – *UkrMet* portal of Ukraine's mining and metallurgy sector, November 28, 2007, <http://ntz.ptcor.net> (in Russian); Cabinet of Ministers' Directive "On Mechanism of Distribution of Financial Liabilities Related with Implementation of Project of Connecting Electric Units of Dniprostal Metallurgic Plant to Power Supply Sources No.1000 of November 14, 2007.

¹⁸² Law "On Management of State-Owned Facilities", Article 5.

¹⁸³ Government plans to assume SPF powers of state property management. – *Yurydychna Hazeta* Internet publication, July 27, 2006, <http://www.yurgazeta.com> (in Ukrainian).

¹⁸⁴ Tymoshenko lobbies election of city and village heads in 2011. – *Vholos pro Polityku* Internet publication, September 6, 2009, <http://www.vgholos.com.ua> (in Ukrainian).

¹⁸⁵ See, respectively, Article 150 and Article 148 of the Constitution of Ukraine.

¹⁸⁶ See, e.g.: Bublyi N., Ilenko Z., Solodko P. Stanik's housing issue. – *Gazeta po-Kievski*, April 25, 2007, <http://mycityua.com> (in Russian).

There were instances of the CC acts and decisions that may bear sign of political corruption. First of all, this refers to decisions in which motives of political expediency for some institutes of governance evidently prevailed over legal, such as the CC ruling of constitutionality of then President Kuchma staying for the third presidential term.¹⁸⁷

Instances of political corruption may also be presented by cases in which the CC delayed its ruling for a long time, although political developments required such ruling as kind of a “stabiliser”, or when its rulings did not substantially answer the questions dealt with in petitions by the relevant actors.¹⁸⁸

Some CC rulings, despite their argumentation formally met certain provisions of the Constitution, left doubts of their compliance with other constitutional provisions and the principle of the rule of law in general, since their content met the interests of a small group of people.¹⁸⁹

Judicial bodies. Judicial bodies immediately settle disputes arising in the sector of politics, in particular, during and after elections, as well as in connection with specific acts and decisions of the authorities, appointments and so on. Meanwhile, in the recent years, representatives of the Ukrainian corps of judges of different levels have been repeatedly involved in public corrupt scandals.¹⁹⁰

Corruption of judicial bodies and judges makes them especially susceptible to political corruption.¹⁹¹ A judge facing a discrediting dossier that may at any time be used to bring him to criminal responsibility for corrupt acts becomes an obedient tool in the hands of political corruption actors.

Other factors enhancing risks of political corruption in the activity of judicial bodies include:

- political pressure, exerted in particular through the imperfect procedure of judges’ appointment,¹⁹² along with interference of other agencies (the General Prosecutor’s Office, etc.) in the work of a court or a judge;
- dependence of judicial bodies on superior courts, legislative and executive agencies.¹⁹³

Since decisions of judicial bodies have their specificity,¹⁹⁴ revision of concrete court rulings that may bear signs of political corruption presents rather a difficult task. Nevertheless, one may single out the main sectors associated with an increased risk of decisions passage bearing signs of political corruption. According to expert assessments, especially susceptible to political corruption may be court rulings concerning:

- the election process, complaints of its participants, including about the establishment of election results;¹⁹⁵
- “publicised” cases involving representatives of the supreme institutes of governance;¹⁹⁶
- decisions of the supreme institutes of governance on political issues, especially in the periods of aggravation of relations among them, conflicts and political crises (e.g., termination of powers of specific institutes, appointment of elections, issues of effectuation of legal acts, etc.);¹⁹⁷
- disputed political appointments/dismissals in the supreme institutes of governance;¹⁹⁸
- criminal cases involving representatives of central and regional authorities or local self-government bodies, their relatives and family members.¹⁹⁹

¹⁸⁷ See: Constitutional Court ruling in case of constitutional inquiries of 53 and 47 national deputies of Ukraine for official interpretation of the provision of Part 3, Article 103 of the Constitution of Ukraine (case of terms of office of the President of Ukraine) No.22 of December 25, 2003.

¹⁸⁸ See, e.g.: Constitutional Court ruling in case of constitutional inquiry of the President of Ukraine for official interpretation of the provision of Part 8, Article 83 of the Constitution of Ukraine in logical connection with provisions of Parts 6, 7, Article 83, Item 9, Part 1, Article 106, Parts 3, 4, Article 114 of the Constitution of Ukraine No.8 of April 28, 2009. See also: Constitutional Court admitted that it could not answer Yushchenko’s question. – *Ukrayinska Pravda* Internet publication, April 30, 2009 (in Ukrainian).

¹⁸⁹ See: Constitutional Court ruled limitation of maximum pensions unconstitutional. – BBC Ukrainian service web site, September 10, 2009, <http://www.bbc.co.uk> (in Ukrainian).

¹⁹⁰ See, e.g.: Verkhovna Rada Committee shocked by air trips of Kyiv District Administrative Court Head. – *Obkom* Internet publication, October 19, 2009; Zvarych turns higher-ups in. Investigator was subject to assassination attempt? – *Ukrayinska Pravda* Internet publication, July 1, 2009; Security Service barred from checking accounts of the judge reported by “chanter” Zvarych. – *Ibid.*, November 7, 2009 (all in Ukrainian).

¹⁹¹ For more detail see: Corruption in Ukraine. Report on the results of the Ukrainian-Canadian integrity promotion project. – Institute for Applied Humanitarian Research, 2004. Razumkov Centre Archives; Study of corruption in Ukraine’s judicial system: common courts and courts of appeal. By: *Management Systems International* company in cooperation with *InMind*, Kyiv, July 2008, http://www.pace.org.ua/images/survey/jud_syst_u_july_08.pdf

¹⁹² See: Onopenko calls upon President to refrain from incorrect statements about Supreme Court rulings. – UNIAN, March 16, 2007 (in Ukrainian).

¹⁹³ See, e.g.: Courts attempted to be involved in political and economic struggle, Ukraine’s Supreme Court Head says. – Interfax Ukraine, March 16, 2007 (in Russian).

¹⁹⁴ In particular, a ruling not disputed and reversed in accordance with the established procedure is deemed effective.

¹⁹⁵ A showy example is presented by the Supreme Court ruling on the 2nd round of presidential elections in 2004. See: Supreme Court of Ukraine ruling of December 3, 2004, in case No.63881. – *Yurydychna Hazeta* Internet publication, December 27, 2004. See also: Committee of Voters of Ukraine Report upon the results of monitoring of appeal of parliamentary and local election results of March 26, 2006. – Committee of Voters of Ukraine web site, May 6, 2006, <http://www.cvu.org.ua>; Appellate review by Higher Administrative Court of Ukraine of court rulings dealing with the election process in 2006. – Bulletin of Central Election Commission, 2006, No.3(5), p.78-83 (all in Ukrainian).

¹⁹⁶ Currently, such cases still at the stage of pre-trial investigation in the first place include the case of killing of journalist Gongadze and of poisoning of the candidate for the President of Ukraine Yushchenko during the election campaign of 2004.

¹⁹⁷ For instance, the Kyiv District Administrative Court ruling suspending the validity of the Presidential Decree “On Early Termination of Powers of the Verkhovna Rada of Ukraine of the 6th Convocation and Appointment of Extraordinary Elections” No.911 of October 9, 2008, passed to sustain an administrative claim of BYuT. The ruling in fact cancelled extraordinary parliamentary elections, pushed by the President. See: Court stopped effect of Decree on early elections. – UNIAN, October 11, 2008 (in Ukrainian). Another example: the Mukachevo Intercity Court in Transcarpathian region sustained a claim by MP Kril and banned the Chairman of the Verkhovna Rada the 5th Convocation to sign the passed Law “On Cabinet of Ministers of Ukraine” and to publish that document. See: Transcarpathian court received no appeal against the ban on the Law on Cabinet. – *ReporterUA* Internet publication, February 6, 2007, <http://www.ua-reporter.com> (in Ukrainian).

¹⁹⁸ See, e.g., court ruling on dismissal of Foreign Minister Tarasiuk, Defence Minister Yekhanurov, SPF Head Semeniuk-Samsonenko, General Prosecutor Piskun, etc.

¹⁹⁹ See, e.g.: Court closed the case of “golden youth” Petrosian who killed a man in a road accident. – *ProUA* Internet publication, July 9, 2009, <http://ua.proua.com>; Another killer “golden youth” wanted by court. – *PolitArena* Internet publication, August 20, 2009, <http://www.politarena.org.ua> (all in Russian).

Corruption in judicial bodies is among the factors especially undermining the effectiveness of political corruption eradication, since it not only lets actors escape responsibility but brings about the feeling of immunity, in that way encouraging further development of that phenomenon.²⁰⁰

General Prosecutor's Office of Ukraine.

The General Prosecutor's Office investigates criminal cases involving top officials, including with respect to acts that may be termed politically corrupt. Because of its supervisory functions, it also influences other law-enforcement bodies and power institutions, executive and judicial branches.

The General Prosecutor is appointed and dismissed by Ukraine's President with the consent of the Verkhovna Rada, also entitled to pass a vote of no confidence in the General Prosecutor on its own, entailing his dismissal. This prompts that official to show loyalty to the President, and at the same time to maintain constructive relations with the majority of MPs.

In the conditions of political contradictions between the President and parliamentary political forces, this makes the General Prosecutor and the agency he leads susceptible to political influence, and therefore – to politically corrupt acts.²⁰¹

Political corruption in the General Prosecutor's Office activity may be witnessed by the following:

- a customised character of some investigations conducted by the General Prosecutor's Office;
- closure of some "politically sensitive" criminal cases;
- intentional obstruction or imitation of criminal cases investigation that may involve high-ranking officials, representatives of the national political elite, depriving them of prospects in court.

Some instances

On November 19, 2006, Defence Minister Hrytsenko shown live by the 5th Channel made a statement concerning the results of a meeting of the General Prosecutor's Office Board that reviewed the issue "On State of Public Prosecutor Supervision over Observance of the Legislation Concerning Preservation of Life and Health of Military Servants, State Property in the Armed Forces and the Ministry of Defence of Ukraine". The Minister expressed his indignation with the "unprofessional analysis of the situation in the Armed Forces, inability to detect true reasons of violations of the law, reluctance to admit evident miscalculations in the work of the General Prosecutor's Office at law-enforcement" and expressed confidence that "conclusions of the report are falsified and do not reflect the true state of affairs in the army". He termed the conclusions of the Board as a political order to discredit the Defence Minister.²⁰²

According to expert assessments, such an order might originate from the leadership of the Anti-Crisis Coalition in Parliament, since Hrytsenko had contradictions with the Government Head Yanukovych. By the way, Yanukovych sharply criticised Hrytsenko's allegations.²⁰³

Investigation by the General Prosecutor's Office of the circumstances of naturalisation of the famous politician and businessman David Zhvania requested in May, 2008, by the Presidential Secretariat was also termed as a political order. The man was accused of alleged submission of incorrect data during document processing. Zhvania himself termed the investigation as political persecution.²⁰⁴ Among the probable reasons for such a step against a person that once belonged to the closest presidential milieu, experts most often referred to Yushchenko's suspicion of Zhvania's involvement in his poisoning in 2004.

Cases whose closure might be politically motivated include, in particular, those dealing with the deaths of former Ministers – of Internal Affairs Kravchenko²⁰⁵ and Transport and Communications Kirpa,²⁰⁶ criminal cases against Shcherban, Satsyuk,²⁰⁷ Kolesnikov²⁰⁸, actual dropping of the criminal case initiated against former Minister of Internal Affairs Tsushko.²⁰⁹

The cases whose final solution looks questionable include those of assassination of journalist Gongadze and poisoning of President Yushchenko. For years, those cases involved a very strong tangle of varied political interests, resulting in political influences on the investigation progress.²¹⁰

²⁰⁰ According to the Razumkov Centre data, people see courts as the main hotbed of political corruption. For more detail see the results of national polls summed up in tables and diagrams published in this magazine.

²⁰¹ For instance, General Prosecutor Medvedko, occupying that post since November, 2005 (with a small break in 2007), is described as a person who can find the balance between loyalty to the President and influential parliamentary political forces, in particular, the Party of Regions. See: Kryuk K. Oleksandr Medvedko: a tabling game. – *Obozrevatel* Internet publication, November 6, 2009 (in Russian). Similar loyalty was demonstrated by Piskun, who was the General Prosecutor in 2004-2005 and 2007. His latest appointment took place in the heat of a political crisis and, probably, was motivated by the President's desire to have a reliable person on that important post – an ally in the struggle with the Anti-Crisis coalition. However, Piskun did not meet the President's expectations, and during his dismissal, was defended by the coalition representatives.

²⁰² Statement by the Minister of Defence of Ukraine. – Official web site of Defence Ministry, October 19, 2006, <http://www.mil.gov.ua> (in Ukrainian).

²⁰³ Ukraine's Premiere warns ministers against treating accusations of corruption as a political order. – *Interfax Ukraine*, November 22, 2006 (in Russian).

²⁰⁴ See: David Zhvania (dossier). – *Liga Business Inform* Internet publication, October 7, 2009 (in Russian).; Moskal views court's permit for General Prosecutor's Office to dispute the decision of Zhvania's naturalisation as continuation of reprisals. – *UNIAN*, June 18, 2008 (in Ukrainian).

²⁰⁵ General Prosecutor's Office closed the case of killing of Kravchenko. – *RBC Ukraine* news agency, February 27, 2007, <http://www.rbc.ua> (in Ukrainian).

²⁰⁶ See, e.g.: Politicians put forward versions of Heorhiy Kirpa's death. – *Korrespondent*, December 28, 2004; Leonov I. Heorhiy Kirpa. Anniversary. – *Ukrayina Moloda*, December 27, 2005.

²⁰⁷ Ukrainian Interpol ceased search of former Deputy Head of Security Service Satsyuk after General Prosecutor's Office closed the case. – *Interfax Ukraine*, March 1, 2006 (in Russian).

²⁰⁸ See, e.g.: Former investigator of General Prosecutor's Office says, case of Kolesnikov was falsified. – *Interfax Ukraine*, November 1, 2005. Ohorodnyk M. Andriy Fedur: Kolesnikov's case was 100% falsified, and I will prove this in the European Court. – *Ukraina Kriminalnaya* web site, November 3, 2005, <http://www.cripo.com.ua> (in Russian).

²⁰⁹ Kyiv Court of Appeal ruled criminal action brought against Tsushko to be legitimate. – *UNIAN*, January 18, 2008 (in Ukrainian).

²¹⁰ See: Oleksandr Medvedko: a tabling game. – *Obozrevatel* Internet publication, November 6, 2009 (in Russian).



Ministry of Internal Affairs. The Ministry of Internal Affairs and its leadership from time to time committed acts that could be seen as instances of political corruption, specifically: violation of the principle of confidentiality of investigation; use of militia units in political conflicts; reliance on investigation data in political statements, as well as politically reasoned opponents' accusations of crimes.

Starting his office as the Minister of Internal Affairs, Yuriy Lutsenko asked for indulgence for would-be mistakes by saying: "My unprofessionalism in the sector should surprise no one. I am appointed a political terminator".²¹¹ However, some of his acts in that period could hardly be explained by unprofessionalism alone, since they had an evident political tint.

Such acts included release of some information in the case of Kolesnikov. Although, according to Lutsenko, "release of that information was intended to lawfully and briefly inform the public of the committed crime",²¹² given the general political context of that case, another goal may be assumed – to prepare the public opinion, make society sure of the criminal nature of political opponents of the new authorities.

Meanwhile, during Lutsenko's service on the ministerial post, the slogan of the Orange revolution – "Bandits behind bars" – did not come true. Lutsenko himself attributed that to the drag of criminal cases on the level of public prosecutor offices, because of which, they did not reach courts.

Some statements of the Minister were aimed at defamation of political opponents using information from criminal files, for instance, release of data about the presence of persons once tried in criminal cases in the lists of some political parties.²¹³ However, as soon as it dealt with political allies suspected of criminal offences, the Minister was much more cautious – such was the case with MP from the BYuT faction Lozynskyi, accused of wilful homicide.²¹⁴ Lutsenko made a clearly political statement in October 2009, in which he accused the President and local state administrations heads appointed by him of total corruption (but failed to say whether criminal actions were brought against them).²¹⁵ That statement may be seen as an element of the election campaign, actually started by that time.

Employment of militia for political goals directly involved the Minister of Internal Affairs Tsushko, who personally commanded the seizure of the General

Prosecutor's Office by the *Berkut* special militia detachment, nearly provoking a clash with guards from the State Guards Service. By doing that, he not just exceeded his powers but involved militia in a political conflict.²¹⁶ The Minister also tried to influence voting by the Ministry of Internal Affairs officers, calling upon them to "follow" the political force he represented at that time at elections.²¹⁷

Violation of the principle of non-combination of jobs by the Deputy Minister, chief of the Crimean militia Moskal who after his appointment in August 2009 for a long time remained an MP, may also be termed as an instance of political corruption.

By and large, instances of political corruption in the Ministry of Internal Affairs' activity were largely personified and associated with personal activity of ministers. Evidently, it was also a result of transition from the professional to the political principle of appointment to the relevant post.

Security Service of Ukraine. That structure, possessing a specific status and capabilities of a special service, plays an important role in countering corruption, including political. The Security Service of Ukraine is entitled to initiate criminal cases and conduct pre-trial investigation in cases involving accusations of corruption and abuse of official powers against top officials.

After 2005, the Security Service of Ukraine for some time managed to stay beyond public political scandals. However, with toughening political confrontation among the top institutes of governance and aggravation of the overall political situation, top-ranking politicians and some political forces stepped up efforts to use the Security Service as a tool of attainment of politically corrupt goals: collection of information and initiation of criminal cases against political opponents for their public defamation or, where possible, their prosecution.²¹⁸

Such instances, as a rule, followed requests by representatives of other institutes of governance (in particular, then Deputy Head of the Presidential Secretariat Kyslynskyi, later appointed Deputy Head of the Security Service of Ukraine) or appointments on executive positions politicians, rather than professionals (Khoroshkovskyi), or the Security Service officers close to some political figures and officials (e.g., Durdynets, deemed tied to then Head of the Presidential Secretariat Baloha).²¹⁹

²¹¹ New head of Ukraine's Ministry of Internal Affairs: "I am appointed a political terminator". – *Podrobnosti* web site, February 11, 2005 (in Russian).

²¹² Lutsenko says, any polemics in Kolesnikov's case presents another attempt to politicise his case. – UNIAN, May 6, 2005 (in Ukrainian).

²¹³ See, e.g.: Top 100 names in the Party of Regions' election list include 24 names of persons interesting for law-enforcement officers – Lutsenko. – UNIAN, December 23, 2005 (in Ukrainian).

²¹⁴ An MP from BYuT accused of killing should not be decorated. – Lutsenko. – *Ukrayinska Pravda* Internet publication, June 23, 2009 (in Ukrainian).

²¹⁵ Ukraine's Ministry of Internal Affairs Head Yuriy Lutsenko believes that one should look for millions stolen from the budget in the pockets of Viktor Yushchenko's protégé. – *Rossiyskaya Gazeta* web site, October 7, 2009, <http://www.rg.ru> (in Russian).

²¹⁶ NSDC Secretary believes that Tsushko exceeded his powers. – May 24, 2007, <http://www.newsru.ua> (in Ukrainian).

²¹⁷ See: Tsushko decided, he was the skeleton of the state, and called to vote for him. – *Ukrayinska Pravda* Internet publication, September 27, 2007 (in Ukrainian).

²¹⁸ See, e.g.: They in Security Service assure that they did not listen to Moroz's talks with British Ambassador. – Interfax Ukraine, February 28, 2007; Moskal refutes Security Service accusations of unlawful issue of war veteran certificates. – UNIAN, 11 November 2008; Court obliged Nalyvaichenko to refute statement of Medvedchuk's involvement in "anti-state activity" – Law-Ruled State Centre. – UNIAN, February 9, 2009 (all in Ukrainian except the first).

²¹⁹ Later Kyslynskyi and Durdynets were fired, criminal actions were brought against them for accusations of different offences.

Expert discussion, November 27, 2009



The most striking examples of attempts to use the Security Service in political struggle bearing signs of political corruption, were presented by the service activities following a request by the former Deputy Head of the Presidential Secretariat Kyslynskyi to study materials dealing with signs of high treason and political corruption in the actions of Ukraine's Prime Minister Tymoshenko,²²⁰ especially during the "gas conflict", when *Alfa* special unit of the Security Service took part in withdrawal of documents from the *Naftohaz Ukrainy* office (directly involving Khoroshkovskiy – former Head of the State Customs Service, appointed First Deputy Head of the Security Service of Ukraine).²²¹

Such attempts to use the Security Service for political goals, moreover bearing signs of political corruption, impair the effectiveness of that agency, undermine public trust in it.

Other law-enforcement bodies. Other law-enforcement bodies, such as customs, tax and border protection, discharge law-enforcement functions in specific limited sectors, so, instances of political corruption there are of a local nature.

They mainly involve influence of the top institutes of governance or their representatives, political forces on the leadership of those agencies (or their units) to make their officers commit some corrupt acts. To be sure, such actions, especially within the framework of steady corrupt schemes, cannot be done without representatives of the top echelons of those agencies.

In particular, officers of the state customs service were more than once accused of condonation (or even complicity) in establishment of smuggling schemes involving top level politicians, MPs.²²² Sensitive to politically corrupt influences are the issues of VAT refund,²²³ legalisation (laundering) of proceeds of crime, "fictitious" firms and "conversion" centres. Tax agencies, in particular, tax militia of the State Tax Administration, may be (and sometimes were) used for pressure on political opponents, as well as in competition for the "political resource".

Regarding the state border protection agencies, grounds for assumptions of political corruption arise every time high-ranking officials or their relatives, suspected or accused of corruption or other grave crimes (even obliged not to leave the place or wanted), leave Ukraine, in that way escaping justice.²²⁴

Of course, the specificity of each of those agencies is conditioned by their different susceptibility to political corruption. However, such precedents in each of them gives grounds to state that the state law-enforcement system actually has no structures, free of political corruption effects.

Corruption in judicial and law-enforcement bodies is a factor that lets actors of political corruption escape responsibility. First, information of so-called "disposal to corruption" of a specific agency prompts concerned actors to turn to it with corrupt propositions. Second, information about corruption of representatives of judicial or law-enforcement bodies makes them dependent on those who possess such information.

This creates a "vicious circle" of corruption, where corruption of a court or law-enforcement officer prompts him to commit further corrupt acts under the threat of release of such information in case of refusal, which exposes him to accountability. Given the hierarchic character of the relevant agencies, "corrupt pyramids" can be built there, led by their executives. In some cases there may be mechanisms of "interdepartmental corrupt interaction", both situational and long-term, using established corrupt schemes.²²⁵

²²⁰ See: Materials about Cabinet's activity transferred to Security Service contain seven serious positions in the field of national security. – Nalyvaichenko. – UNIAN, August 21, 2008 (in Ukrainian).

²²¹ Tymoshenko's people say, "the sleek guy" is no chief for *Alfa* – *Ukrayinska Pravda* Internet publication, March 9, 2009 (in Ukrainian).

²²² See, e.g.: President ordered Security Service and General Prosecutor's Office to check lawfulness of closure of cases of smuggling in excess of UAH 300 thousand. – UNIAN, March 11, 2008; Security Service revealed smuggling network created by *Dobryaky* organised criminal group. – *Ibid.*, November 11, 2008 (in Ukrainian).

²²³ See: Yushchenko ordered Security Service to report on facts of officials' corruption in the field of VAT refund in a month. – UNIAN, October 17, 2006 (in Ukrainian).

²²⁴ Showy examples – Bodelan, Satsyuk, Bakai, Kalynovskyi and others.

²²⁵ The issue of "interdepartmental corrupt interaction" in the law-enforcement and judicial systems requires special analysis.

3. FACTORS INFLUENCING THE EFFECTIVENESS OF COUNTERING POLITICAL CORRUPTION¹

The phenomenon of political corruption has some invariant traits, stemming from its nature. Meanwhile, its concrete instances have a national specificity conditioned by the social, economic, political, legal, cultural and other features of one or another country. Respectively, planning of the political corruption countering methods requires consideration of such specificity without which even the best models of anticorruption strategies borrowed from outside may be of little effect.

The specificity of developments in Ukraine makes it possible to distinguish a number of factors that influence the effectiveness of countering political corruption. Some of those factors stem from the incompleteness of transformation processes, started yet before Ukraine gained independence, some are caused by the logic of development, first of all, of the political system in 2005-2009.

SPECIFICITIES OF COUNTERING POLITICAL CORRUPTION

As we noted above, political corruption differs from bureaucratic mainly by that politically corrupt acts may present no offences, and political corruption covers a wider range of actions than bureaucratic.

This circumstance conditions differences in the following aspects:

- in the nature of responsibility for politically corrupt acts (in the former case – moral and political responsibility, in the latter – criminal, administrative, or disciplinary);
- in the mechanisms of responsibility (in the former case – elections and other political sanctions that may entail deprivation of a corrupt actor of authority or barring his acquisition of such authority, in the latter – the legislatively-provided procedure of bringing to responsibility, dependent on the nature of a corrupt act);
- in bearers of responsibility (in the former case – citizens eligible to vote, bodies empowered to apply mechanisms of political responsibility as per the Constitution, in the latter – law-enforcement bodies and courts).

From this viewpoint, the two main factors of fighting political corruption – effective legislation and the system of bodies applying it (including law-enforcement bodies), – in turn, are internally subdivided into two elements. The first of them addresses countering political corruption as deviant political behaviour, the second – political corruption as an offence. This distinction will be considered, while reviewing the factors that influence the effectiveness of countering political corruption.

Effectiveness of fighting corruption

According to the Ministry of Internal Affairs, in 2008, 1,910 cases of taking bribe were recorded (in 2007 – 2,146). 1,376 criminal cases for bribery were submitted to courts, 23 cases were closed.

According to the court statistics, 674 persons were tried for charges of taking bribes, three of them were acquitted. Only 57 persons were sentenced to real terms of imprisonment, six of them – from 5 to 10 years, none – over 10 years.

Courts usually apply to bribe-takers punishments below the lowest limit envisaged by the relevant article, or substitution with a milder punishment (in 85% of cases), along with release from extra punishments, such as deprivation of the right to occupy some posts (in 53 cases out of 100). Property is confiscated from one out of eight convicts; only 2% is deprived of military or special ranks, titles, etc.²

Corruption of top officials is actually unpunished. Among state servants of the 1st and 2nd rank, three persons were brought to administrative responsibility in 2008, two – in 2009. Political corruption is not mentioned. Most people brought to responsibility are village and district officials, although the problem of corruption is more pressing on the level of central bodies of state power and big capital.

GENERAL POLITICAL SITUATION IN THE COUNTRY, INERTIA OF POLITICAL CONFRONTATION

In 2005-2009, the political situation in Ukraine was largely developing by the pattern laid down during the presidential elections of 2004. Society was divided in two parts, with rather distinct regional borders, dependent on political preferences. At that, many voters did not recognise the legitimacy of cancellation of the results of the 2nd round of voting and, respectively, repeated 2nd round

¹ In this context, the term “countering corruption” means “a system of political, legal, organisational-managerial, ideological, socio-psychological and other measures intended to decrease the scope of corruption, change the nature of corrupt acts, limit mutual influence of corruption and social processes...”. See: Melnyk M. Corruption – erosion of power..., p.216.

² See: Khavroniuk M. Corruption: ‘pikes’ let into the ‘river’. – *Dzerkalo Tyzhnya*, May 30, 2009 (in Ukrainian).

Expert discussion, November 27, 2009



of elections and defeat of Yanukovych. As a result, part of citizens lost trust in observance of the principle of rule of law during elections, and in the new authorities.

The political forces defeated at the 2004 elections tried to make up for their defeat at parliamentary elections in 2006, after which, constitutional amendments fully entered into effect. The logic of political requital, combined with imperfection of the Constitution and the effective legislation, opened up possibilities for political corruption in Parliament, provoked the President's reaction thereto (also controversial, from the legal viewpoint), and resulted in early termination of the Verkhovna Rada powers and extraordinary parliamentary elections.

The political crisis of 2007, numerous presidential decrees on dissolution of the Verkhovna Rada, involvement of judicial bodies (first of all, the Constitutional Court) and power structures in the conflict, in their turn, promoted the principle of political expediency instead of rule of law in the political community, along with legal nihilism, distrust in bodies of power and political structures among citizens, irrespective of their orientations.

Developments after the 2007 elections brought continuous political tension, conflicts, regular crises, caused by rivalry of the key politicians as potential candidates at presidential elections in 2010. To secure an advantageous position in those conflicts, the parties resorted to politically corrupt means. In particular, the supreme institutes of governance and political forces tried to step up their influence on the judicial branch and law-enforcement bodies, which became one of the main reasons of the significant increase in their corruption level.

By and large, all those processes brought a significant decrease in the authorities' effectiveness, growing alienation of society from the state, spread of politically corrupt ways in the political class and growth of public tolerance to them.

MERGER OF BUSINESS AND POWER, INADEQUATE RELATIONS BETWEEN POLITICS AND ECONOMICS

In Ukraine, as well as in other post-Soviet countries, business and power are not separated. The trend to the

merger of business and politics through formal and informal influence of financial-industrial groups on decisions of the supreme institutes of governance, started in mid-1990s, has reached its climax. The declared intentions of the "Orange" team to provide for separation of business and power ended in a failure – largely, because of the personal disinterest of its representatives.

Ukraine belongs to the countries with a high share of the "grey" economy.³ According to the Ministry of Economy, it made 36% of the official GDP, according to the Accounting Chamber, as of early September, 2009 – over 40%, according to the World Bank – more than 50%; in absolute figures, the state budget loses, under the most prudent assessments, UAH 100 billion.⁴

Funds of the "grey economy" present a nutrient medium for the "grey policy" and political corruption. The scale of amounts mentioned in reports about purchase and sale of seats in election lists or the cost of passage of bills in Parliament are entirely consistent with the scale of the grey sector of the economy.

According to expert assessments, the most profitable use of grey funds is to invest in politics (political investment). That is, a business group or an individual businessman (oligarch) using grey funds buys a political resource – by pushing "his people" to power or supporting his political party, or creating some political associations (coalitions, factions).

In that way, business secures its interests, privatising power. In Ukraine, that has no strict rules of relations between business and authorities, where authorities and business are inseparable, their merger lets political corruption flourish.

Political corruption has a multiplicative effect – it extends non-transparent rules of the game to the entire system of social relations in the state, in particular, the economy. And the grey economy, in turn, creates conditions for the receipt of grey financial resources, maintaining political corruption. All this creates a "vicious circle" of unfair authorities and unfair business.

IMPERFECTION OF THE SYSTEM OF GOVERNANCE ON THE CONSTITUTIONAL LEVEL

The constitutionally provided system of governance is imperfect.⁵ By analogy with classification of factors influencing the effectiveness of countering political corruption, deficiencies of the Constitution may be divided into three groups: (1) norms immediately creating the background for manifestations of political corruption in different sectors; (2) norms hindering formulation and implementation of a single state anticorruption policy; (3) deficiencies affecting the effectiveness of separate institutes involved in formulation and implementation of the state anticorruption policy, countering specific instances of political corruption in different sectors (insert "*Deficiencies of the Constitution affecting...*").

³ For more detail see: Baranovskiy O., Sidenko V. Problems of ownership and legalisation of capitals and incomes in Ukraine. – *National Security & Defence*, 2004, No.2, p.8-9.

⁴ See: Davydenko B. Following the results of the 2nd quarter of 2008, the level of the "grey" Ukrainian economy made 36% of the official GDP. – *Delo*, October 27, 2009.

⁵ For more detail see: *National Security & Defence*, 2007, No.1, p.20-29.



Deficiencies of the Constitution affecting the effectiveness of countering political corruption

The first group:

- imperfection of the constitutionally provided procedures of formation of the parliamentary coalition (parliamentary factions);
- imperfection of the procedures of formation and termination of the Cabinet of Ministers activity (in particular, absence of termination of the coalition among the constitutionally provided grounds for termination of the Government's activity);
- unlimited immunity of MPs;
- complexity of the procedure of the President of Ukraine impeachment, making its exercise next to impossible;
- immunity of judges.

The second group:

- existence of two centres of influence on formulation and implementation of the state policy: the President, on one hand, and the parliamentary coalition and the Government it forms – on the other;
- duplication of functions and powers of supreme institutes of governance, which, under certain conditions, prompts political competition among them, sometimes – an open fight for influence on formulation and implementation of state policy in different sectors;
- imperfection of mechanisms of interaction among different branches and institutes of governance, especially where some functions are to be discharged jointly (e.g., the procedure of countersigning, appointment of local state administration heads).

The third group:

- the procedure of appointing heads of law-enforcement bodies and judges, making them susceptible to political influence of the relevant institutes;
- the politicised procedure of formation of the Constitutional Court of Ukraine.

It should be noted that imperfection of separate norms of the Constitution not always makes them a factors of political corruption – they become such due to the interest of supreme institutes of governance and officials in employment of said imperfections for politically corrupt goals.

LACK OF POLITICAL WILL OF SUPREME INSTITUTES OF GOVERNANCE

The political will of the authorities is the main factor of success in countering corruption. This thesis is seen as almost an axiom by both Ukrainian and foreign analysts – “...It is the political will that determines the substance and therefore, the effectiveness of other key factors of countering corruption, that is, the effectiveness of countering corruption in general”.⁶

However, Ukraine's political leadership does not demonstrate due determination to counter political corruption, in the best case confining itself to passage of some decisions, not always implemented into practice, in the worst – to public statements and calls.

This conclusion is prompted by the following:

- progress of implementation of anticorruption measures and programmes adopted on the state level, and of Ukraine's international commitments;
- assessments of the level of corruption, including political, by Ukraine's citizens⁷;
- dynamics of Ukraine's rank in international ratings drawn up by international organisations, think-tanks;⁸
- reports of facts and cases of political corruption in Ukraine published in the national media, and the character of reaction to such reports by law-enforcement bodies;
- results of international and national monitoring of corruption problems in Ukraine performed by national and international anticorruption governmental and non-governmental organisations.

The lack of political will is largely conditioned by the involvement of supreme institutes of state governance and their separate representatives in politically corrupt acts, their interest in specific manifestations of political corruption or even corrupt schemes.

IMPERFECTION OF LEGISLATION

Legislation regulating activity of the authorities and local self-government bodies, their executives and officials, political parties, conduct of elections and referendums. Some of deficiencies of the legislation in the relevant sectors were mentioned above. By and large, systemic deficiencies of Ukraine's legal framework conducive to political corruption include:

- the problem of limitation of the immunity of top state officials, MPs, judges;
- the absence of proper requirements and mechanisms of transparency of political funding;
- the weakness of mechanisms of voter influence on the membership of elected bodies (the Verkhovna Rada and local self-government bodies);
- the absence of political responsibility mechanisms of elected persons and political forces for fulfilment of commitments assumed during election campaigns;
- the impracticability of implementation of the popular will through referendums, the actually non-binding character of referendum results for the authorities and local self-government bodies;
- the absence of ethical standards of public conduct of top officials, state servants of different levels and effective sanctions for their violation (in particular, for breach of oath of an MP of Ukraine).

Anticorruption legislation. The effective anti-corruption legislation is largely obsolete.⁹ Practical steps for its renovation and conformity with EU standards were made only in summer, 2009, when Parliament passed an “anticorruption package” of laws – largely thanks to the continuous attention to the relevant bills on the part of the Council of Europe and other international institutions.¹⁰

⁶ See: Melnyk M. Corruption – erosion of power..., p.44, 237-238.

⁷ See, e.g., results of expert and nation-wide polls, published in this magazine.

⁸ See Annex 1: Foreign assessments of the political corruption level in Ukraine (international corruption ratings)

⁹ Hereinafter, dealing with the effective anticorruption legislation, the anticorruption laws passed in June, 2009, are not considered, since they never entered into effect.

¹⁰ The Laws “On Principles of Prevention and Countering Corruption” (basic), “On Responsibility of Legal Entities for Commitment of Corrupt Offences”, “On Amendment of Some Legislative Acts Concerning Responsibility for Corrupt Offences”. As we noted above, those laws were to enter into effect on January 1, 2010, but Parliament postponed their effectiveness till April 1, 2010. To denominate the anticorruption legislation with account of those laws hereinafter, the term “updated anticorruption legislation” will be used.

BASIC LEGAL ACTS ON COUNTERING CORRUPTION

Codes

On Administrative Offences (1984); Criminal (2001); Customs (2002).

Laws

On State Service (1993); On Organisational-Legal Principles of Fighting Organised Crime (1993); On Fighting Corruption (1995); On Service in Local Self-Government Bodies (2001); On Ratification of the United Nations Convention against Corruption (2006); On Principles of Prevention and Countering Corruption (2009); On Responsibility of Legal Entities for Commitment of Corrupt Offences (2009); On Amendment of Some Legislative Acts of Ukraine Concerning Responsibility for Corrupt Offences (2009).

Presidential Decrees

Issues of Intensification of Fighting Corruption and Other Crimes in the Field of Economy (No.484 of August 27, 1994); On Approval of National Programme of Fighting Corruption (No.319 of April 10, 1997); On Concept of Fighting Corruption for 1998-2005 (No.367 of April 24, 1998); On Additional Measures at Intensification of Fighting Corruption, Other Unlawful Acts in Socio-Economic Sector and Provision of Economic Spending of State Funds (No.1242 of November 16, 2000); On Obligatory Special Check of Data Submitted by Candidates for Occupation of Positions of State Servants (No.1098 of November 19, 2001); On Immediate Additional Measures at Intensification of Fighting Organised Crime and Corruption (No.84 of February 6, 2003); On System of Measures at Removal of Reasons and Conditions Facilitating Criminal Manifestations and Corruption (No.175 of February 9, 2004); On Priority Measures at Legalisation of Economy and Countering Corruption (No.1615 of November 18, 2005); On Concept of Development of Legislation on State Service in Ukraine (No.140 of February 20, 2006); On Concept of Defeating Corruption in Ukraine "On the Road to Decency" (No.742 of September 11, 2006); On Some Measures at Amelioration of Formulation and Implementation of State Anticorruption Policy (No.80 of February 1, 2008); On Interdepartmental Working Group for Countering Corruption (No.370 of April 17, 2008); On National Security and Defence Council of Ukraine Decision of April 21, 2008 "On Measures at Implementation of National Anticorruption Strategy and Institutional Support for Integral Anticorruption Policy" (No.414 of May 5, 2008); On National Security and Defence Council of Ukraine Decision "On Progress of Countering Corruption in Ukraine" (No.1101 of November 27, 2008); On National Security and Defence Council of Ukraine Decision "On Criminal Situation in the State and Coordination

of Activity of State Agencies Countering Criminal Manifestations and Corruption" (No.870 of October 27, 2009).

Cabinet of Ministers Resolutions and Directives

Resolutions

On Application of Article 13 of the Law of Ukraine "On State Service" (No.641 of August 11, 1995); On Progress of Implementation by Central and Local Executive Bodies of Legislative Acts on State Service and Fighting Corruption (No.1220 of August 3, 1998); On Submission by Executive Bodies of Analytical Information on Fulfilment of Requirements of the Law of Ukraine "On Fighting Corruption" (No.1785 of September 27, 1999); Procedure of Conduct of Official Investigation Concerning State Servants (No.950 of June 13, 2000); On Measures at Professional Development of Officers of State and Local Self-Government Bodies in Issues of Fighting Corruption (No.828 of June 2, 2003); On Approval of Procedure of Conduct of Special Check of Data Submitted by Candidates for Occupation of Positions (No.1624 of November 15, 2006); On State of Financial and Budget Discipline, Measures at Intensification of Fighting Corruption and Control of Use of State Property and Financial Resources (No.1673 of November 29, 2006); On Approval of Comprehensive Programme of Prevention of Offences for 2007-2009 (No.1767 of December 20, 2006); On Approval of Regulations of Governmental Commissioner for Anticorruption Policy (No.410 of April 24, 2009);

Directives

On Approval of Plan of Measures Aimed at Fighting Corruption for 2004 (No.383 of June 17, 2004); On Approval of Plan of Measures at Implementation of Concept of Defeating Corruption in Ukraine "On the Road to Decency" through 2010 (No.657 of August 15, 2007).

Supreme Court Rulings

On Practice of Judicial Inquiry of Cases of Corrupt Acts and Other Offences Involving Corruption (No.13 of May 25, 1998); On Judicial Practice in Cases of Bribery (No.5 of April 26, 2002).

Ministry of Finance Order

On Approval of Methodological Recommendations for State Servants and Persons Authorised to Discharge State Functions Filling "Declaration of Incomes..." (No.175 of April 9, 2001).

Main Department of State Service of Ukraine Order

Methodological Recommendations on Prevention and Countering Corruption (No.337 of December 26, 2007).

Drawbacks of the effective legislative framework of countering political corruption include the following:

- the absence of a legislative definition (despite all difficulty of such definition) of: (a) the notion of political corruption; (b) the actors of political corruption; (c) the list of unlawful acts falling within the definition of political corruption; (d) the actors countering political corruption and their functions;
- the absence of a common approach to identification of the actor responsible for offences

in office, that in many cases may involve the problem of political corruption;

- the insufficient coordination of the anticorruption legislation with other legislative acts regarding definition of corrupt acts and other special limitations;¹¹
- the absence of legislative acts required for perfection of the system of state institutes countering corruption (in particular, for the establishment of a special anticorruption body).

¹¹ In particular, between provisions of the laws "On Fighting Corruption", "On Principles of Prevention and Countering Corruption" – and the laws "On Public Prosecutor Offices", "On Militia", "On Status of Judges", "On State Tax Service in Ukraine", "On Status of National Deputies of Ukraine" and so on.



DEFICIENCIES OF THE SYSTEM OF STATE INSTITUTES COUNTERING CORRUPTION

The effective Law “On Fighting Corruption” does not contain the term of “countering corruption” and, respectively does not specify the actors of such countering, naming only the list of state bodies fighting corruption.¹² The notion of “prevention and countering corruption” is introduced only in the updated anticorruption legislation, that also lists the actors that “take measures at prevention and countering corruption” (insert “*Updated anticorruption legislation on actors countering corruption*”).

Updated anticorruption legislation on actors countering corruption

Pursuant to the Law “On Principles of Prevention and Countering Corruption”, the actors countering corruption are divided into the following groups:

- **the President, the Verkhovna Rada, the Cabinet of Ministers of Ukraine, public prosecutor offices**, that “take measures at prevention and countering corruption within powers specified by the Constitution of Ukraine and laws”;
- **bodies of state power**, that “take measures at prevention and countering corruption or take part in their implementation within powers specified by laws and other legal acts issued on their basis”;
- **the Cabinet of Ministers of Ukraine**, that performs “coordination and control of the executive bodies’ activity at prevention and countering corruption”; **the Verkhovna Rada of Ukraine**, that specifies the anticorruption strategy; **a specially authorised body (person) in charge of anticorruption policy**, that formulates the state anticorruption policy, implements the anticorruption strategy, coordinates the activity of executive bodies in those issues;
- **the General Prosecutor and subordinated public prosecutors**, who perform coordination of the activity of law-enforcement bodies at countering corruption within granted powers specified by laws;
- **specially authorised actors**, within their competence immediately taking measures at detection, termination and investigation of corrupt offences (**special units for fighting organised crime at the Ministry of Internal Affairs, tax militia, the Security Service of Ukraine, the Military Service of Law and Order in the Armed Forces**);
- **actors involved in prevention, detection, and in legislatively provided cases – also in measures at termination of corrupt offences**, restoration of violated rights or interests of individuals and legal entities, interests of the state, as well as in information and scientific-research support for measures at prevention and countering corruption, in international cooperation in that sector (**authorised units of bodies of state power; local executive bodies, local self-government bodies; enterprises, institutions, organisations irrespective of subordination and form of ownership, officials, as well as citizens, associations of citizens, with their consent**);
- **heads of bodies of state power, legal entities, their structural units** – “in case of detection of corrupt offences or receipt of information about commitment of such an offence”.

The main problems in the structure and operation of the system of bodies countering corruption on the basis of the effective legislation include the following.

1. Absence of a single coordinating centre. The effective legislation does not name a single coordinating centre for countering corruption, which repeatedly prompted the President to set up such a centre in 2005-2009, either on an interdepartmental basis or under NSDC:

- Interdepartmental Commission of NSDC for comprehensive solution of problems in the field of fighting corruption (*chaired by NSDC Secretary Kinakh*).¹³

In 2006, the Commission held two meetings that addressed organisational issues of its activity, the progress of development of the National Strategy and Plan of Action for fighting corruption and the progress of implementation of the governmental programme “STOP smuggling” with respect to countering corruption in law-enforcement and controlling bodies. However, after changes in the Cabinet of Ministers in April-May, 2006, and dismissal of the Commission Head Kinakh from the post of the NSDC Secretary, the Commission has been inactive.

- Interdepartmental working group for countering corruption (*co-chaired by the General Prosecutor and the Security Service of Ukraine Head*).¹⁴

According to the Regulations, the interdepartmental group provides for coordination of actions of law-enforcement bodies, central and local executive bodies in the issues of countering and prevention of corruption, generation of proposals for amelioration of the legislation, etc. That interdepartmental group employed representatives of non-governmental organisations engaged in anticorruption activity.

- Coordinating council for prevention and countering crime and corruption.

The Council was established by the NSDC Decision of September 11, 2009, “On Criminal Situation in the Country and Coordination of Activity of Executive Bodies Countering Criminal Manifestations and Corruption” (Item 18) **as an NSDC working body**.

The main problem in the activity of these and other coordinating bodies active in the field of countering corruption previously lies in non-regimentation of the status, functions and powers by law.¹⁵ As a result:

- decisions of those bodies have a recommendatory rather than binding character;
- the responsibility of state bodies, their heads and separate officers for implementation of those decisions is not specified;
- the proper level of representation of executive bodies at their meetings is not provided;
- their plans and reports of work are largely formal;
- those bodies cannot practically assess the results of activity of law-enforcement bodies fighting corruption on the basis of investigation of particular

¹² The Law “On Fighting Corruption” says: “Corruption shall be fought by the concerned units of: the Ministry of Internal Affairs of Ukraine; tax militia; the Security Service of Ukraine; public prosecutor offices of Ukraine; the Military Service of Law and Order in the Armed Forces of Ukraine; other bodies and units established for fighting corruption according to the effective legislation”.

¹³ Decree “On Ukraine’s National Security and Defence Council Decision of November 25, 2005 “On Establishment of Interdepartmental Commission of Ukraine’s National Security and Defence Council for Comprehensive Solution of Problems in the Field of Fighting Corruption” No.1865 of December 28, 2005.

¹⁴ Decree “On Interdepartmental Working Group for Countering Corruption” No.370 of April 17, 2008.

¹⁵ E.g., improper regimentation of the activity of the Coordinating Committee for Fighting Organised Crime under the President of Ukraine (set up by Leonid Kuchma), despite even its more or less effective work, caused doubts as to the legitimacy of its status and passed decisions.



cases (since this might be viewed as interference in the process of investigation);

- there are problems with access to the required information.

Problems of coordination of bodies countering corruption will evidently persist, since the new basic anticorruption law names three coordinating bodies in that sector: the Cabinet of Ministers; a specially authorised body (person) in charge of anticorruption policy; the General Prosecutor and subordinated public prosecutors). The role of such body may also be claimed by NSDC, under the effective legislation being a coordinating body on national security and defence issues under the President of Ukraine.

2. Insufficient delimitation of competences, duplication of powers of anticorruption bodies. Feature of the activity of bodies fighting corruption is insufficient delimitation of competences, resulting in duplication of tasks and functions. According to expert assessments, there is actually not a system but a “totality of bodies, whose exact list and notional machinery remain unclear even now”.¹⁶

Said circumstances (especially in the conditions of political competition among supreme institutes of governance, to which concerned bodies are subordinated) lead to the deficit of interdepartmental interaction, often – to competition, manifested in the “chase for figures”, creation of separate databases, and until recently – also separate statistical databases (inconsistent with the data of court statistics). This brings the absence of an unbiased statistical picture of fighting corruption and bars monitoring the materials passage from registration of offences to court rulings.

Deficiencies in legal regulation of jurisdiction in criminal cases involving crimes that bear signs of corrupt acts, in particular, duplication of powers of the structures discharging functions of pre-trial investigation, lay down preconditions for the “break-up” of corruption cases.¹⁷ This is facilitated by changes introduced to the Code of Criminal Procedure of Ukraine in 2007 that allow termination of a criminal case or investigative actions in it by a court ruling.¹⁸

3. Sensitivity to political influence. An especially dangerous trend, leading to the spread of political corruption, is presented by the susceptibility of bodies discharging functions of fighting corruption to political influence. Supreme institutes of state governance and their representatives are trying to use the bodies they can

influence (first of all – through the powers of appointment (dismissal) of their heads) for the attainment of own political goals – as discussed above.

Under the party model of the authorities’ formation, such influence also means indirect subordination of the relevant bodies not only to political forces but also to financial-industrial groups, being their financial donors. This model has an especially negative effect on the regional level, since it brings the emergence of local “masters”, to whom heads of law-enforcement bodies and judges are subordinated – which creates favourable conditions for various abuses and for commitment of crimes.¹⁹

Another negative effect of political influence is presented by continuous shifts in the leadership of law-enforcement bodies, proceeding from political loyalty to the detriment of professionalism. Changes in the leadership weaken the investigative and operational staff, leading to the loss of the professional core, strong fluctuation of personnel, affecting the quality and results of work. Officers of the relevant bodies are discouraged to work diligently, since their career depends not on high professionalism but on connections in political and business circles or party affiliation.²⁰

INSUFFICIENT INFLUENCE OF CIVIL SOCIETY INSTITUTES

Civil society institutes, in particular, non-governmental organisations and independent mass media, play an important role in countering corruption.²¹ The principles and forms of society participation in prevention and countering corruption are specified in Article 13 of the UN Convention against Corruption and include, in particular: enhancing the transparency of and promoting the contribution of the public to decision-making processes; ensuring that the public has effective access to information; undertaking public information activities that contribute to non-tolerance of corruption; respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.²²

Ukraine has rather an extended network of non-governmental organisations of the anticorruption trend. However, their effectiveness and ability to influence the authorities are limited by both the general conditions of civil society institutes’ operation in Ukraine, and by specific factors.

The latter include, first of all, limitation on access to information about the activity of the authorities and local self-government bodies in especially corrupt sectors

¹⁶ For instance, in the system of the Ministry of Internal Affairs and Security Service of Ukraine alone, 10 services on the central, regional and city levels fight corruption. See: Dul'skyi O. Institutional support for fighting corruption is the main factor of state security and authority – Interview to *Imenem Zakony* newspaper, August 7, 2009. <http://www.archive.imzak.org.ua/index.php/N32-09/m1250078891> (in Ukrainian).

¹⁷ According to expert assessments, the stage of pre-trial investigation is the most susceptible to that. See, e.g.: Study of corruption in Ukraine’s judicial system: common courts and courts of appeal. By: *Management Systems International* company in cooperation with *InMind* company, Kyiv, July 2008, http://www.pace.org.ua/images/survey/jud_syst_u_july_08.pdf (in Ukrainian).

¹⁸ See: Law “On Amendment of the Code of Criminal Procedure of Ukraine Concerning Appeal against a Resolution of Initiation of a Criminal Case”.

¹⁹ A showy example is presented by the situation in Holovanivskiy district, Kirovohrad region, related with the death of local resident Oliynyk. A criminal case was initiated and is investigated for that case, under which, heads of the district public prosecutor’s office and militia were arrested and former MP of Ukraine Lozinskyi is searched for.

²⁰ “We have hundreds of retired militia colonels below 40 years, on a pension or in reserve. No man can work as a militia chief in 5-7 bodies: he has either to work there, or be promoted to the regional department of the Ministry of Internal Affairs, or to the Ministry, as the “stock of gold”. See: Dul'skyi O. Institutional support for fighting corruption...

²¹ See: Melnyk M. Corruption – erosion of power..., p.254.

²² See: United Nations Organisation Convention against Corruption. – Web site of the UN Office for Drugs and Crime, <http://www.unodc.org>



(e.g., use of land), absence of legislatively provided mechanism of the authorities' reaction to reports of such organisations about corrupt facts revealed by them, and attempts of some bodies of power and political forces to establish control over such organisations – for creation of zones restricted for anticorruption monitoring and their use as a tool in political struggle.²³

Till now, Ukraine has no strong national independent anticorruption public organisation (movement) that could influence the authorities and separate officials, although, proceeding from public assessments of the state of corruption in the country and political corruption in particular, it might be needed.

The above things are also specific for the situation with mass media, being, according to public opinion polls, the main source of information about political corruption for citizens.²⁴ However, their publications, citing concrete facts of corrupt acts, are not named by the law as grounds for mandatory check and reaction of the bodies empowered to fight corruption.

On the other hand, the political culture of Ukrainian politicians and officials does not presume the reaction to media accusations of corruption like in developed democracies (e.g., voluntary resignation). Such reports are ignored, or used as a pretext to sue mass media. Meanwhile, dependence of mass media on owners enables their employment as a tool of political fighting using “defamation through corruption”, which impairs public trust in them.

GENERAL POLITICAL CULTURE OF STATE AND POLITICAL ELITE

One of the main reasons for political corruption is presented by the low political culture and morality of the state and political elite.

Currently, there is no statesman or politician in Ukraine supported by the majority of Ukrainian citizens. Moreover, the very profession of a “politician” (all top state officials are professional politicians) is entirely trusted by only 1.6% (rather trusted – by 12.2%).²⁵

This is largely attributed to the personal behaviour of politicians, rather remote from “fair”. The most specific instances of violation of the fairness and integrity principles include:

- negative instances of personal behaviour of top officials, their tolerance to instances of political and bureaucratic corruption, other negative facts in their political and family circle;
- application of dual ethical standards with respect to: himself and his family – and ordinary citizens; his political force and its allies – and political opponents;
- disdain for Ukrainian citizens, their political choice and the public opinion, especially showily manifested in: negative comments about the voters

of political opponents; negative comments about the opinion of the majority of citizens, if they do not support actions of some state or political figure; conscious and undisguised use of formally lawful but illegal means for attainment of own political goals;

- an “instrumental” attitude to the law, i.e., use of opportunities for influence on the law-making process as a tool of attainment of own political, corporate or personal goals; selective use of the legislation against political opponents (including through influence on courts and law-enforcement bodies);
- treatment of the state and its institutes as actual or potential property (“state is me”); such approach is deeply rooted, in view of close ties of business and politics, mutual penetration of private economic and political interests;
- poor ability to distinguish between own political and national interests in international and foreign economic relations. This is evidenced by the discussion of internal political differences abroad, defamation of political opponents in statements addressed to a foreign audience;
- disdain for mass media, witnessed by evident discourtesy, rudeness and even use of force against their representatives.

Such moral and ethical traits, featured by of many representatives of the state and political elite, negatively influence the moral state of society, undermine its moral principles, encourage a tolerant attitude to corruption as the most effective way to achieve goals, promote distrust in the current authorities and their policy and, as a result – in the state in general.

Furthermore, due to politically corrupt acts of democratically elected or appointed state figures, the public associates political corruption with democracy, which can bring (and already brings) some urge of society to an authoritarian but less corrupt government than the current one.

Therefore, Ukraine now faces a set of factors impairing the effectiveness of countering political corruption. Most of them are associated with systemic aspects of reformation of Ukrainian society, which requires political will from the supreme institutes of governance and coordinated efforts of the authorities as a whole.

Meanwhile, under the present level of conscience and political culture of representatives of the ruling elite, one may hardly expect from them voluntary steps towards self-limitation in the use of power for personal or group benefits (rent), being the main indicator of political corruption. So, formation of such political will of the authorities requires continuous encouragement by civil society institutes. ■

²³ One example is presented by the establishment of the *Anticorruption Forum* public organisation in 2001 under the auspices of then leadership of the State Tax Administration. See: Bazhan A. Corrupt scheme in fighting corruption. – *Ukrayinska Pravda* Internet publication, June 4, 2007 (in Ukrainian).

²⁴ For more detail see the results of national polls published in this magazine.

²⁵ Data of the survey performed by the Razumkov Centre Sociological Service on March 15-20, 2008, in all regions of Ukraine. 2,010 respondents above 18 years were polled. The sample theoretical margin of error is 2.3%.

4. CONCLUSIONS AND PROPOSALS¹

Political corruption may be defined as illegitimate use by political actors and bearers of public power of their capabilities and powers with the purpose of getting personal or group benefits (rent). At that, benefits (rent) may have different forms – from immediate material to symbolic (power for the sake of power, social prestige, etc.), while the mechanisms of use of powers (capabilities) may acquire unlawful forms.

Political corruption in Ukraine has become all-embracing, “total”:

political corruption is inherent in all stages of formation and activity of the authorities and local self-government bodies, all state and political institutions without exception; the country has no “islets of honesty”, both on the level of separate persons and structures or institutions;

corrupt relations among authorities and their representatives in the political community matched with legitimate ones, and in some cases – almost entirely replaced them;

corrupt schemes are considered quite acceptable for the political and administrative elite; politically corrupt behaviour is no longer considered deviant, it became commonly accepted “rules of the game” whose observance allows to achieve the desired result;

political corruption is seen by society as reality and arouses no desire to fight it, on the contrary – some citizens voluntarily join politically corrupt schemes.

Meanwhile, opposition to political (as well as “ordinary”) corruption is irregular, fragmented, often formal and, as a result, brings little effect. Political corruption is not seen as something to fight specifically, there is no legislative definition of politically corrupt acts. In such conditions, accusations of political corruption involve no legal consequences and are often used in political rhetoric as a means of political struggle, defamation and discredit of specific bodies of power and/or political opponents.

The main factors reducing the effectiveness of opposing political corruption include:

- the general political situation in the country, the inertia of political confrontation;
- merger of business and power;
- imperfection of the constitutional system of governance;
- lack of political will in the top institutes of governance;
- imperfection of the legislation;

- deficiencies in the system of state institutions called to fight corruption;
- insufficient influence of civil society institutes;
- the overall level of political culture of the state and political elite.

Further spread of political corruption in Ukraine, in absence of effective steps for its curbing, can have ruinous effects not only for the socio-political stability in the country and its socio-economic development but also for democratic fundamentals of its political system.

To prevent spread of political corruption in Ukraine, an integral strategy of countering that phenomenon should be worked out, differentiated by goals (targeted), actors, objectives and mechanisms of implementation.

Formulation of that strategy should take into account the following circumstances:

- the state authorities themselves are corrupt and therefore disinterested in effective counteraction to political corruption;
- Ukraine has no government agencies, influential politicians, political and public structures that may present a “moral model” of compliance with anti-corruption norms and are ready to take the lead in fighting corruption;
- society mainly shows “silent indignation” with instances of political and bureaucratic corruption and does not actively fight it; some citizens conceded to corrupt “rules of the game” and follow them;
- political corruption has a strong economic basis – financial/industrial groups, the majority of which are not interested in introduction of transparent norms of doing business and their approximation to EU standards.

At the same time:

- Ukraine, as a member of international organisations, assumed certain commitments of opposing corruption, including political; some of those commitments are met;
- heads of the top branches of power, leaders of political forces publicly declare intentions of fighting corruption; in particular, anticorruption initiatives are found in the programmes of next to all candidates for the post of Ukraine’s President;
- curbing of political corruption is wanted by society, as witnessed in particular by the strong public dissatisfaction with corruption in the authorities

¹ This section builds on materials from previous studies by Razumkov Centre, proposals made by participants of the Expert discussion “Political corruption in Ukraine: the state, factors, countermeasures” (November 27, 2009), materials of other domestic and foreign studies of that problem.



and political forces and the critically low level of public trust in them;

- Ukraine has rather an extended network of non-governmental organisations, including those focused on fighting corruption; mass media feel free enough to publish reports about cases of corruption and investigate such cases.

In more general terms, that strategy should include measures designed to remove systemic preconditions for political corruption, in particular – to improve interaction among the top government agencies by introducing the relevant changes to the Constitution of Ukraine and implementation of sectoral reforms: administrative, judicial, of law-enforcement bodies (criminal justice).²

Indispensable lines of fighting political corruption and anticorruption strategy should include the following.³

1. Enhancement of citizens' influence on formation of the authorities, formulation of the state policy, as well as strengthening of mechanisms of political responsibility.

Activities in that domain should contain:

- amending legislation on election of MPs and local self-government bodies, giving citizens an opportunity to influence personal council membership;
- adoption of a new wording of the Law “On All-Ukrainian and Local Referendums”, clearly regulating the procedures and subjects of all-Ukrainian and local referendums, ruling out obstruction of referendums by the authorities and local self-government bodies, obligating implementation of referendum results by the authorities and local self-government bodies;
- toughening responsibility of Ukrainian MPs by making breach of parliamentary deputy's oath a ground for early revocation of authority;
- introduction of annual public reports on implementation of election programmes (commitments, promises):
 - by the Ukraine's President;
 - by political parties represented in the Verkhovna Rada; in the Verkhovna Rada of the Crimea; self-government bodies of all levels elected under a proportional system;
 - by members of local councils elected under a majority system, city, settlement, village heads;
- establishment of clear and coordinated rules of funding political parties and election campaigns through amendment of the Laws “On Political Parties in Ukraine”, “On Election of the President of Ukraine”, “On Election of National Deputies of Ukraine”, “On Election of Members of the Verkhovna Rada of the Autonomous Republic of Crimea, Local Councils and Village, Settlement,

City Heads”. Due regard to the sources, amounts, mechanisms of political parties funding, control of their compliance with principles of the legitimacy and transparency, experience of countries with established democratic traditions;

- enhancement of control and responsibility of political parties and candidates at elections of all levels for observance of legislative norms on election campaign funding, first of all, of the legitimacy of sources and mechanisms of funding and its transparency for voters.

2. Creation of effective mechanisms to guarantee transparency in the authorities' activity:

- adoption of the Law “On Principles of Participation of Public Representatives in Formulation and Implementation of State Policy, Solution of Issues of Local Importance”, supposed to become the basic document introducing appropriate mechanisms in the activity of authorities of all levels and local self-government bodies;
- adoption of the Law “On Access to Public Information” – to provide legislative guarantees of public access to information of state authorities and local self-government bodies, prevention of illegal limitation of access to information;
- implementation of the principle of publicity in the activity of government authorities; obligatory publication on their official web sites of comprehensive and accurate information about the procedure and conditions of application to them and their officials, the structure of such authorities, their powers and results of activity;
- introducing registers of information subject to obligatory publication by the authorities and local self-government bodies on official web sites and in the media.

3. Implementation of measures at improvement of regulatory and legal, institutional and organisational support for fighting political corruption and corruption in general, including:

- legislative definition of acts that may be qualified as politically corrupt, and introduction of sanctions for their commitment;
- legislative regulation of the procedure of accountability for commitment of corrupt acts by top state officials, the speciality of which stems from their status; utmost limitation of the immunity of the President, members of parliament, judges;
- legislative introduction of mandatory anti-corruption expert examination of bills and other regulatory and legal acts, specification of its procedure;
- development and implementation of sectoral anticorruption standards (codes) – uniform for specific sectors of legal regulation rules of conduct, limitations, bans, ruling out or substantially

² The concepts of the relevant reforms that take into account the international experience are ready and waiting for implementation.

³ When developing a strategy of countering political corruption, measures listed below should be planned by implementation terms and tied in kind of “process chains”.

reducing the probability of corruption in those sectors;⁴

- development and implementation of the procedure of verification by concerned bodies of reports on the property, incomes, expenditures and financial liabilities (including foreign) of the top state officials, MPs, judges, state servants, executives of local self-government bodies of higher levels and their family members by means of their comparison with actual expenditures and living standards; introduction of *criminal* responsibility for presenting untrue information in declarations;
- adoption of new versions of the laws “On State Service”, “On Service in Local Self-Government Bodies”, other regulatory and legal acts necessary for improvement of the state service system in Ukraine, regimentation of the status and procedure of specific kinds of state service;
- creation of a centralised system of control over observance of the legislation on state service and ethical standards by state servants of all levels;
- legislative limitation of the term of stay (rotation) of state servants in positions involving elevated risks of corruption, as well as limitations on lobbying activity by officials in the sectors where they worked over a certain period after their dismissal;
- establishment of a special body to fight corruption in the top echelons of power. The concept of establishment of that body should ensure its independence from the influence of other authorities and political forces, take into account the specifics of organisation of governance and the concrete political situation in Ukraine;⁵ introduction of the offices of the special prosecutor and special investigator in cases of corruption of top officials;
- adoption of the Code of Administrative Procedure of Ukraine, whose regulations should fully and clearly specify the procedures of managerial activity;
- introduction of the information disclosure procedure about corrupt officials; legislative regulation of the reports publication procedure on legal responsibility of enterprises, institutions, organisations officials, state servants, judges,

political figures found guilty of corrupt offences;

- especially thorough anticorruption control of the decision-making process at: state procurements; conduct of contests, tenders; management of public funds;
 - mandatory verification by concerned bodies of public statements and reports of officials of all levels, MPs, other persons about cases of political corruption, and taking actions as provided by the law following the investigation results; obligatory public information about their results.
4. Intensification of Ukraine’s cooperation with international organisations in the field of fighting corruption:
- guarantee of strict and consistent observance of Ukraine’s international commitments, in particular, through continuous monitoring by domestic non-governmental organisations;
 - improvement of coordination among international organisations and projects of assistance to Ukraine in fighting corruption, shift of accents in their activity to monitoring of implementation of generated proposals by the authorities and conditioning of further assistance by the results of such steps;
 - regular publication of reports about implementation of those commitments by Ukrainian authorities and their public discussion.

Implementation of these and other measures provided by effective state acts and proposals of international organisations is impossible without recognition by the top state leadership of the fact that political corruption poses the biggest problem in Ukraine and a real threat to its national security.

The ability of the state and society to do away with political corruption may be indicated by the appearance of a statesman (statesmen) who will publicly undertake to unconditionally follow the international standards of anticorrupt behaviour, by his own example prove the ability to implement them, and win public support for his anticorruption initiatives.

Therefore, political will was and remains the main precondition for successful fighting political corruption in Ukraine. ■

⁴ Such sectors include, in particular: politics, state service and service in local self-government bodies, exercise of justice, law-enforcement activity, budgeting and crediting, privatisation of state and municipal property, state and municipal procurement, licensing and registration, expert examination and certification of products and services, operation of the customs service. Those codes should set standards and norms of behaviour and ethics of persons authorised to discharge functions of the state, guarantees of their observance and responsibility for their violation, procedures of settlement of a conflict of interests, in line with provisions of international legal acts in the relevant sectors.

⁵ See: *Specialized anti-corruption institutions: review of models.* – Organisation for Economic Cooperation and Development web site, 2007, <http://www.oecd.org>; Working materials for the expert meeting on the issues of establishment of the National Investigation Bureau (March 30, 2005). – Razumkov Centre, Kyiv, 2005. The main obstacle for establishment of such body in the current Ukrainian situation is practical impossibility of its independence from other authorities.

FOREIGN ASSESSMENTS OF THE POLITICAL CORRUPTION LEVEL IN UKRAINE (INTERNATIONAL CORRUPTION RATINGS)

Given the difficulty of definition of political corruption and the absence of an internationally accepted uniform approach to its definition and assessment, the best known international ratings, such as *Transparency International* or *Freedom House*, use the notions of “ordinary” corruption and, respectively, assess the general level of corruption.

Despite all differences in the relevant survey methods, said ratings prompt the conclusion that for the rest of the world Ukraine remains a country with a high corruption level, and the situation persists for a long time, despite the current socio-political and socio-economic changes and the authorities' declarations of the need to enhance struggle with corruption.

World Bank

The World Bank Institute in its “Worldwide Governance Indicators” (WGI) project, covering more than 200 countries of the world, uses six indices and a 101-point scale (“0” – the worst situation, “100” – the best). The indices that may indirectly witness the level of political corruption include *Voice and accountability*, *Rule of law*, *Control of corruption*.¹

Dynamic of Ukraine's rank in the WGI studies

	2004	2005	2006	2007	2008
Voice and accountability	28.8	35.1	45.2	46.2	47.1
Rule of law	26.2	33.8	24.8	26.7	31.1
Control of corruption	19.9	37.9	33.5	27.1	28.0

Among Ukraine's neighbours, the situation is the best in the Baltic states (in particular, Latvia) and Poland, the worst – in Belarus.

Ukraine and neighbouring countries in the WGI 2008 study

	Voice and accountability	Rule of law	Control of corruption
Latvia	73.1	71.3	64.7
Poland	72.6	65.1	67.6
Ukraine	47.1	31.1	28.0
Russia	21.6	19.6	15.5
Belarus	7.2	16.7	23.7

Freedom House

Nations in Transit – an annual all-round comparative survey of the state of affairs in 29 post-communist states of Eurasia.

In its surveys, the Freedom House uses seven indices: electoral process (free elections); civil society (third sector, non-governmental organisations); independent media; national democratic governance (branch interaction); local democratic governance (local authorities); judicial framework (its independence); corruption.² The rating is measured on a 7-point scale (where “1” is the best index, “7” – the worst).

Dynamic of Ukraine's rank in the “Nations in Transit” studies

	2004	2005	2006	2007	2008
Electoral process	4.25	3.50	3.25	3.00	3.00
Civil society	3.75	3.00	2.75	2.75	2.75
Independent media	5.50	4.75	3.75	3.75	3.50
National democratic governance		5.00	4.50	4.75	4.75
Local democratic governance		5.25	5.25	5.25	5.25
Judicial framework	4.75	4.25	4.50	4.50	4.75
Corruption	5.75	5.75	5.75	5.75	5.75

Ukraine and neighbouring countries in the “Nations in Transit” 2008 study

	Electoral process	Civil society	Independent media	National democratic governance	Local democratic governance	Judicial framework	Corruption
Latvia	2.00	1.75	1.75	2.00	2.25	1.75	3.00
Poland	2.00	1.25	2.25	3.50	2.25	2.50	3.00
Ukraine	3.00	2.75	3.50	4.75	5.25	4.75	5.75
Russia	6.75	5.50	6.25	6.25	5.75	6.25	6.00
Belarus	7.00	6.50	6.75	7.00	6.75	6.75	6.25

Transparency International

The annual Corruption Perceptions Index (CPI), first used in 1995, is the most famous of the Transparency International projects. It was devised to measure the level of corruption in the world. CPI rating now covers 180 countries where the corruption level is estimated by experts.

By the results of 2009, it may be said that fighting corruption remains a challenge for the whole region, and the situation in Ukraine is among the worst, since political corruption, corruption in the private sector of economy and high tolerance of citizens to corrupt practices give little ground to hope for a rapid improvement of the situation.

In 2009, there was no country in the world that was totally free of corruption. The best situation is recorded in New Zealand, whose rating makes 9.4 on an 11-point scale (with “0” standing for the highest level of corruption, “10” – the lowest), the worst – in Somalia – 1.1.

In 2009, Ukraine ranked 146th out of 180 countries with 2.2 points, alongside with such countries as Zimbabwe, Sierra Leone, Russia. In 2008, its index was 2.5 points (134th out of 180 countries), alongside with Pakistan and Nicaragua. In 2007 – 2.7 (118th out of 179), in 2006 – 2.8 (99 out of 163), in 2005 – 2.6 (107th out of 158), in 2004 – 2.2 (122nd out of 145).³

Ukraine and neighbouring countries in the Transparency International 2009 study

	Rank	Points
Poland	49	5.0
Latvia	56	4.5
Belarus	139	2.4
Ukraine	146	2.2
Russia	146	2.2

Global Integrity

Global Integrity is an independent, non-profit organisation conducting surveys in the fields of management and fighting corruption.

Surveys of that organisation are highly detailed, using over 300 parameters (comments, references, expert assessments, etc.), divided into groups.

The categories that may indirectly witness the level of political corruption include: civil society; elections; administrations and civil services; fighting corruption and observance of the law.

The situation in Ukraine was assessed twice, in 2004 and 2007, using a 101-point scale (“0” – the worst situation, “100” – the best).⁴

Dynamic of Ukraine's rank in Global Integrity studies

	Subcategory	2004	2007
1. Civil society		77	86
	1.1 Civil society organisations	89	95
	1.2 Media	68	79
	1.3 Access to information	74	85
2. Elections		70	73
	2.1 Voting & citizen participation	83	98
	2.2 Election integrity	82	80
	2.3 Political financing	44	41
3. Administrations and civil services		41	41
	3.1 Civil service regulations	31	48
	3.2 Whistle-blowing measures	0	2
	3.3 Procurement	67	63
	3.4 Privatisation	67	52
4. Fighting corruption and observance of the law		62	79
	4.1 Anti-corruption law	57	100
	4.2 Anti-corruption agency	72	66
	4.3 Access to justice	55	83
	4.4 Law enforcement	66	67

¹ See: All Indicators for One Country. – World Bank web site, http://info.worldbank.org/governance/wgi/sc_country.asp, http://info.worldbank.org/governance/wgi/sc_chart.asp

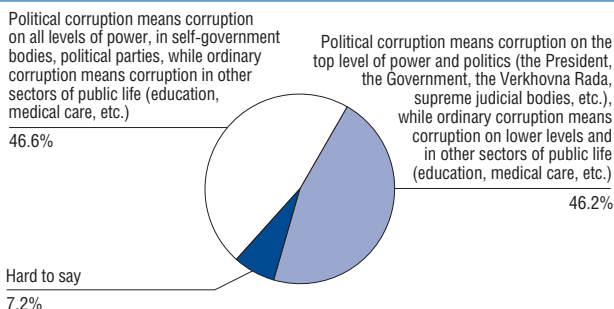
² See: Nations in Transit 2008. – Web site of the Freedom House, http://www.freedomhouse.hu/index.php?option=com_content&task=view&id=196

³ See: Corruption Perceptions Index 2009. – Transparency International web site, http://www.transparency.org/policy_research/surveys_indices/cpi/2009

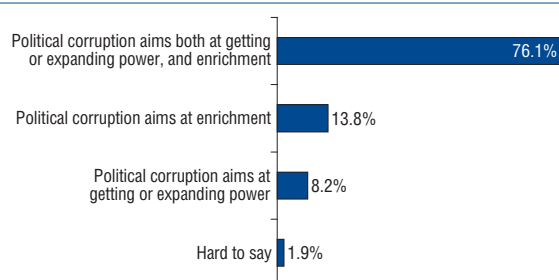
⁴ See: Country assessments. – Global Integrity web site, <http://report.globalintegrity.org>

POLITICAL CORRUPTION: SPECIFICITY, SCALE AND WAYS OF COUNTERING IN EXPERT ASSESSMENTS

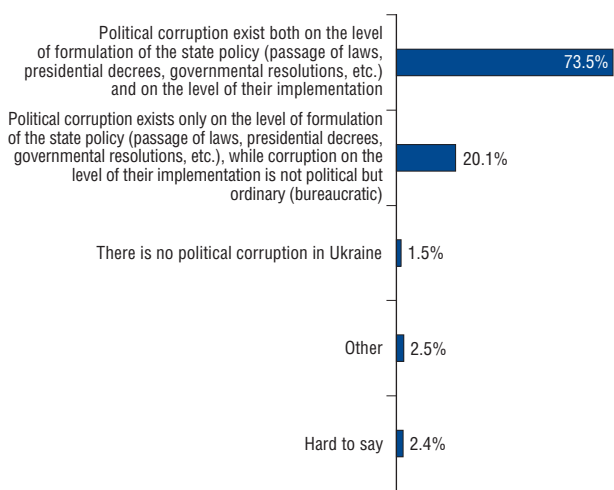
What differs political corruption from ordinary corruption? % of experts polled



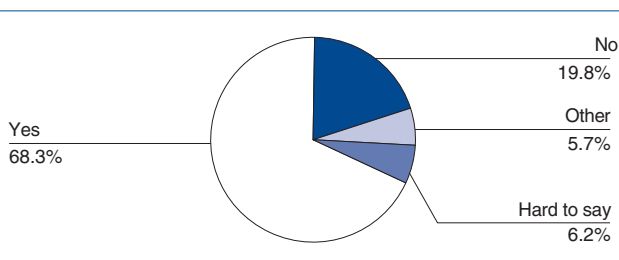
With which of the following statements about political corruption do you tend to agree more? % of experts polled



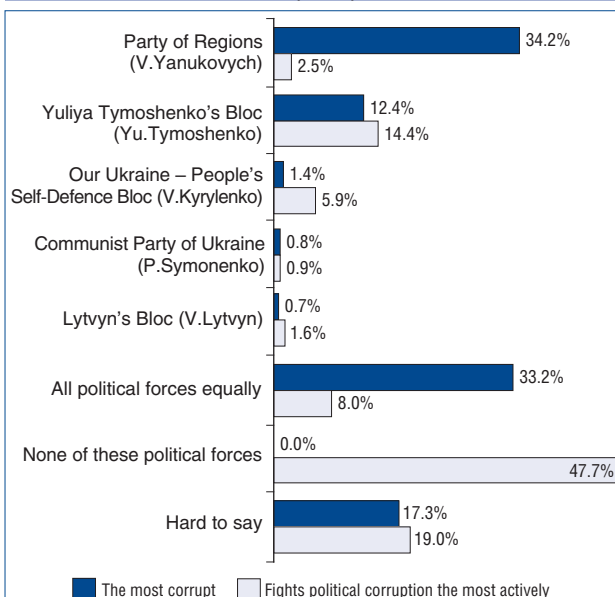
Does political corruption exist only on the level of formulation of the state policy (passage of laws, presidential decrees, governmental resolutions, etc.), or also on the level of their implementation? % experts polled



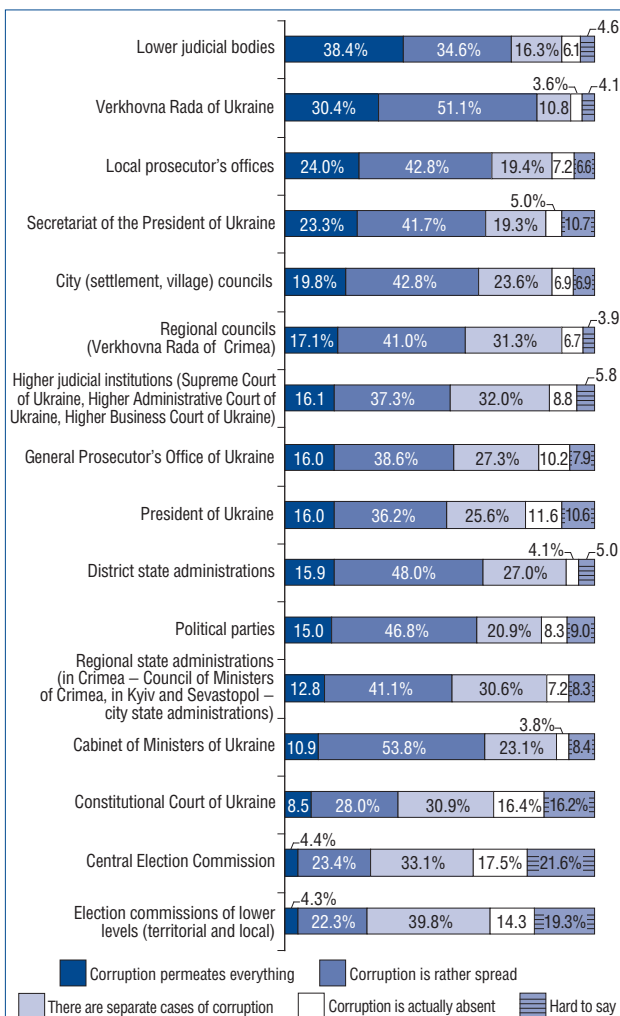
Should the Ukrainian legislation define the notion of "political corruption"? % experts polled



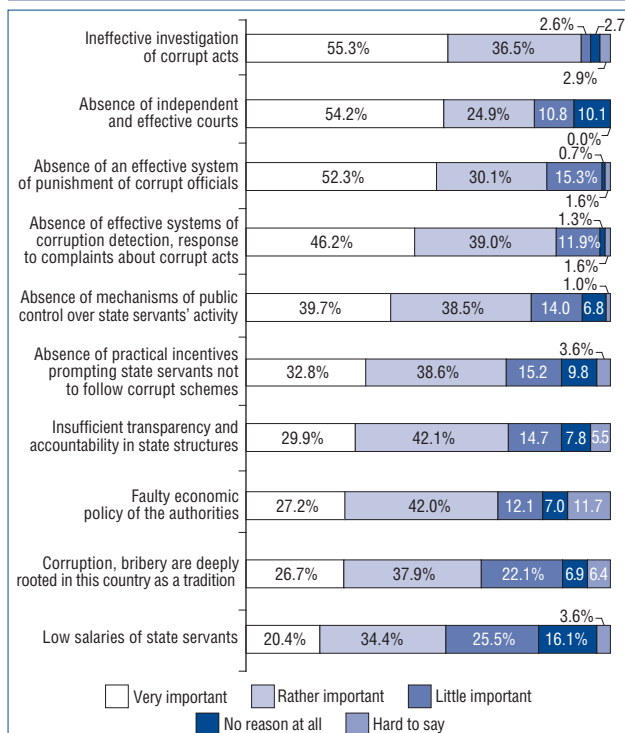
Which of the following parliamentary political forces in Ukraine is the most corrupt or inclined to corruption, and which fights political corruption the most actively? % of experts polled



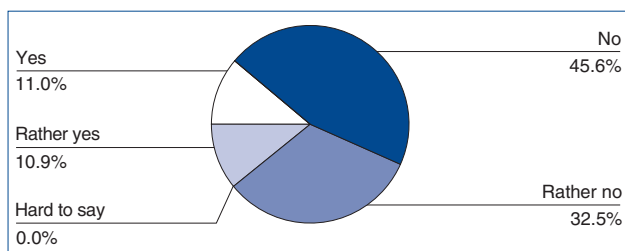
How spread is political corruption in each of the following bodies (institutes) of power and political institutes? % of experts polled



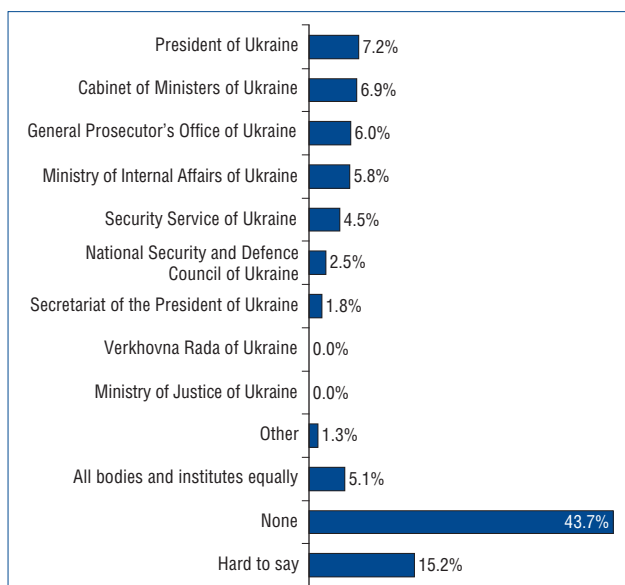
How important is each of the following reasons for corruption in Ukraine? % of experts polled



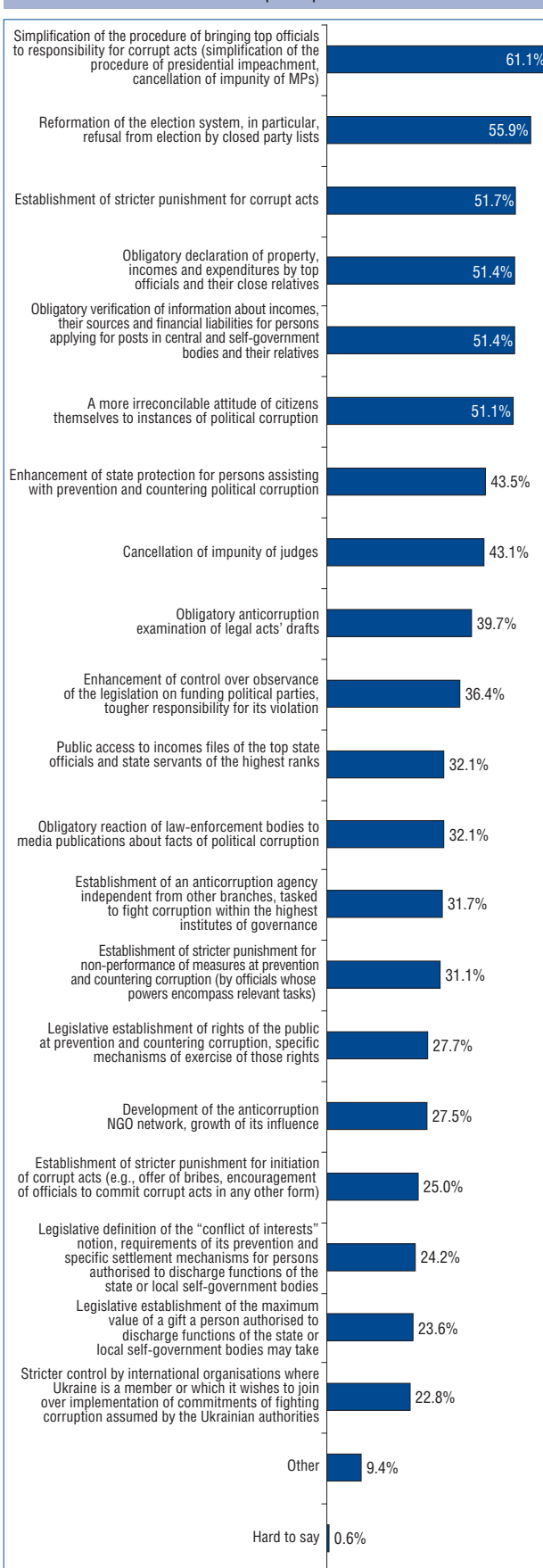
Is political corruption is been fought in Ukraine? % experts polled



Which body or institute of state power in Ukraine is the most active fighting political corruption? % of experts polled



What measures would be the most effective to fight political corruption in Ukraine?*



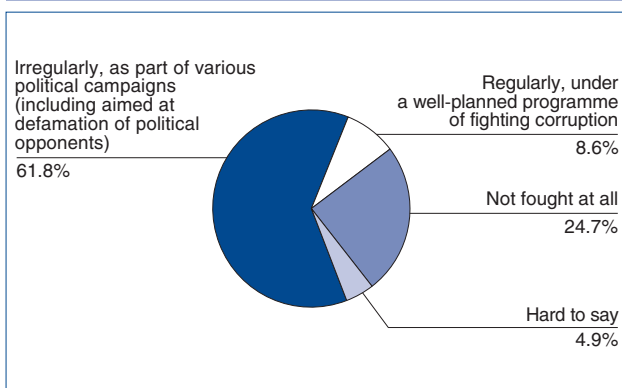
* Experts were supposed to give all acceptable answers.



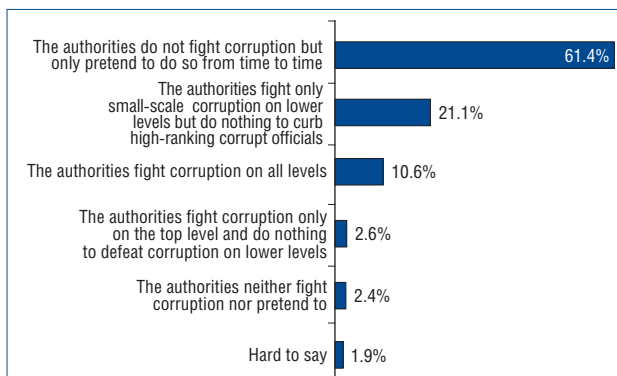
How spread in the supreme bodies of state power in Ukraine are the following...?
% expert polled

	Absent	Little spread	Rather spread	Very spread	Common	Hard to say
Reestablishment of persons dismissed for corrupt acts due to imperfection of the labour legislation	7.7	22.9	32.5	20.1	2.8	14.0
Administrative intimidation of representatives of other organisations (institutions)	3.5	21.2	43.2	18.8	5.4	7.9
Tax evasion	3.5	8.4	25.3	27.9	28.9	6.0
Financial abuse	2.9	10.7	34.5	34.3	13.6	4.0
Appropriation of state, public or organisation (institution) funds by officials	2.3	17.3	37.7	27.6	12.5	2.6
Bribery	0.0	8.2	31.0	37.0	20.1	3.7

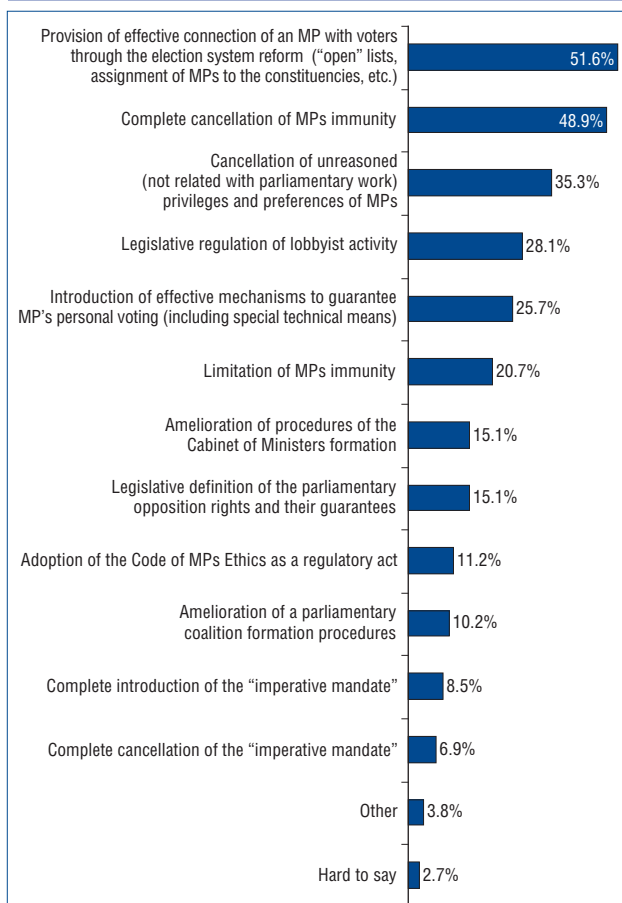
In Ukraine, corruption in the top bodies of power is fought...?
% of experts polled



Which of the following statements the most accurately describes the authorities' activity at fighting corruption?
% of expert polled

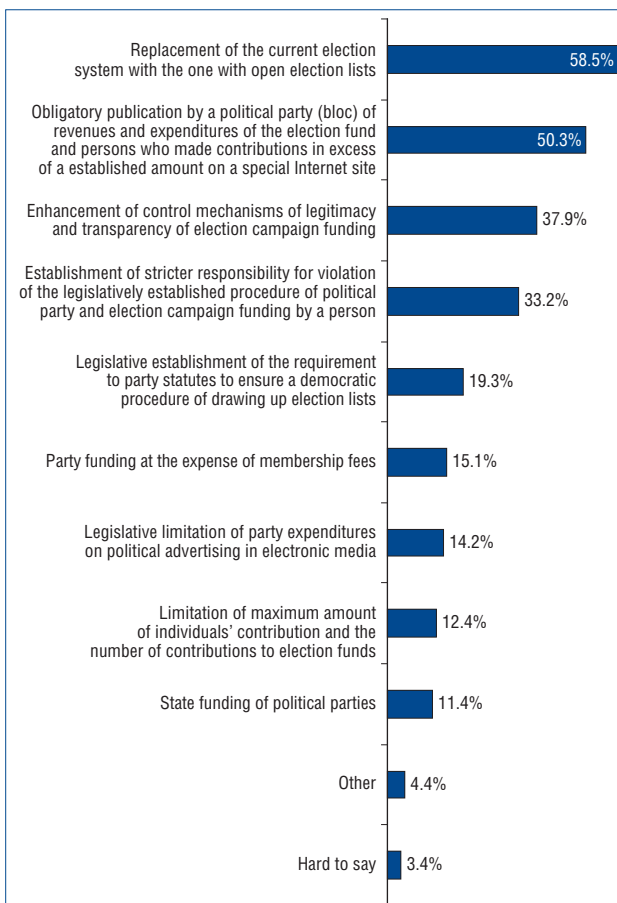


Which of the following measures would be the most effective to defeat political corruption in the Verkhovna Rada of Ukraine?*
% of experts polled



* Experts were supposed to give not more than three acceptable answers.

Which of the following measures would be the most effective to defeat political corruption in the election process and political parties?*
% of experts polled

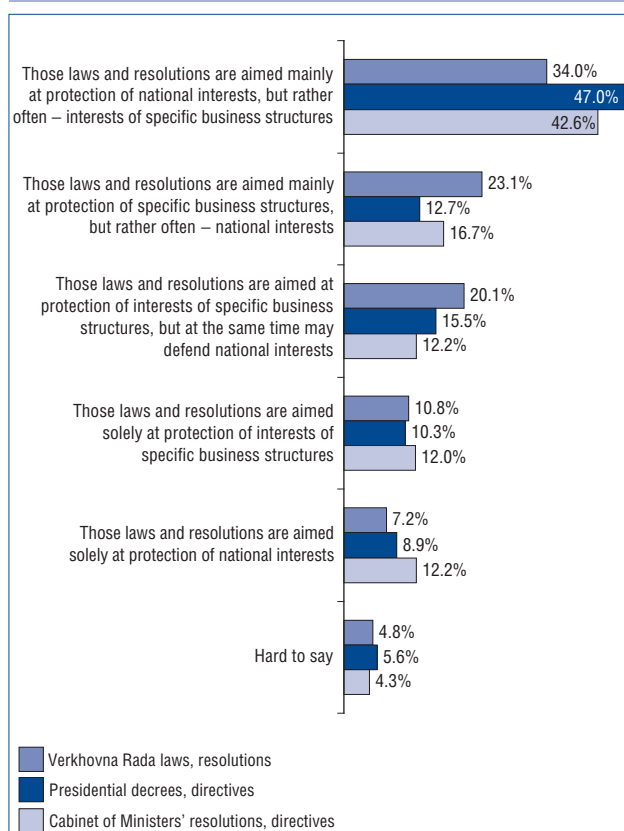


* Experts were supposed to give not more than three acceptable answers.

How spread in Ukraine are the following things? % expert polled

	Absent	Little spread	Rather spread	Very spread	Common	Hard to say
Entry on election lists for reward to the leadership of a political force	6.3	3.5	19.1	35.9	30.5	4.7
Passage of decisions by heads of executive bodies advantageous for their relatives, friends	5.4	10.6	30.4	32.9	18.0	2.7
Passage of legislative acts advantageous for separate business structures, not society	3.8	8.5	33.1	35.6	14.6	4.4
Passage by executive bodies of decisions advantageous for separate business structures or individuals, not society or city (village) community	3.0	13.5	30.5	36.7	15.2	1.1
Influence of executives on court rulings	2.9	12.4	35.4	37.5	6.5	5.3

To what extent do legal acts passed by the Verkhovna Rada (laws, resolutions), the President (decrees, directives) and the Cabinet of Ministers of Ukraine (resolutions, directives) in the economy domain contain provisions aimed at protection of national interests, not business interests of individuals and (or) business structures? % of experts polled



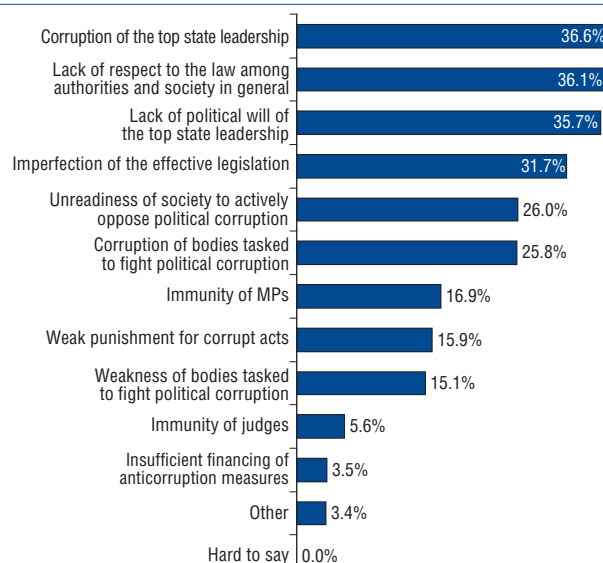
To what extent is each of the following things manifest in Ukraine? average mark*



* On a scale from 0 to 10, where "0" means minimum presence or total absence of a phenomenon, "10" – its utmost presence.

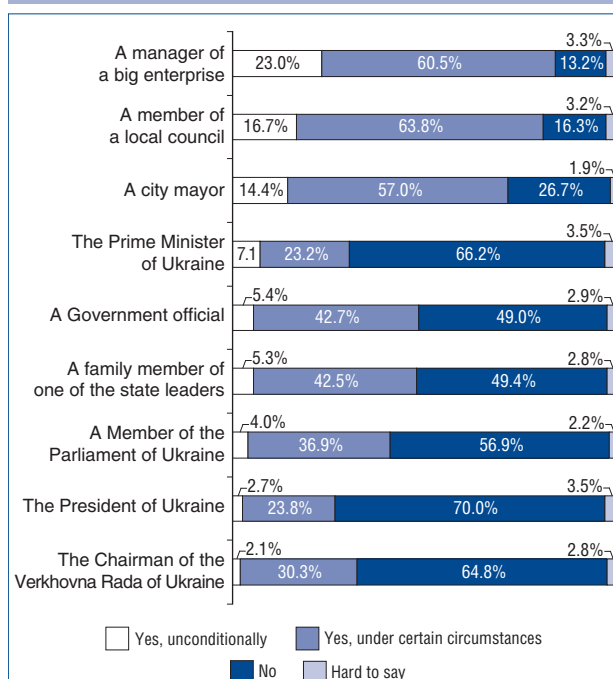
What hinders fighting political corruption in Ukraine the most?*

% of experts polled

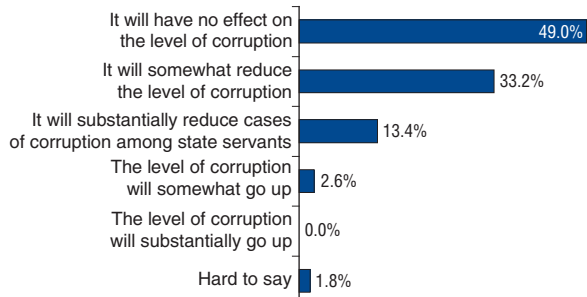


* Experts were supposed to give not more than three acceptable answers.

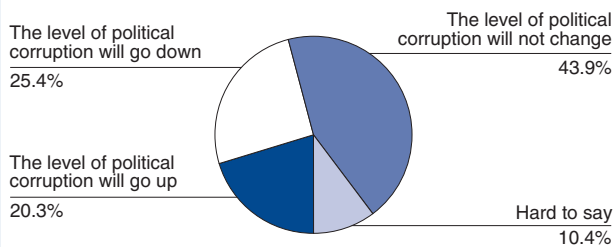
May a criminal case be initiated and a fair sentence passed in Ukraine in case of violation of the law by...? % of experts polled



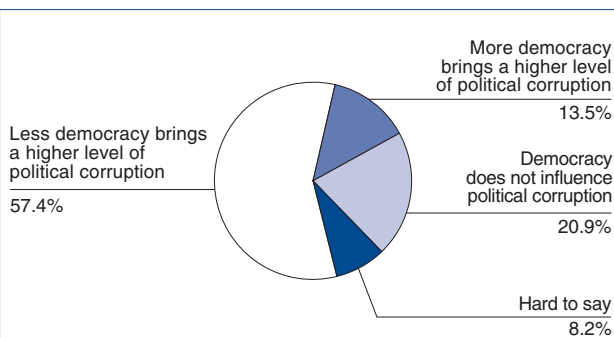
Will an increase in salaries of state servants make them less inclined to take bribes or commit other corrupt acts?
% of expert polled



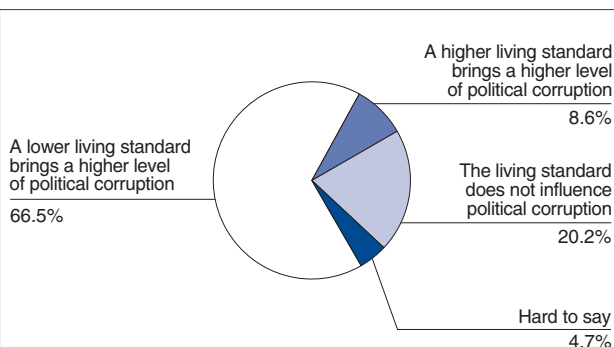
If power of local authorities is expanded in Ukraine, how will this influence the level of political corruption in the country?
% of experts polled



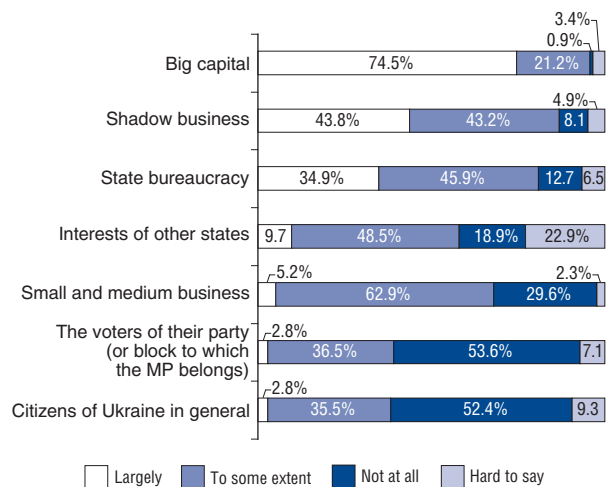
How does the level of democracy in a country influence the level of political corruption?
% of experts polled



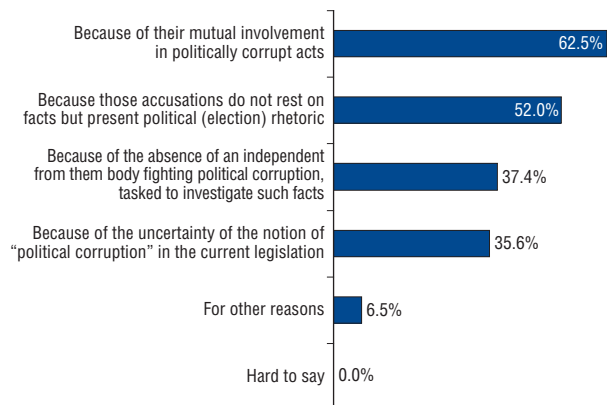
How does the living standard in the country influence the level of corruption?
% experts polled



To what extent do Ukrainian MPs defend the interests of...?
% of experts polled

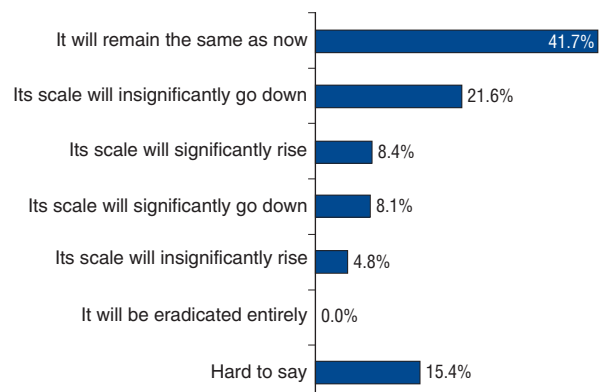


Recently, representatives of the supreme institutes of governance have often accused one another of political corruption, but those accusations had no legal consequences. Why did it happen?*
% of experts polled



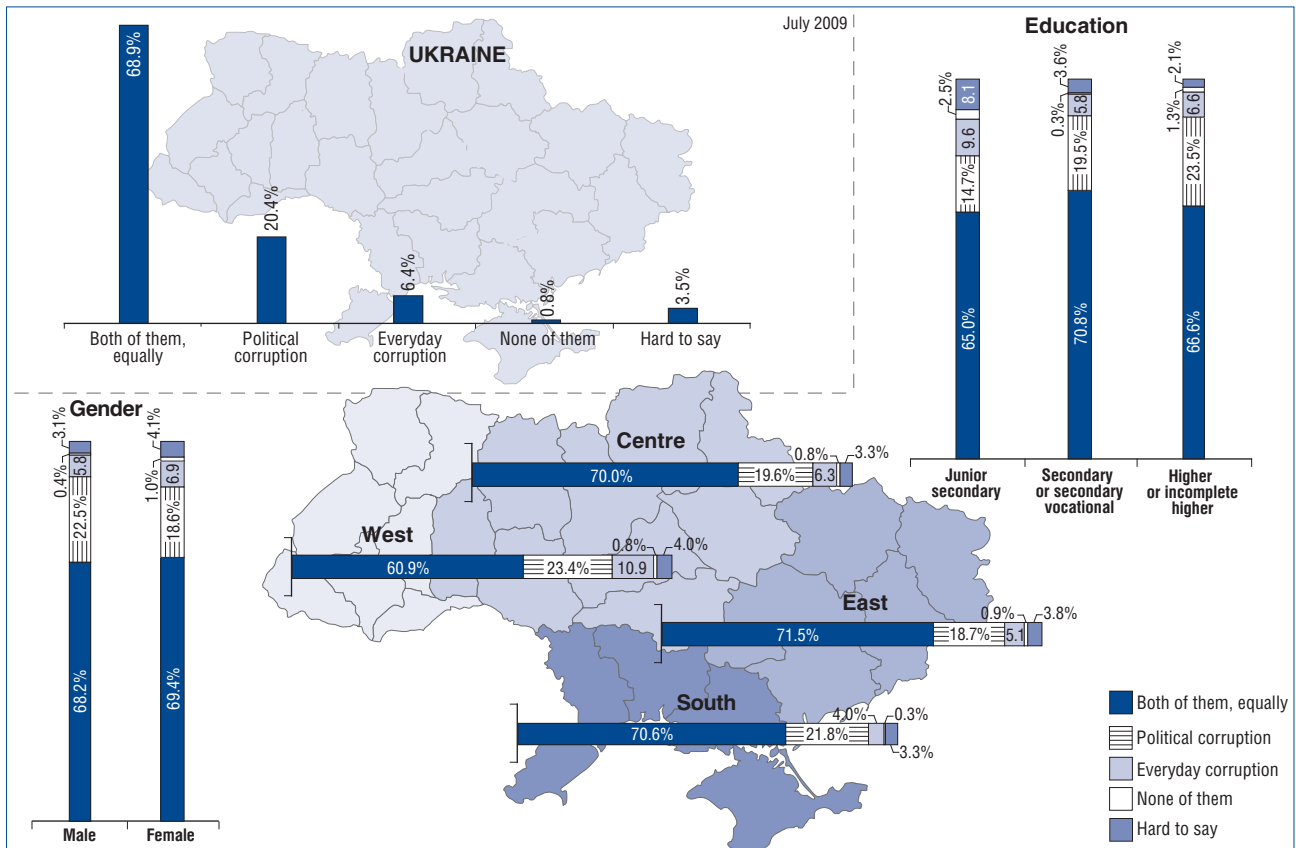
* Experts were supposed to give all acceptable answers.

What will the state of political corruption in Ukraine be like in three years?
% of experts polled

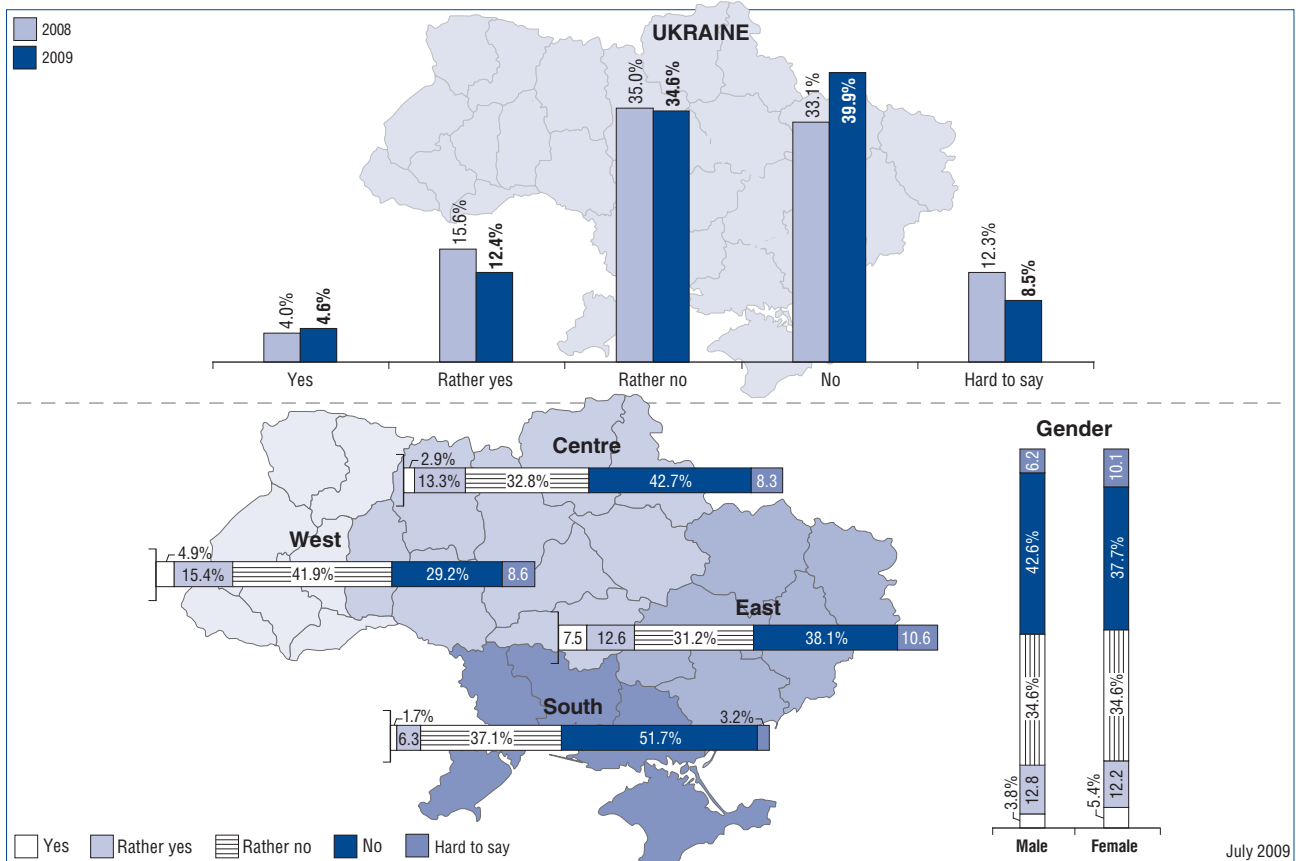


POLITICAL CORRUPTION: SCALE AND WAYS OF COUNTERING IN PUBLIC PERCEPTIONS AND ASSESSMENTS*

What do you consider a greater problem for Ukraine: everyday corruption, or political one?
% of those polled

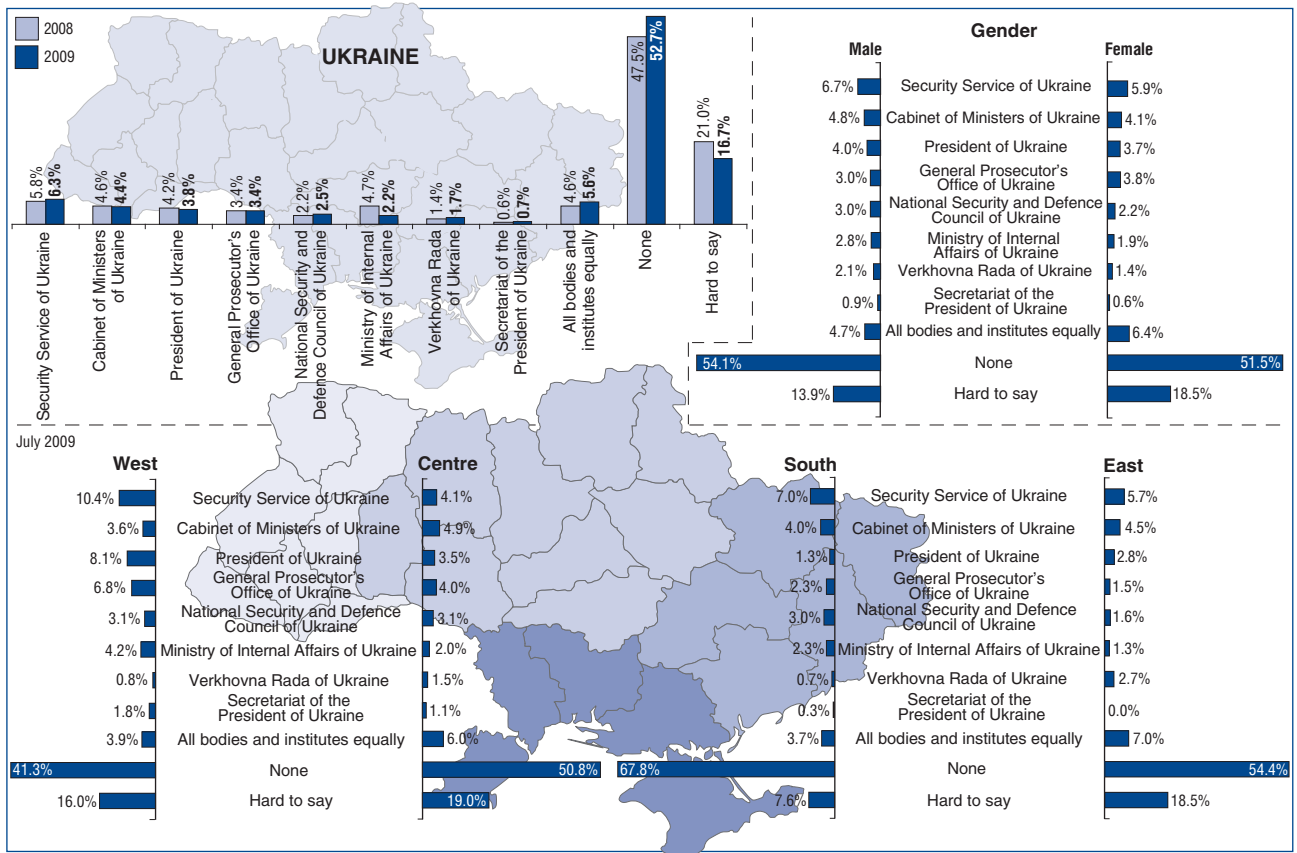


Is political corruption fought in Ukraine?
% of those polled

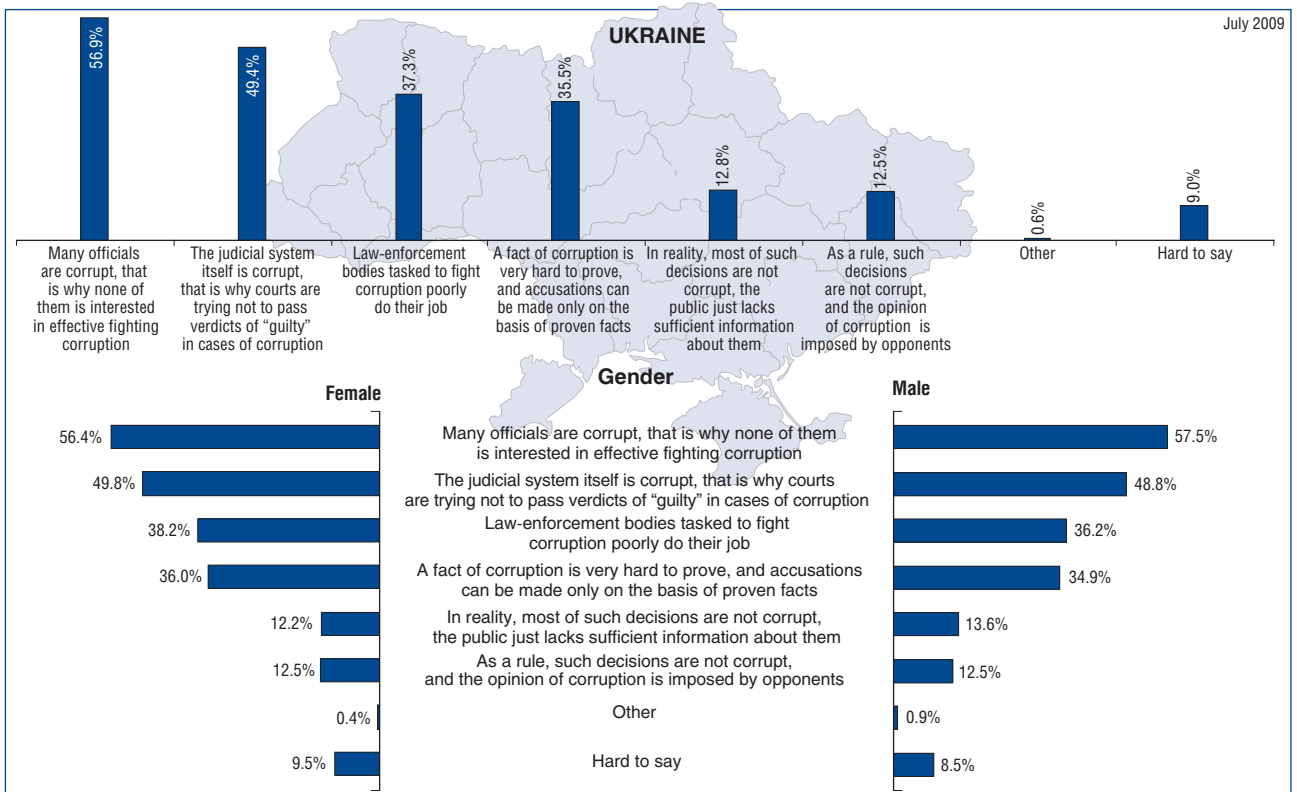


* For complete data of public opinion polls held within the framework of the project, see the web site of Razumkov Centre.

Which body or institute of state power in Ukraine is the most active fighting political corruption?
% of those polled



Sometimes it happens that many people consider some decision of the authorities to be corrupt and passed not in the interests of society but in personal interests of certain persons. But as a rule, nobody is held responsible for such decisions, and those decisions often remain in force. What are the most common reasons of such situations?*
% of those polled

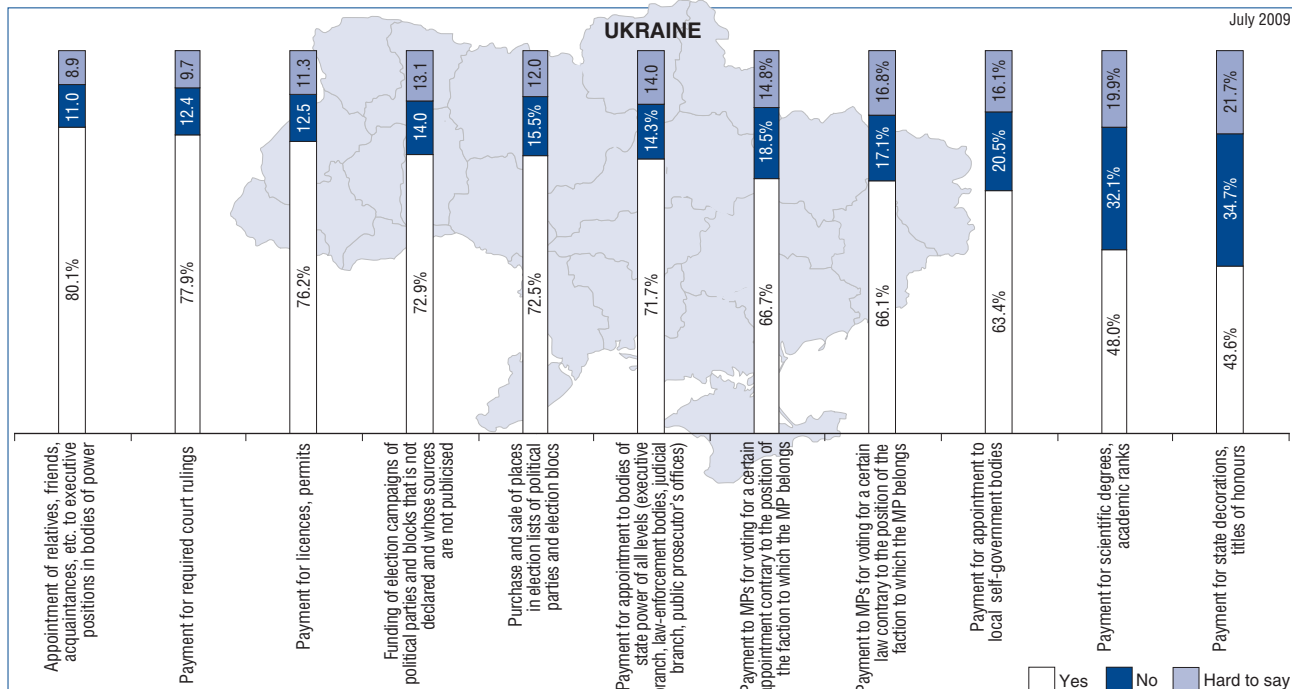


* Respondents were supposed to mark all acceptable answers.

Have you ever heard about the following cases of political corruption in Ukraine?

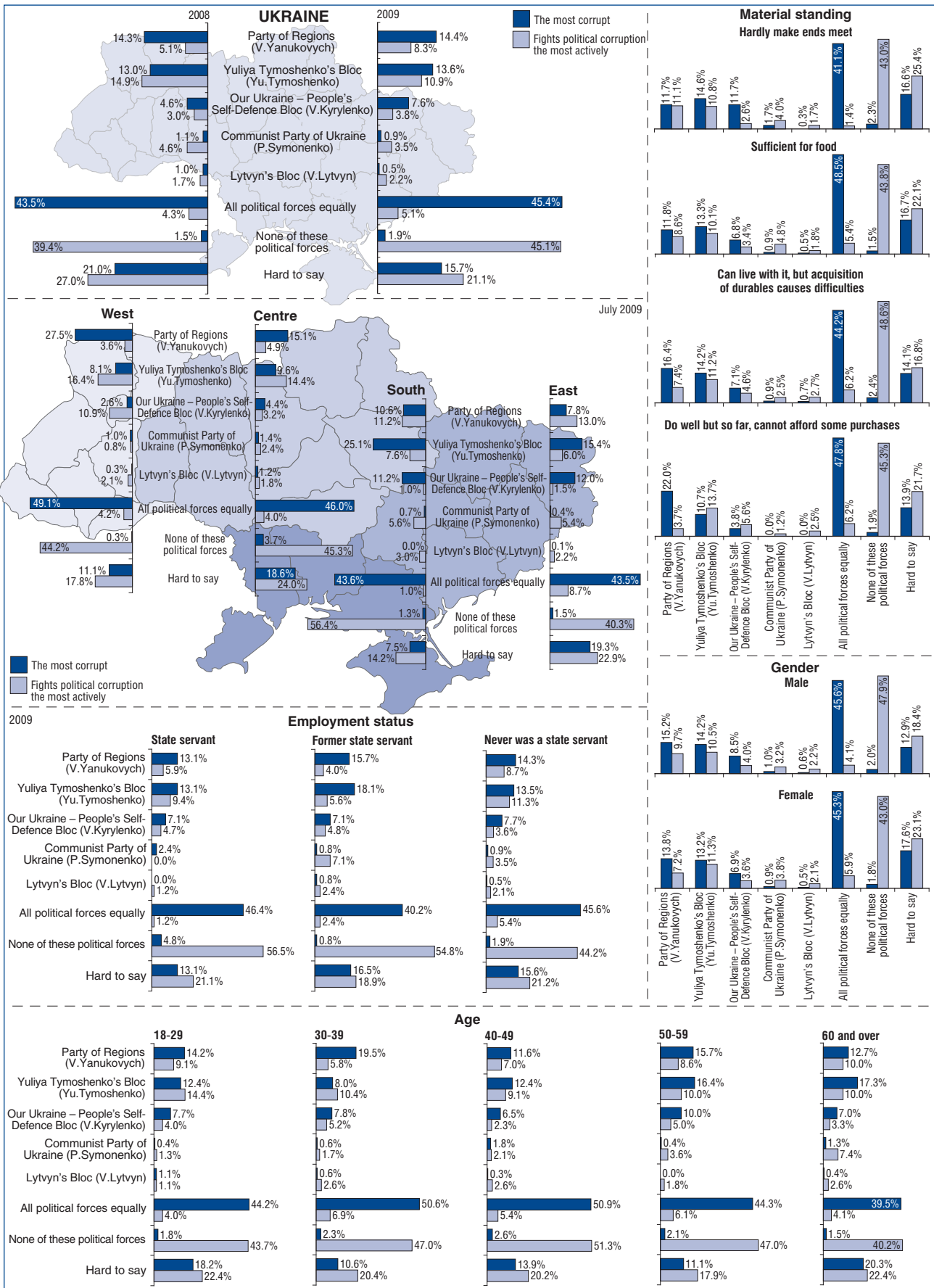
% of those polled

July 2009



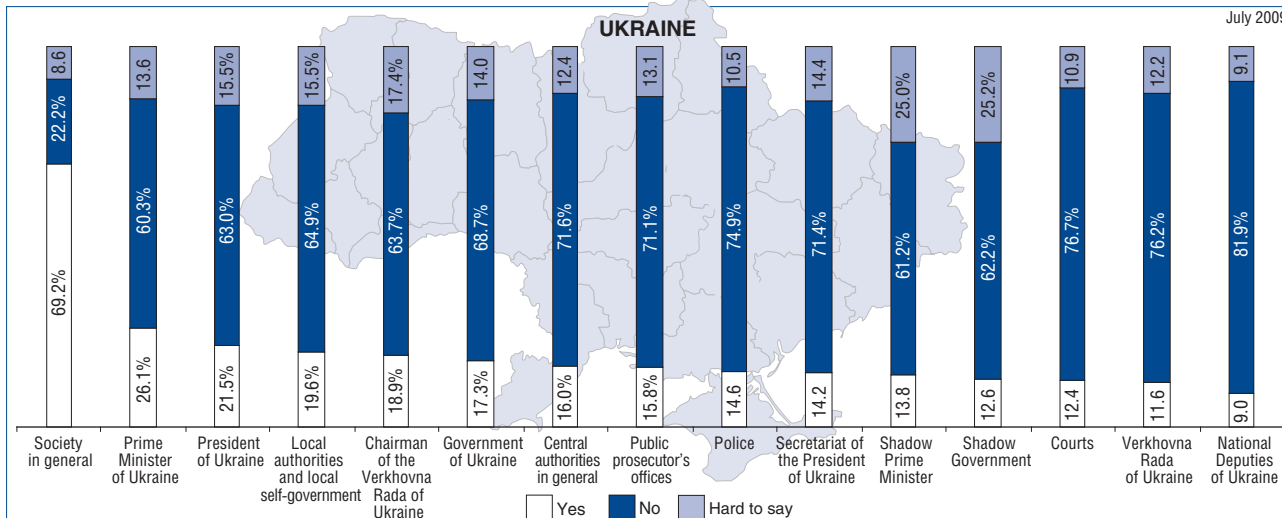
		Regions				Age					Gender		Employment status		
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant
Appointment of relatives, friends, acquaintances, etc. to executive positions in bodies of power	Yes	84.9	80.9	85.5	74.1	81.2	79.9	86.0	80.2	75.3	81.8	78.7	84.7	83.5	79.7
	No	7.0	10.1	9.6	14.8	11.8	12.9	6.2	10.8	12.3	11.0	11.0	5.9	7.9	11.4
	Hard to say	8.1	9.0	4.9	11.1	7.0	7.2	7.8	9.0	12.4	7.2	10.3	9.4	8.6	8.9
Payment for required court rulings	Yes	84.7	77.1	78.9	74.2	80.5	78.7	81.6	81.0	71.1	78.6	77.4	83.5	83.3	77.3
	No	7.3	14.4	13.9	12.9	12.2	12.1	10.1	10.0	15.7	14.0	11.2	5.9	7.1	13.1
	Hard to say	8.0	8.5	7.2	12.9	7.3	9.2	8.3	9.0	13.2	7.4	11.4	10.6	9.6	9.6
Payment for licences, permits	Yes	84.4	75.3	81.1	70.1	76.3	76.4	82.7	80.2	69.1	79.1	73.8	75.3	80.3	75.8
	No	7.6	14.5	12.6	13.2	14.2	13.8	8.0	9.7	14.9	12.0	12.8	10.6	6.3	13.1
	Hard to say	8.0	10.2	6.3	16.7	9.5	9.8	9.3	10.1	16.0	8.9	13.4	14.1	13.4	11.1
Funding of election campaigns of political parties and blocs that is not declared and whose sources are not publicised	Yes	74.0	74.3	77.5	68.8	71.2	75.6	78.8	74.6	67.6	76.2	70.3	83.3	76.2	73.0
	No	14.5	15.0	15.9	12.0	15.9	13.8	11.4	12.2	15.5	12.6	15.2	9.5	12.7	13.9
	Hard to say	11.5	10.7	6.6	19.2	12.9	10.6	9.8	13.2	16.9	11.2	14.5	7.2	11.1	13.1
Purchase and sale of places in election lists of political parties and election blocs	Yes	77.3	73.5	70.5	69.8	70.1	74.1	77.5	77.0	67.6	74.2	71.1	82.4	75.6	72.6
	No	13.0	16.4	18.9	14.3	17.3	14.4	13.2	13.3	17.5	15.0	15.8	10.6	12.6	15.5
	Hard to say	9.7	10.1	10.6	15.9	12.6	11.5	9.3	9.7	14.9	10.8	13.1	7.0	11.8	11.9
Payment for appointment to bodies of state power of all levels (executive branch, law-enforcement bodies, judicial branch, public prosecutor's offices)	Yes	73.8	71.6	72.6	70.3	73.5	71.3	75.9	73.8	66.5	75.1	69.0	77.6	80.2	71.0
	No	13.0	14.8	16.8	13.3	14.8	14.1	12.4	13.3	15.8	13.6	14.9	7.1	8.7	14.8
	Hard to say	13.2	13.6	10.6	16.4	11.7	14.6	11.7	12.9	17.7	11.3	16.1	15.3	11.1	14.2
Payment to MPs for voting for a certain appointment contrary to the position of the faction to which the MP belongs	Yes	69.1	66.2	67.5	65.5	62.8	70.7	73.6	70.9	60.3	70.2	64.0	75.0	67.7	67.2
	No	16.4	21.3	20.9	15.9	21.2	17.0	14.2	15.8	21.5	18.4	18.5	14.3	19.7	18.0
	Hard to say	14.5	12.5	11.6	18.6	16.0	12.3	12.2	13.3	18.2	11.4	17.5	10.7	12.6	14.8
Payment to MPs for voting for a certain law contrary to the position of the faction to which the MP belongs	Yes	68.2	66.5	65.1	65.0	63.5	68.1	71.8	70.6	60.5	68.3	64.2	72.9	75.6	65.8
	No	16.1	18.8	22.3	13.7	19.2	17.2	13.2	15.4	18.9	17.8	16.6	11.8	11.8	17.2
	Hard to say	15.7	14.7	12.6	21.3	17.3	14.7	15.0	14.0	20.6	13.9	19.2	15.3	12.6	17.0
Payment for appointment to local self-government bodies	Yes	66.5	60.2	68.9	62.2	66.1	62.8	68.9	64.0	57.5	65.3	61.8	64.3	71.7	62.7
	No	17.4	24.5	18.5	19.2	20.0	21.5	15.8	19.8	23.8	19.4	21.3	22.6	16.5	20.6
	Hard to say	16.1	15.3	12.6	18.6	13.9	15.7	15.3	16.2	18.7	15.3	16.9	13.1	11.8	16.7
Payment for scientific degrees, academic ranks	Yes	60.3	46.0	47.4	43.2	48.3	50.0	53.1	50.2	41.6	51.6	45.1	49.4	51.6	47.7
	No	22.3	35.3	32.5	34.3	34.1	30.5	29.0	30.1	34.6	32.3	31.9	27.1	30.2	32.2
	Hard to say	17.4	18.7	20.1	22.5	17.6	19.5	17.9	19.7	23.8	16.1	23.0	23.5	18.2	20.1
Payment for state decorations, titles of honours	Yes	51.2	42.0	48.2	38.7	43.2	42.8	48.8	47.3	38.7	45.4	42.2	44.0	51.2	42.8
	No	28.3	38.1	32.7	36.0	36.6	33.6	32.8	32.3	36.5	35.5	34.1	32.1	31.5	35.0
	Hard to say	20.5	19.9	19.1	25.3	20.2	23.6	18.4	20.4	24.8	19.1	23.7	23.9	17.3	22.2

Which of the following parliamentary political forces in Ukraine is the most corrupt or inclined to corruption, and which fights political corruption the most actively?
% of those polled



Are the following institutes interested in effective fighting corruption in Ukraine? % of those polled

July 2009



		Regions				Gender		Employment status			Education		
		West	Centre	South	East	Male	Female	State servant	Former state servant	Never was a state servant	Junior secondary	Secondary or secondary vocational	Higher or incomplete higher
Society in general	Yes	74.0	63.0	76.6	69.3	68.9	69.5	62.4	78.0	69.3	66.0	69.9	68.9
	No	19.5	25.8	19.8	21.1	22.8	21.6	29.4	18.1	22.1	21.3	21.9	23.0
	Hard to say	6.5	11.2	3.6	9.6	8.3	8.9	8.2	3.9	8.6	12.7	8.2	8.1
Prime Minister of Ukraine	Yes	38.7	28.7	15.6	21.0	25.9	26.2	16.5	23.6	26.4	28.4	26.2	25.2
	No	49.6	56.0	77.5	62.9	62.0	58.9	74.1	66.9	59.7	55.8	60.3	61.6
	Hard to say	11.7	15.3	6.9	16.1	12.1	14.9	9.4	9.5	13.9	15.7	13.5	13.2
President of Ukraine	Yes	37.0	25.1	9.9	14.4	20.7	22.2	15.3	18.1	21.6	24.9	19.8	23.8
	No	49.0	55.5	84.4	68.7	65.1	61.2	70.6	67.7	62.9	59.4	64.7	60.8
	Hard to say	14.0	19.4	5.7	16.9	14.2	16.6	14.1	14.2	15.5	15.7	15.6	15.4
Local authorities and local self-government	Yes	25.2	22.0	14.2	16.3	18.9	20.1	18.8	18.1	19.4	21.4	19.8	18.6
	No	57.4	61.2	77.8	66.9	66.1	63.8	70.6	66.1	65.0	56.1	64.9	67.4
	Hard to say	17.4	16.8	8.0	16.8	15.0	16.1	10.6	15.8	15.6	22.4	15.3	14.0
Chairman of the Verkhovna Rada of Ukraine	Yes	24.7	20.0	11.3	17.8	19.4	18.6	17.6	20.5	18.4	19.3	18.5	19.6
	No	53.4	64.1	80.1	61.9	65.5	62.2	69.4	64.6	64.0	57.9	64.7	63.5
	Hard to say	21.9	15.9	8.6	20.3	15.1	19.2	13.0	14.9	17.6	22.8	16.8	16.9
Government of Ukraine	Yes	24.7	17.6	11.6	15.4	17.5	17.2	9.4	21.3	17.2	18.9	18.3	15.1
	No	59.9	67.7	81.2	69.1	69.7	67.9	80.0	69.3	68.8	64.3	68.4	70.7
	Hard to say	15.4	14.7	7.2	15.5	12.8	14.9	10.6	9.4	14.0	16.8	13.3	14.1
Central authorities in general	Yes	19.0	17.6	13.6	13.9	16.5	15.7	9.5	16.7	16.2	21.4	15.4	15.6
	No	65.7	69.4	81.1	72.9	71.6	71.6	79.8	70.6	72.0	61.2	73.2	71.7
	Hard to say	15.3	13.0	5.3	13.2	12.8	14.9	10.7	12.7	11.8	17.3	11.4	12.7
Public prosecutor's offices	Yes	23.6	15.3	10.6	14.4	15.0	16.5	8.2	13.4	16.0	22.8	14.6	15.9
	No	64.9	70.4	80.5	70.9	73.3	69.4	77.6	73.2	71.6	58.4	73.1	71.4
	Hard to say	11.5	14.3	8.9	14.7	11.7	14.1	14.2	13.4	12.4	18.8	12.3	12.7
Police	Yes	21.4	12.1	12.2	14.4	14.0	15.1	8.2	11.1	14.9	20.4	13.4	15.1
	No	68.5	76.5	80.5	74.7	76.0	74.1	78.8	79.4	74.9	63.3	76.9	74.9
	Hard to say	10.1	11.4	7.3	10.9	10.0	10.8	13.0	9.5	10.2	16.3	9.8	10.0
Secretariat of the President of Ukraine	Yes	22.7	15.6	6.6	11.2	14.3	14.1	8.2	11.8	14.0	16.3	13.7	14.5
	No	63.8	67.1	86.8	73.3	72.9	70.3	77.6	74.8	71.8	64.8	73.0	70.4
	Hard to say	13.5	17.3	6.6	15.5	12.8	15.6	14.2	13.4	14.2	18.9	13.3	15.1
Shadow Prime Minister	Yes	11.5	11.0	13.6	18.0	13.0	14.4	13.1	11.9	14.0	16.8	14.3	11.9
	No	67.2	66.1	71.9	48.0	63.7	59.1	67.9	67.5	60.7	52.6	60.9	64.4
	Hard to say	21.3	22.9	14.5	34.0	23.3	26.5	19.0	20.6	25.3	30.6	24.8	23.8
Shadow Government	Yes	10.9	9.5	13.2	16.2	12.2	12.9	9.4	11.8	12.8	14.7	13.1	11.1
	No	68.0	68.3	73.3	47.9	64.3	60.5	69.4	68.5	61.7	53.8	62.1	64.8
	Hard to say	21.1	22.2	13.5	35.9	23.5	26.6	21.2	19.7	25.5	31.5	24.7	24.1
Courts	Yes	16.4	12.1	9.9	11.5	12.1	12.5	5.9	9.5	12.6	18.3	12.0	11.4
	No	74.0	75.5	83.1	76.5	78.1	75.7	83.5	75.4	77.2	65.0	78.5	76.8
	Hard to say	9.6	12.4	7.0	12.0	9.8	11.8	10.6	15.1	10.2	16.8	9.5	11.7
Verkhovna Rada of Ukraine	Yes	13.8	10.2	7.6	13.5	11.1	12.0	9.5	13.5	11.5	14.8	10.9	11.9
	No	70.8	79.2	87.1	71.4	76.5	75.9	83.3	76.2	76.6	69.4	77.0	76.7
	Hard to say	15.4	10.6	5.3	15.1	12.4	12.1	7.2	10.3	11.9	15.8	12.0	11.4
National Deputies of Ukraine	Yes	5.7	9.6	4.6	12.0	8.7	9.2	9.4	9.5	8.9	8.6	9.0	9.0
	No	85.7	81.2	91.1	76.3	82.7	81.2	83.5	82.5	82.0	76.6	81.9	83.4
	Hard to say	8.6	9.2	4.3	11.7	8.6	9.6	7.1	8.0	9.1	14.7	9.1	7.6



How spread is political corruption in each of the following bodies (institutes) of power and political institutes?
% of those polled

			UKRAINE												
			Corruption permeates everything		Corruption is rather spread		There are separate cases of corruption		Corruption is actually absent		Hard to say				
			2008	2009	2008	2009	2008	2009	2008	2009	2008	2009			
Verkhovna Rada of Ukraine			31.6	40.3	38.2	42.2	17.3	10.0	1.2	0.3	11.7	7.2			
Lower judicial bodies			29.5	40.3	36.5	35.9	17.8	15.5	2.9	1.4	13.3	6.9			
Secretariat of the President of Ukraine			25.8	35.9	32.5	33.7	19.0	12.3	4.5	3.2	18.2	14.9			
Political parties			29.1	35.7	33.7	38.1	16.0	14.1	2.4	1.0	18.8	11.1			
General Prosecutor's Office of Ukraine			27.5	35.4	34.7	31.9	17.4	15.3	3.4	2.8	17.0	14.6			
Cabinet of Ministers of Ukraine			24.8	35.1	34.5	36.6	20.8	14.3	4.1	2.9	15.8	11.1			
Local prosecutor's offices			29.6	34.9	35.6	35.7	17.8	16.9	2.7	1.5	14.3	11.0			
Higher judicial institutions (Supreme Court of Ukraine, Higher Administrative Court of Ukraine, Higher Business Court of Ukraine)			26.1	34.3	33.6	32.6	18.3	15.7	3.5	3.5	18.5	13.9			
Constitutional Court of Ukraine			24.8	33.9	31.9	28.7	20.0	16.0	4.0	5.4	19.3	16.0			
President of Ukraine			23.7	33.2	28.7	33.5	19.6	13.2	6.4	6.1	21.6	14.0			
Regional state administrations (<i>in the Autonomous Republic of Crimea – Council of Ministers of the Autonomous Republic of Crimea, in Kyiv and Sevastopol – city state administrations</i>)			23.6	25.3	30.4	29.8	17.0	18.2	2.5	2.0	26.5	24.7			
District state administrations			23.4	24.4	30.1	30.8	21.6	24.9	4.3	4.8	20.6	15.1			
Central Election Commission			21.7	22.6	27.8	28.9	21.0	20.3	5.4	5.3	24.1	22.9			
Regional councils (Verkhovna Rada of the Autonomous Republic of Crimea)			22.7	22.4	28.8	28.3	19.3	20.5	2.7	2.7	26.5	26.1			
City (settlement, village) councils			20.8	21.2	29.2	25.7	21.6	28.3	8.3	10.3	20.1	14.5			
Election commissions of lower levels (territorial and local)			19.8	19.2	27.4	27.9	21.9	24.2	6.3	8.5	24.6	20.2			
		Regions (2009)				Age (2009)					Gender (2009)		Employment status (2009)		
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant
Verkhovna Rada of Ukraine	Corruption permeates everything	31.7	47.2	42.4	37.5	37.4	42.5	44.8	44.4	35.9	43.7	37.6	43.5	42.9	40.7
	Corruption is rather spread	56.6	37.2	39.7	39.8	44.5	42.0	38.9	40.9	43.5	41.2	43.0	42.4	38.9	42.2
	There are separate cases of corruption	8.3	10.6	11.6	9.6	10.6	10.3	8.3	8.6	11.0	8.7	11.0	9.4	11.1	9.7
	Corruption is actually absent	0.3	0.6	0.3	0.2	0.7	0.0	0.3	0.0	0.6	0.4	0.2	0.0	0.0	0.3
	Hard to say	3.1	4.4	6.0	12.9	6.8	5.2	7.7	6.1	9.0	6.0	8.2	4.7	7.1	7.1
Lower judicial bodies	Corruption permeates everything	38.5	34.7	39.4	47.1	40.1	38.8	44.7	45.5	35.6	44.3	37.0	43.0	40.9	40.6
	Corruption is rather spread	40.1	39.4	41.1	27.6	36.8	39.1	34.1	32.3	36.0	35.7	35.9	34.9	40.9	35.4
	There are separate cases of corruption	14.6	17.0	12.6	15.7	15.5	16.1	12.7	15.4	17.0	13.4	17.2	15.1	12.6	15.4
	Corruption is actually absent	2.6	2.1	0.7	0.4	1.6	1.1	1.3	0.7	2.0	1.2	1.5	1.2	0.0	1.6
	Hard to say	4.2	6.8	6.2	9.2	6.0	4.9	7.2	6.1	9.4	5.4	8.4	5.8	5.6	7.0
Secretariat of the President of Ukraine	Corruption permeates everything	23.7	33.6	46.2	40.4	32.8	35.3	42.6	38.4	32.6	38.3	34.0	38.4	42.1	36.0
	Corruption is rather spread	42.4	31.7	30.7	31.9	34.4	36.5	30.5	31.5	34.8	33.0	34.3	32.6	34.1	33.7
	There are separate cases of corruption	16.9	16.7	10.9	6.0	13.3	12.6	9.8	13.6	12.3	12.9	11.8	15.1	8.7	12.5
	Corruption is actually absent	6.0	2.6	1.0	3.1	4.2	2.9	2.1	2.9	3.5	3.5	2.9	1.2	4.0	3.0
	Hard to say	11.0	15.4	11.2	18.6	15.3	12.7	15.0	13.6	16.8	12.3	17.0	12.7	11.1	14.8
Political parties	Corruption permeates everything	25.0	44.3	34.7	33.7	35.0	35.6	36.1	36.6	35.2	37.4	34.2	35.3	38.6	35.9
	Corruption is rather spread	52.9	32.3	40.6	34.0	38.8	39.4	38.9	38.7	36.0	38.9	37.4	35.3	40.9	38.1
	There are separate cases of corruption	14.8	12.8	13.5	15.1	14.6	14.1	13.1	15.1	13.8	12.7	15.2	17.6	13.4	13.8
	Corruption is actually absent	0.8	1.8	1.0	0.4	0.7	0.3	1.0	1.1	1.5	1.0	1.0	2.4	0.0	0.9
	Hard to say	6.5	8.8	10.2	16.8	10.9	10.6	10.9	8.5	13.5	10.0	12.2	9.4	7.1	11.3
General Prosecutor's Office of Ukraine	Corruption permeates everything	21.8	36.5	33.0	43.3	35.8	30.2	42.1	39.1	31.8	38.2	33.2	37.6	39.8	35.3
	Corruption is rather spread	45.7	29.4	36.0	24.6	31.2	38.5	28.2	30.1	31.6	32.5	31.4	30.6	28.9	32.2
	There are separate cases of corruption	18.4	17.1	13.9	12.4	15.3	17.5	13.2	15.4	15.4	14.7	15.8	17.6	17.2	14.8
	Corruption is actually absent	3.6	4.0	2.0	1.3	3.8	1.7	2.3	1.8	3.7	2.8	2.8	2.4	3.1	2.8
	Hard to say	10.5	13.0	15.1	18.4	13.9	12.1	14.2	13.6	17.5	11.8	16.8	11.8	11.0	14.9
Cabinet of Ministers of Ukraine	Corruption permeates everything	25.0	34.8	43.7	37.5	33.2	34.4	39.4	38.1	32.5	36.9	33.7	38.8	41.3	35.2
	Corruption is rather spread	44.5	34.5	34.1	35.1	36.9	38.7	34.7	35.6	36.8	36.0	37.1	35.3	33.3	36.5
	There are separate cases of corruption	20.8	16.8	13.6	8.5	14.6	15.5	13.0	14.0	14.3	14.4	14.2	17.6	14.3	14.3
	Corruption is actually absent	2.6	3.8	1.0	3.0	3.5	2.6	1.6	3.6	3.3	3.2	2.7	0.0	3.2	3.0
	Hard to say	7.1	10.1	7.6	15.9	11.8	8.8	11.3	8.7	13.1	9.5	12.3	8.3	7.9	11.0

**How spread is political corruption in each of the following bodies (institutes)
of power and political institutes?**
% of those polled

(continued)

		Regions (2009)				Age (2009)					Gender (2009)		Employment status (2009)		
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant
Local prosecutor's offices	Corruption permeates everything	22.4	33.0	38.6	42.3	34.4	32.8	40.6	36.9	31.5	38.0	32.5	38.8	32.3	35.3
	Corruption is rather spread	45.6	34.6	37.3	30.4	34.4	41.1	33.6	35.8	34.8	35.3	36.1	27.1	42.5	35.9
	There are separate cases of corruption	20.8	17.6	13.5	15.6	18.6	16.7	14.7	15.4	18.0	16.5	17.3	22.4	17.3	16.5
	Corruption is actually absent	3.1	1.8	1.0	0.6	1.6	0.6	1.6	1.8	2.0	1.2	1.7	0.0	0.8	1.6
	Hard to say	8.1	13.0	9.6	11.1	11.0	8.8	9.5	10.1	13.7	9.0	12.4	11.7	7.1	10.7
Higher judicial institutions (Supreme Court of Ukraine, Higher Administrative Court of Ukraine, Higher Business Court of Ukraine)	Corruption permeates everything	29.2	32.0	34.8	39.6	34.1	32.8	37.5	40.5	29.7	37.8	31.5	39.3	43.7	34.0
	Corruption is rather spread	44.5	29.8	38.4	25.8	31.0	34.2	32.0	31.2	34.1	32.2	33.0	31.0	30.2	32.5
	There are separate cases of corruption	14.8	19.9	10.9	14.2	16.9	21.3	12.4	14.0	14.5	14.8	16.4	16.7	12.7	15.7
	Corruption is actually absent	3.4	4.7	3.0	2.5	4.2	1.7	2.8	2.9	5.0	4.0	3.2	0.0	4.0	3.7
	Hard to say	8.1	13.6	12.9	17.9	13.8	10.0	15.3	11.4	16.7	11.2	15.9	13.0	9.4	14.1
Constitutional Court of Ukraine	Corruption permeates everything	23.1	35.2	37.7	37.0	32.1	31.9	37.6	38.5	31.5	35.1	32.9	37.6	42.9	33.6
	Corruption is rather spread	42.9	24.3	31.8	23.4	31.9	30.7	28.2	25.5	26.9	29.3	28.2	29.4	25.4	28.5
	There are separate cases of corruption	20.3	19.4	15.6	10.5	13.1	20.7	14.8	16.5	16.0	15.1	16.8	17.6	16.7	16.0
	Corruption is actually absent	3.4	7.4	2.6	5.8	7.3	3.7	3.9	3.6	6.8	5.8	5.1	3.5	4.0	5.6
	Hard to say	10.3	13.7	12.3	23.3	15.6	13.0	15.5	15.9	18.8	14.7	17.0	11.9	11.0	16.3
President of Ukraine	Corruption permeates everything	19.2	31.9	40.7	39.3	32.7	32.8	37.2	35.3	30.1	35.0	31.8	36.9	38.6	33.2
	Corruption is rather spread	39.2	31.7	35.8	31.0	33.0	36.8	32.0	31.3	34.1	33.2	33.8	31.0	28.3	34.1
	There are separate cases of corruption	18.7	16.2	12.3	7.5	14.2	11.5	11.4	13.7	14.6	13.3	13.2	15.5	16.5	12.8
	Corruption is actually absent	13.2	5.8	0.7	4.8	6.0	6.6	5.7	5.8	6.5	6.2	6.0	1.2	4.7	6.2
	Hard to say	9.7	14.4	10.5	17.4	14.1	12.3	13.7	13.9	14.7	12.3	15.2	15.4	11.9	13.7
Regional state administrations (in the Autonomous Republic of Crimea – Council of Ministers of the Autonomous Republic of Crimea, in Kyiv and Sevastopol – city state administrations)	Corruption permeates everything	13.0	23.4	28.7	32.6	24.8	26.4	27.7	24.1	23.7	27.9	23.1	28.2	32.3	24.9
	Corruption is rather spread	43.1	25.1	39.6	22.3	31.7	29.6	32.4	26.3	28.7	29.8	29.8	34.1	29.9	29.6
	There are separate cases of corruption	23.4	21.7	14.9	13.2	17.3	17.8	14.2	21.2	20.2	18.6	17.8	17.6	14.2	18.4
	Corruption is actually absent	2.9	2.8	1.7	1.0	1.6	2.0	2.6	1.8	2.0	1.4	2.5	7.1	1.6	1.8
	Hard to say	17.6	27.0	15.1	30.9	24.6	24.2	23.1	26.6	25.4	22.3	26.8	13.0	22.0	25.3
District state administrations	Corruption permeates everything	11.2	24.9	28.4	29.6	24.2	24.1	26.9	24.0	23.0	26.2	22.9	23.5	29.4	24.5
	Corruption is rather spread	42.2	26.8	39.6	24.3	31.3	32.7	33.6	29.4	28.0	31.4	30.4	35.3	38.1	30.0
	There are separate cases of corruption	25.8	25.7	19.8	25.9	26.4	25.5	21.2	26.5	25.0	24.5	25.1	21.2	18.3	25.3
	Corruption is actually absent	7.8	6.3	2.3	2.8	4.0	4.0	3.4	5.7	6.6	4.2	5.3	7.1	5.6	4.6
	Hard to say	13.0	16.3	9.9	17.4	14.1	13.7	14.9	14.4	17.4	13.7	16.3	12.9	8.6	15.6
Central Election Commission	Corruption permeates everything	10.9	28.0	20.2	25.1	22.4	21.6	25.8	20.8	22.3	23.5	22.0	22.6	28.3	22.8
	Corruption is rather spread	41.7	29.9	29.1	20.4	28.4	30.2	30.2	31.9	26.0	30.1	27.9	20.2	27.6	29.2
	There are separate cases of corruption	26.2	16.7	21.9	19.6	21.7	25.0	18.1	20.4	17.5	19.3	21.1	25.0	24.4	19.6
	Corruption is actually absent	4.1	7.5	4.6	4.0	5.5	3.2	4.4	5.7	6.6	5.0	5.5	9.5	4.7	5.2
	Hard to say	17.1	17.9	24.2	30.9	22.0	20.0	21.5	21.2	27.6	22.1	23.5	22.7	15.0	23.2
Regional councils (Verkhovna Rada of the Autonomous Republic of Crimea)	Corruption permeates everything	10.4	22.9	27.5	26.7	23.0	21.8	26.7	20.5	20.3	24.7	20.6	28.6	27.6	22.2
	Corruption is rather spread	41.6	24.9	33.8	21.6	30.1	30.5	31.9	24.1	25.2	28.4	28.3	28.6	31.5	28.1
	There are separate cases of corruption	27.5	21.6	16.6	17.4	20.1	20.7	16.8	23.4	21.7	21.5	19.7	19.0	17.3	20.8
	Corruption is actually absent	3.1	3.2	1.3	2.4	1.5	2.3	2.6	2.9	3.9	2.4	2.9	4.8	3.1	2.6
	Hard to say	17.4	27.4	20.8	31.9	25.3	24.7	22.0	29.1	28.9	23.0	28.5	19.0	20.5	26.3
City (settlement, village) councils	Corruption permeates everything	8.9	21.1	27.7	25.5	21.1	20.3	23.8	21.9	19.9	23.1	19.7	27.9	29.4	20.8
	Corruption is rather spread	31.8	24.0	27.4	23.1	23.7	27.8	27.9	25.9	24.2	25.3	26.0	22.1	23.8	26.0
	There are separate cases of corruption	31.8	26.6	30.4	26.8	30.2	31.5	24.0	29.1	26.9	30.0	26.9	27.9	26.2	28.3
	Corruption is actually absent	18.5	13.1	5.3	5.1	8.4	8.3	11.4	8.6	13.3	9.4	11.1	14.0	8.7	9.9
	Hard to say	9.0	15.2	9.2	19.5	16.6	12.1	12.9	14.5	15.7	12.2	16.3	8.1	11.9	15.0
Election commissions of lower levels (territorial and local)	Corruption permeates everything	9.9	22.3	19.4	21.5	19.3	17.5	21.7	18.7	18.8	20.3	18.3	21.2	22.2	19.2
	Corruption is rather spread	37.4	24.8	32.9	23.4	29.9	33.3	25.8	27.0	25.0	28.2	27.8	23.5	30.2	28.1
	There are separate cases of corruption	26.5	25.8	18.1	24.0	23.1	23.6	24.3	29.5	22.7	23.5	24.8	17.6	24.6	24.3
	Corruption is actually absent	8.1	12.1	10.2	4.5	8.6	8.6	7.0	8.3	9.6	8.1	8.9	18.8	8.7	8.0
	Hard to say	18.1	15.0	19.4	26.6	19.1	17.0	21.2	16.5	23.9	19.9	20.2	18.9	14.3	20.4



How spread is corruption in each of the following sectors? % of those polled															
		UKRAINE													
		Corruption permeates everything	Corruption is rather spread	There are separate cases of corruption	Corruption is actually absent	Hard to say									
Political power in general		44.1	37.9	10.0	1.0	7.0									
State power in general		42.3	39.9	10.2	0.7	6.9									
Judicial system		40.1	37.5	13.4	1.4	7.6									
Political parties		39.3	39.3	10.9	1.5	9.0									
Medical care		37.7	41.9	15.5	2.3	2.6									
Law-enforcement bodies		36.8	42.1	13.4	1.4	6.3									
Tax bodies		36.2	37.3	13.3	1.3	11.9									
Public prosecutor's offices		33.1	36.5	16.2	2.2	12.0									
Higher education		28.2	42.3	20.5	3.0	6.0									
Economy, business		25.8	38.4	19.0	3.5	13.3									
Local self-government in general		23.9	34.8	25.9	4.6	10.8									
Security Service of Ukraine		20.1	27.2	19.5	7.3	25.9									
Trade unions		15.4	24.5	24.4	10.3	25.4									
Armed Forces		14.4	26.6	26.1	9.3	23.6									
Customs service		14.3	28.2	15.8	9.1	32.6									
Secondary education		12.8	27.4	37.8	14.8	7.2									
Public organisations		12.6	21.9	22.8	14.5	28.2									
		Regions				Age					Gender		Employment status		
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant
Political sector in gener	Corruption permeates everything	32.8	44.7	44.4	49.9	43.1	42.8	48.3	41.6	44.2	45.5	43.0	54.1	48.0	44.1
	Corruption is rather spread	52.9	34.4	44.0	30.0	42.0	39.9	36.7	40.5	32.6	38.9	37.0	30.6	37.0	38.0
	There are separate cases of corruption	9.4	13.0	6.3	9.0	7.8	9.5	8.8	11.8	12.0	9.3	10.6	8.2	11.8	9.5
	Corruption is actually absent	0.5	2.1	0.7	0.3	0.7	0.6	1.3	1.4	1.1	0.6	1.4	0.0	0.0	1.1
	Hard to say	4.4	5.8	4.6	10.8	6.4	7.2	4.9	4.7	10.1	5.7	8.0	7.1	3.2	7.3
State power in general	Corruption permeates everything	31.4	42.7	45.5	46.6	42.1	42.2	46.0	41.2	40.4	43.4	41.4	53.6	45.7	42.2
	Corruption is rather spread	55.3	37.1	40.3	33.4	42.1	42.5	39.0	41.6	36.2	40.6	39.4	35.7	41.7	39.9
	There are separate cases of corruption	7.8	13.0	8.9	9.6	9.3	8.9	8.8	12.2	11.8	9.9	10.5	7.1	7.9	10.0
	Corruption is actually absent	0.8	1.8	0.0	0.0	0.4	0.6	0.5	0.7	1.1	0.3	1.0	0.0	0.0	0.7
	Hard to say	4.7	5.4	5.3	10.4	6.1	5.8	5.7	4.3	10.5	5.8	7.7	3.6	4.7	7.2
Judicial system	Corruption permeates everything	36.4	37.7	34.8	47.2	42.8	39.9	40.6	41.9	36.7	41.6	38.9	41.2	40.2	40.4
	Corruption is rather spread	42.1	38.3	47.4	29.5	36.1	38.5	40.3	34.4	37.6	40.0	35.5	35.3	44.9	37.0
	There are separate cases of corruption	15.8	15.7	9.9	11.1	13.3	13.5	11.4	15.4	13.8	11.7	14.7	14.1	7.9	13.4
	Corruption is actually absent	1.8	1.8	0.3	1.3	0.7	1.7	1.8	1.4	1.5	0.8	2.0	0.0	1.6	1.4
	Hard to say	3.9	6.5	7.6	10.9	7.1	6.4	5.9	6.9	10.4	5.9	8.9	9.4	5.4	7.8
Political parties	Corruption permeates everything	30.9	45.9	38.1	38.2	39.6	39.4	42.2	39.6	36.6	41.6	37.4	42.9	40.5	39.5
	Corruption is rather spread	51.4	34.9	44.7	34.2	38.9	41.4	41.5	39.6	36.5	38.1	40.2	36.9	42.1	39.3
	There are separate cases of corruption	10.4	11.3	6.3	12.7	11.7	11.5	8.3	12.2	10.9	10.7	11.0	11.9	11.1	10.5
	Corruption is actually absent	1.0	1.5	1.0	1.9	1.3	0.6	2.1	1.8	1.8	1.8	1.3	0.0	0.8	1.4
	Hard to say	6.3	6.4	9.9	13.0	8.5	7.1	5.9	6.8	14.2	7.8	10.1	8.3	5.5	9.3
Medical care	Corruption permeates everything	39.9	38.8	30.8	38.4	38.4	32.4	40.1	42.4	36.3	38.4	37.1	41.2	35.7	37.7
	Corruption is rather spread	47.7	35.6	44.0	43.6	41.9	47.6	40.8	37.1	41.3	42.5	41.3	37.6	41.3	42.2
	There are separate cases of corruption	10.6	18.2	19.9	13.6	14.0	15.2	16.3	16.5	15.8	14.3	16.4	17.6	19.0	15.0
	Corruption is actually absent	1.3	4.1	2.6	0.7	3.3	2.6	1.3	2.5	1.8	2.8	1.9	1.2	2.4	2.4
	Hard to say	0.5	3.3	2.7	3.7	2.4	2.2	1.5	1.5	4.8	2.0	3.3	2.4	1.6	2.7
Law-enforcement bodies	Corruption permeates everything	25.7	32.8	33.3	48.6	36.9	35.9	40.7	38.4	33.6	37.2	36.4	50.6	42.1	36.0
	Corruption is rather spread	56.4	43.0	48.8	29.8	44.7	45.1	40.4	41.6	39.2	43.0	41.3	32.9	42.9	42.4
	There are separate cases of corruption	13.8	16.4	12.2	10.9	10.8	14.4	11.9	14.7	15.4	13.6	13.3	14.1	11.9	13.3
	Corruption is actually absent	1.0	2.0	0.3	1.3	1.1	0.3	1.8	0.7	2.4	1.0	1.6	0.0	1.6	1.5
	Hard to say	3.1	5.8	5.4	9.4	6.5	4.3	5.2	4.6	9.4	5.2	7.4	2.4	1.5	6.8

How spread is corruption in each of the following sectors?

% of those polled

(continued)

		Regions				Age					Gender		Employment status		
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant
Tax bodies	Corruption permeates everything	30.2	32.6	32.0	45.0	36.6	34.7	40.6	35.8	33.7	36.9	35.6	47.7	42.1	35.3
	Corruption is rather spread	47.1	37.9	44.6	27.6	39.7	41.8	38.5	34.4	33.0	38.8	36.1	31.4	44.4	37.1
	There are separate cases of corruption	14.6	14.4	12.9	11.7	10.9	14.6	12.4	17.2	12.9	13.0	13.4	9.3	9.5	13.5
	Corruption is actually absent	1.0	2.3	1.0	0.6	0.4	0.9	1.3	2.9	1.7	1.2	1.4	0.0	0.0	1.5
	Hard to say	7.1	12.8	9.5	15.1	12.4	8.0	7.2	9.7	18.7	10.1	13.5	11.6	4.0	12.6
Public prosecutor's offices	Corruption permeates everything	19.0	33.2	29.5	42.7	32.6	34.5	36.5	33.0	30.2	34.6	31.8	38.1	31.7	33.2
	Corruption is rather spread	46.2	34.9	44.0	28.9	39.7	36.2	38.3	34.8	33.5	39.1	34.4	33.3	45.2	36.2
	There are separate cases of corruption	23.6	17.8	13.6	11.7	14.2	17.8	13.7	17.6	18.0	14.5	17.7	15.5	14.3	16.2
	Corruption is actually absent	3.9	2.0	1.0	1.9	2.4	1.4	2.3	1.8	2.8	1.8	2.5	4.8	1.6	2.1
	Hard to say	7.3	12.1	11.9	14.8	11.1	10.1	9.2	12.8	15.5	10.0	13.6	8.3	7.2	12.3
Higher education	Corruption permeates everything	29.9	29.5	21.8	28.8	32.2	25.3	30.8	26.9	25.6	27.6	28.6	32.9	25.2	28.8
	Corruption is rather spread	51.9	37.3	44.2	40.8	43.2	45.4	43.0	43.7	38.5	44.1	40.9	38.8	43.3	41.9
	There are separate cases of corruption	15.1	19.7	25.4	22.0	18.4	21.0	21.2	20.8	21.2	20.6	20.5	21.2	23.6	20.2
	Corruption is actually absent	0.8	6.9	1.3	1.3	3.1	3.7	1.0	2.9	3.9	2.3	3.5	4.7	3.1	3.0
	Hard to say	2.3	6.6	7.3	7.1	3.1	4.6	4.0	5.7	10.8	5.4	6.5	2.4	4.8	6.1
Economy, business	Corruption permeates everything	20.6	26.3	33.8	24.7	23.2	28.2	29.2	24.5	24.6	26.7	25.1	28.6	26.2	26.1
	Corruption is rather spread	47.9	34.0	41.4	35.8	42.6	41.1	37.2	40.6	32.9	38.8	38.1	39.3	40.5	38.2
	There are separate cases of corruption	16.7	21.1	12.9	21.1	17.9	19.0	19.4	21.9	18.2	20.6	17.8	16.7	18.3	19.0
	Corruption is actually absent	2.6	4.1	2.3	3.9	3.3	2.6	3.4	1.8	5.3	3.1	3.8	6.0	6.3	3.1
	Hard to say	12.2	14.5	9.6	14.5	13.0	9.1	10.8	11.2	19.0	10.8	15.2	9.4	8.7	13.6
Local self-government in general	Corruption permeates everything	10.7	25.7	27.4	28.1	21.1	26.1	27.9	25.4	21.1	26.9	21.4	27.4	27.8	24.1
	Corruption is rather spread	43.5	30.9	41.3	30.8	39.9	35.3	34.6	33.7	30.9	31.9	37.1	32.1	31.7	35.1
	There are separate cases of corruption	26.8	25.4	21.8	27.6	22.4	27.0	24.5	27.6	27.9	27.6	24.5	15.5	28.6	25.8
	Corruption is actually absent	7.0	7.2	4.0	0.9	4.7	2.6	3.4	5.0	6.6	3.6	5.5	14.3	5.6	4.0
	Hard to say	12.0	10.8	5.5	12.6	11.9	9.0	9.6	8.3	13.5	10.0	11.5	10.7	6.3	11.0
Security Service of Ukraine	Corruption permeates everything	11.7	23.5	15.5	23.7	19.7	18.4	23.8	17.9	20.1	21.6	18.9	31.0	22.0	19.9
	Corruption is rather spread	31.7	26.0	31.6	23.7	29.5	27.1	29.3	26.5	24.3	29.0	25.8	22.6	26.8	27.3
	There are separate cases of corruption	30.6	18.2	17.1	15.3	17.5	25.1	15.3	23.3	18.6	20.3	18.8	20.2	23.6	19.0
	Corruption is actually absent	7.5	10.2	4.9	5.4	5.8	6.1	7.0	7.2	9.4	7.1	7.4	6.0	7.9	7.2
	Hard to say	18.5	22.1	30.9	31.9	27.5	23.3	24.6	25.1	27.6	22.0	29.1	20.2	19.7	26.6
Trade unions	Corruption permeates everything	7.3	22.0	12.2	15.0	13.5	16.4	18.4	14.0	14.7	17.5	13.6	20.2	15.6	15.4
	Corruption is rather spread	26.5	22.6	28.7	23.4	26.2	26.1	25.1	29.1	19.5	24.8	24.3	21.4	25.8	24.7
	There are separate cases of corruption	29.9	25.2	18.5	22.9	22.6	26.4	24.1	26.3	23.8	24.2	24.5	19.0	28.1	24.2
	Corruption is actually absent	10.6	9.0	5.9	13.5	10.0	9.2	9.6	9.7	12.2	11.8	9.2	13.1	10.2	10.1
	Hard to say	25.7	21.2	34.7	25.2	27.7	21.9	22.8	20.9	29.8	21.7	28.4	26.3	20.3	25.6
Armed Forces	Corruption permeates everything	5.5	19.9	9.0	16.5	11.8	15.2	15.2	12.5	16.2	15.5	13.4	16.5	17.3	14.3
	Corruption is rather spread	24.7	24.3	31.9	27.7	29.1	27.5	30.0	25.4	21.9	26.8	26.5	24.7	26.0	26.9
	There are separate cases of corruption	37.7	23.9	22.3	23.4	25.3	30.4	23.5	29.4	24.3	27.5	25.0	29.4	31.5	25.2
	Corruption is actually absent	12.5	12.7	7.0	5.2	8.7	6.9	10.3	9.3	10.9	10.3	8.6	10.6	11.8	9.1
	Hard to say	19.6	19.2	29.8	27.2	25.1	20.0	21.0	23.4	26.7	19.9	26.5	18.8	13.4	24.5
Customs service	Corruption permeates everything	34.3	30.4	36.6	47.1	37.2	39.7	41.7	35.4	35.0	38.6	36.8	37.6	41.3	37.4
	Corruption is rather spread	44.2	41.6	37.6	28.2	40.5	37.6	37.8	38.9	32.2	37.6	36.6	38.8	36.5	36.7
	There are separate cases of corruption	11.9	16.2	10.9	10.3	10.8	14.7	12.4	13.6	12.3	12.6	12.6	12.9	14.3	12.7
	Corruption is actually absent	2.1	2.1	1.3	0.9	1.3	1.7	1.0	1.8	2.2	1.7	1.5	0.0	0.8	1.7
	Hard to say	7.5	9.7	13.6	13.5	10.2	6.3	7.1	10.3	18.3	9.5	12.5	10.7	7.1	11.5
Secondary education	Corruption permeates everything	11.9	12.3	11.6	14.4	13.1	12.9	12.4	14.0	12.3	14.0	11.8	12.9	16.7	12.8
	Corruption is rather spread	27.3	21.4	34.4	30.1	28.7	30.5	29.8	22.2	25.4	28.7	26.3	25.9	23.8	27.8
	There are separate cases of corruption	42.3	35.5	35.8	38.5	39.6	37.6	37.8	41.9	34.4	35.9	39.4	43.5	38.1	37.5
	Corruption is actually absent	15.1	23.6	10.9	7.8	14.9	15.8	14.2	16.1	13.8	14.8	14.9	15.3	16.7	14.5
	Hard to say	3.4	7.2	7.3	9.2	3.7	3.2	5.8	5.8	14.1	6.6	7.6	2.4	4.7	7.4
Public organisations	Corruption permeates everything	4.7	18.5	8.3	13.4	10.2	12.7	14.2	11.1	14.4	13.3	12.2	16.5	15.2	12.6
	Corruption is rather spread	21.0	21.4	27.8	20.4	25.1	23.9	23.3	22.2	17.1	23.9	20.3	27.1	20.8	21.9
	There are separate cases of corruption	26.5	21.7	24.8	20.7	21.5	23.1	22.2	26.5	22.1	23.7	22.1	11.8	28.0	23.0
	Corruption is actually absent	19.2	11.8	7.3	17.7	13.7	15.0	14.2	15.4	14.5	14.3	14.7	21.2	13.6	13.8
	Hard to say	28.6	26.6	31.8	27.8	29.5	25.3	26.1	24.8	31.9	24.8	30.7	23.4	22.4	28.7



To what extent the following things are present in your city (district)?
% of those polled

		UKRAINE										
		This happens always		This happens often		This happens seldom		This never happens, or happens very rarely		Hard to say		
Appointment of relatives, friends, acquaintances to positions in state bodies		30.1		44.1		10.1		4.3		11.4		
Abuse of office by state servants in the interests of their business or business of their relatives, close friends		26.3		41.8		11.7		5.3		14.9		
Payment to judges and judicial officers for passage of required decisions		25.5		39.0		11.6		4.9		19.0		
Payment to public prosecution officers for passage of required decisions		24.1		37.0		12.1		5.2		21.6		
Submission by officials of bodies of power and self-government bodies of untrue declarations of their property and sources of income		22.6		33.5		10.8		6.1		27.0		
No response by police and public prosecutor offices to unlawful actions of the authorities representatives		21.9		41.5		12.9		5.7		18.0		
Involvement of state servants in business activity		21.6		41.0		12.2		5.3		19.9		
Payment to local council members, officials of local self-government bodies for passage of required decisions, obtained permits, etc.		21.4		34.4		13.4		6.5		24.3		
Gifts to officials from citizens as reward for solution of their problems		20.1		42.9		13.5		5.4		18.1		
Extortion of bribes, “kickback”, etc. by state servants		19.6		34.4		13.0		6.3		26.7		
Release of untrue information by state servants or distortion of information about the authorities’ activity or the state of affairs in a city (district)		19.4		36.8		14.4		5.8		23.6		
Cash payments to officials from citizens as reward for solution of their problems		19.0		41.0		12.5		6.3		21.2		
Appropriation of budget funds by state servants		17.3		34.8		13.2		7.5		27.2		
Payment to representatives of law-enforcement bodies as payment for “cover”		16.6		30.8		15.0		6.7		30.9		
Attempts of local authorities to bar control of public organisations over their actions		15.8		30.7		14.8		8.3		30.4		
Attempts of local authorities to put local media under control, bar their criticism of the authorities		15.6		30.8		15.7		9.0		28.9		
Involvement of police and public prosecution officers in the activity of criminal structures		14.3		28.2		15.8		9.1		32.6		
Implication of state servants in economic crimes		13.4		28.3		14.6		7.4		36.3		
Involvement of state servants in the activity of organised criminal groups		10.9		21.3		16.5		11.2		40.1		
		Regions				Age					Gender	
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female
Appointment of relatives, friends, acquaintances to positions in state bodies	This happens always	26.3	28.3	37.5	30.6	30.3	31.0	31.5	27.3	29.7	30.3	29.8
	This happens often	47.1	44.6	43.9	41.8	43.8	44.8	45.7	45.0	42.0	45.4	43.0
	This happens seldom	14.1	13.1	8.0	5.7	10.0	11.8	7.2	13.3	9.6	10.1	10.1
	This never happens, or happens very rarely	6.3	3.8	3.0	4.2	4.2	4.6	5.4	4.0	3.5	4.9	3.9
	Hard to say	6.2	10.2	7.6	17.7	11.7	7.8	10.2	10.4	15.2	9.3	13.2
Abuse of office by state servants in the interests of their business or business of their relatives, close friends	This happens always	21.8	25.1	34.3	26.4	25.7	28.4	27.7	25.8	24.7	26.5	26.1
	This happens often	48.6	39.1	41.9	40.4	43.2	39.4	42.5	44.4	40.3	42.9	40.9
	This happens seldom	13.2	14.2	7.3	10.5	12.0	15.5	12.2	14.0	7.7	13.4	10.4
	This never happens, or happens very rarely	7.8	5.8	5.0	3.5	4.2	4.9	4.4	5.4	7.0	4.8	5.8
	Hard to say	8.6	15.8	11.5	19.2	14.9	11.8	13.2	10.4	20.3	12.4	16.8
Payment to judges and judicial officers for passage of required decisions	This happens always	22.7	25.0	34.4	23.8	27.9	25.3	28.2	25.4	21.9	25.9	25.2
	This happens often	43.8	35.7	39.4	39.4	39.9	40.2	40.9	42.7	34.4	41.1	37.3
	This happens seldom	14.8	14.1	10.3	7.9	9.8	15.2	11.1	11.1	11.4	11.8	11.4
	This never happens, or happens very rarely	6.8	6.0	4.0	3.1	4.9	5.2	3.9	4.7	5.5	4.7	5.1
	Hard to say	11.9	19.2	11.9	25.8	17.5	14.1	15.9	16.1	26.8	16.5	21.0
Payment to public prosecution officers for passage of required decisions	This happens always	19.2	23.5	34.1	22.8	24.8	23.9	25.6	24.7	22.3	24.7	23.6
	This happens often	41.8	35.9	34.1	36.6	38.9	39.7	40.8	37.3	30.8	39.2	35.2
	This happens seldom	14.8	15.0	11.3	8.1	10.8	14.1	9.8	14.7	12.2	12.5	11.8
	This never happens, or happens very rarely	8.6	5.4	3.6	3.9	5.5	6.3	3.6	5.7	5.3	5.1	5.3
	Hard to say	15.6	20.2	16.9	28.6	20.0	16.0	20.2	17.6	29.4	18.5	24.1
Submission by officials of bodies of power and self-government bodies of untrue declarations of their property and sources of income	This happens always	14.9	25.3	25.2	23.1	22.6	23.0	24.9	24.5	19.9	23.4	21.9
	This happens often	37.9	33.7	36.8	29.3	33.2	36.8	33.4	32.0	32.4	35.9	31.5
	This happens seldom	16.2	11.9	11.3	6.3	10.8	13.2	11.7	9.7	8.8	10.2	11.2
	This never happens, or happens very rarely	10.4	5.1	5.0	5.0	8.2	6.0	4.1	7.2	5.1	6.2	5.9
	Hard to say	20.6	24.0	21.7	36.3	25.2	21.0	25.9	26.6	33.8	24.3	29.5
No response by police and public prosecutor offices to unlawful actions of the authorities representatives	This happens always	19.5	20.7	25.5	22.8	21.1	20.7	24.1	23.7	21.0	22.7	21.2
	This happens often	42.1	42.0	42.7	40.3	43.7	46.6	40.7	40.9	37.6	42.7	40.6
	This happens seldom	15.3	16.2	13.2	8.1	11.5	12.1	12.7	14.7	13.6	13.6	12.3
	This never happens, or happens very rarely	9.4	4.7	2.6	5.8	6.7	7.2	6.0	4.3	4.6	5.3	6.0
	Hard to say	13.7	16.4	16.0	23.0	17.0	13.4	16.5	16.4	23.2	15.7	19.9
Involvement of state servants in business activity	This happens always	13.3	19.4	34.7	22.5	21.2	20.7	23.3	22.6	20.8	21.3	21.8
	This happens often	48.4	39.3	39.3	39.3	42.3	43.4	43.8	42.7	35.9	43.2	39.3
	This happens seldom	15.9	14.7	8.6	9.3	10.8	15.8	10.1	14.0	11.4	12.6	11.9
	This never happens, or happens very rarely	8.6	5.2	3.6	4.2	6.0	6.0	6.0	4.3	4.4	6.0	4.8
	Hard to say	13.8	21.4	13.8	24.7	19.7	14.1	16.8	16.4	27.5	16.9	22.2
Payment to local council members, officials of local self-government bodies for passage of required decisions, obtained permits, etc.	This happens always	17.4	22.3	31.1	18.5	22.8	21.6	23.9	18.7	19.7	21.4	21.4
	This happens often	39.6	33.7	40.4	29.3	36.1	37.1	35.1	37.1	29.5	36.5	32.7
	This happens seldom	16.1	13.4	9.3	13.7	11.5	13.8	12.5	15.5	14.2	14.4	12.6
	This never happens, or happens very rarely	8.6	7.9	2.6	5.4	6.4	8.3	5.7	5.8	6.1	6.1	6.8
	Hard to say	18.3	22.7	16.6	33.1	23.2	19.2	22.8	22.9	30.5	21.6	26.5

To what extent the following things are present in your city (district)?

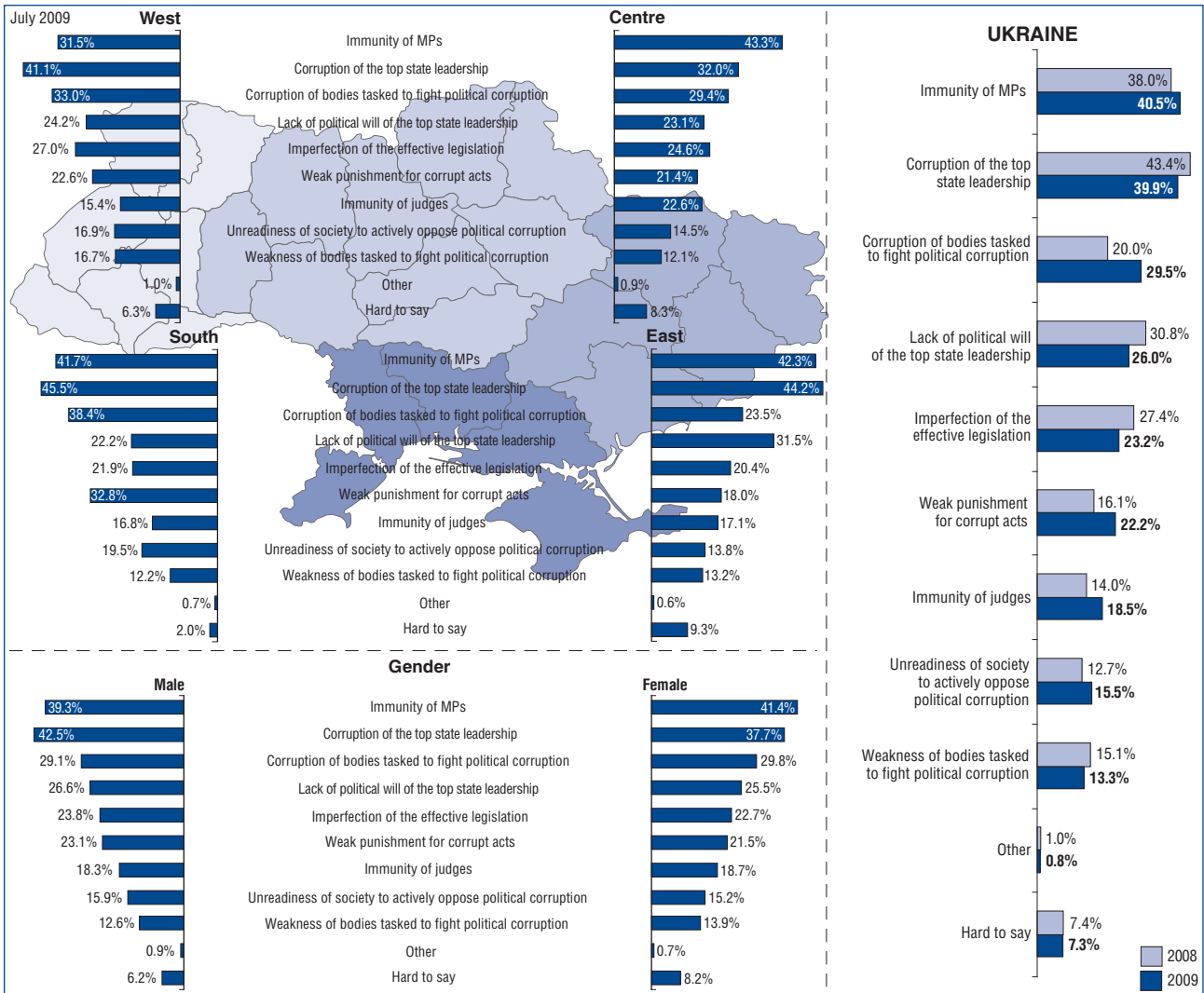
% of those polled

(continued)

		Regions				Age					Gender	
		West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female
Gifts to officials from citizens as reward for solution of their problems	This happens always	20.6	21.3	25.1	16.3	18.0	21.2	23.1	19.1	19.5	19.3	20.7
	This happens often	44.3	39.8	43.2	45.0	46.3	43.8	44.0	45.7	37.2	44.2	41.7
	This happens seldom	15.6	15.9	11.2	10.9	11.8	15.5	11.1	14.7	14.4	14.1	12.9
	This never happens, or happens very rarely	6.3	5.2	6.6	4.6	6.4	4.0	4.9	5.8	5.9	5.2	5.7
	Hard to say	13.2	17.8	13.9	23.2	17.5	15.5	16.9	14.7	23.0	17.2	19.0
Extortion of bribes, "kickback", etc. by state servants	This happens always	13.0	21.1	27.1	18.7	19.1	20.9	21.2	20.8	17.7	20.7	18.7
	This happens often	39.6	30.4	41.9	31.8	36.8	34.7	36.5	35.1	30.0	35.9	33.1
	This happens seldom	19.0	13.0	10.2	10.9	11.8	16.9	10.6	14.3	12.3	13.4	12.8
	This never happens, or happens very rarely	9.9	7.0	4.0	4.5	7.1	5.7	6.2	6.8	6.3	6.3	6.4
	Hard to say	18.5	28.5	16.8	34.1	25.2	21.8	25.5	23.0	33.7	23.7	29.0
Release of untrue information by state servants or distortion of information about the authorities' activity or the state of affairs in a city (district)	This happens always	11.2	19.3	31.7	18.4	18.0	17.5	22.0	21.1	19.0	19.7	19.1
	This happens often	43.1	33.9	38.0	35.5	38.8	39.7	39.6	35.1	32.2	39.1	35.0
	This happens seldom	18.2	17.3	9.9	11.5	14.0	18.1	11.4	15.8	13.8	14.8	14.1
	This never happens, or happens very rarely	8.6	6.1	4.0	4.6	7.5	4.3	5.2	5.4	5.9	5.9	5.7
	Hard to say	18.9	23.4	16.4	30.0	21.7	20.4	21.8	22.6	29.1	20.5	26.1
Cash payments to officials from citizens as reward for solution of their problems	This happens always	15.4	19.8	25.4	17.4	18.4	18.4	23.8	17.6	17.3	17.8	20.0
	This happens often	48.7	38.6	43.9	37.4	43.9	43.1	40.7	43.0	36.3	42.5	39.8
	This happens seldom	13.0	14.2	9.9	11.7	11.1	12.9	10.6	14.3	13.8	12.7	12.3
	This never happens, or happens very rarely	9.4	5.8	5.6	5.5	6.9	6.0	5.4	6.8	6.4	6.0	6.6
	Hard to say	13.5	21.6	15.2	28.0	19.7	19.6	19.5	18.3	26.2	21.0	21.3
Appropriation of budget funds by state servants	This happens always	11.2	15.4	25.4	18.7	15.3	16.7	20.2	18.3	16.6	17.1	17.4
	This happens often	38.5	34.6	37.6	31.5	38.7	35.3	34.2	39.4	29.1	36.2	33.6
	This happens seldom	22.7	14.1	8.6	9.1	12.8	13.5	15.8	11.1	12.7	13.7	12.8
	This never happens, or happens very rarely	8.9	9.5	4.3	6.3	7.3	8.6	6.7	7.2	7.7	7.4	7.7
	Hard to say	18.7	26.4	24.1	34.4	25.9	25.9	23.1	24.0	33.9	25.6	28.5
Payment to representatives of law-enforcement bodies as payment for "cover"	This happens always	8.9	15.7	21.9	19.4	17.5	15.8	19.4	15.1	14.9	16.9	16.2
	This happens often	34.9	31.6	37.4	24.7	34.4	32.1	31.0	32.7	25.7	33.5	28.6
	This happens seldom	19.0	16.6	10.9	12.8	13.7	18.6	13.2	16.5	14.2	16.4	13.8
	This never happens, or happens very rarely	10.7	6.3	4.3	6.0	6.2	7.7	5.4	6.8	7.5	6.0	7.3
	Hard to say	26.5	29.8	25.5	37.1	28.2	25.8	31.0	28.9	37.7	27.2	34.1
Attempts of local authorities to bar control of public organisations over their actions	This happens always	8.1	19.9	17.2	15.4	14.4	14.4	15.8	16.5	17.5	17.1	14.6
	This happens often	31.5	31.2	39.3	25.8	32.3	35.9	31.9	28.7	26.0	31.2	30.4
	This happens seldom	22.7	14.1	11.9	12.4	15.0	14.1	16.1	15.4	13.8	15.8	14.0
	This never happens, or happens very rarely	14.6	8.7	3.3	6.4	7.7	11.2	7.5	9.3	7.0	8.4	8.2
	Hard to say	23.1	26.1	28.3	40.0	30.6	24.4	28.7	30.1	35.7	27.5	32.8
Attempts of local authorities to put local media under control, bar their criticism of the authorities	This happens always	7.0	18.0	17.2	17.4	16.4	15.8	16.6	13.3	15.3	16.5	14.9
	This happens often	29.6	31.8	36.3	28.2	33.0	32.5	32.4	30.8	26.7	31.5	30.3
	This happens seldom	26.8	14.4	14.2	11.5	15.5	16.1	14.5	18.3	15.5	16.9	14.8
	This never happens, or happens very rarely	13.5	9.2	3.6	8.5	8.6	12.4	8.0	7.9	8.3	8.9	9.1
	Hard to say	23.1	26.6	28.7	34.4	26.5	23.2	28.5	29.7	34.2	26.2	30.9
Involvement of police and public prosecution officers in the activity of criminal structures	This happens always	11.1	15.4	14.9	14.5	16.9	15.2	13.4	11.9	13.3	14.3	14.3
	This happens often	31.1	28.4	35.1	23.2	25.9	29.3	33.1	28.8	25.6	31.2	25.9
	This happens seldom	20.7	15.0	15.2	13.9	17.1	17.2	12.9	18.3	14.4	16.1	15.4
	This never happens, or happens very rarely	14.2	7.5	4.6	9.9	8.4	9.8	9.6	8.6	9.4	8.8	9.4
	Hard to say	22.9	33.7	30.2	38.5	31.7	28.5	31.0	32.4	37.3	29.6	35.0
Implication of state servants in economic crimes	This happens always	5.7	15.7	19.1	13.0	12.6	12.0	15.0	12.9	14.0	14.0	12.9
	This happens often	34.4	26.5	37.0	22.5	28.5	29.8	27.9	32.6	25.2	31.0	26.0
	This happens seldom	23.4	15.4	8.6	11.5	16.2	16.3	13.7	16.5	12.1	14.7	14.6
	This never happens, or happens very rarely	10.9	7.5	4.3	6.7	8.4	7.4	6.2	8.2	7.0	7.0	7.7
	Hard to say	25.6	34.9	31.0	46.3	34.3	34.5	37.2	29.8	41.7	33.3	38.8
Involvement of state servants in the activity of organised criminal groups	This happens always	5.2	14.2	12.3	10.3	10.4	10.6	12.1	8.6	11.6	11.1	10.7
	This happens often	23.6	22.7	26.2	16.3	22.8	20.1	20.9	24.7	19.4	22.8	20.1
	This happens seldom	22.1	14.8	13.6	16.2	16.9	20.7	16.0	20.4	11.8	18.2	15.1
	This never happens, or happens very rarely	15.6	10.2	7.3	11.2	11.8	12.9	11.4	8.6	10.7	11.0	11.3
	Hard to say	33.5	38.1	40.6	46.0	38.1	35.7	39.6	37.7	46.5	36.9	42.8



What hinders fighting political corruption in Ukraine the most?*
% of those polled



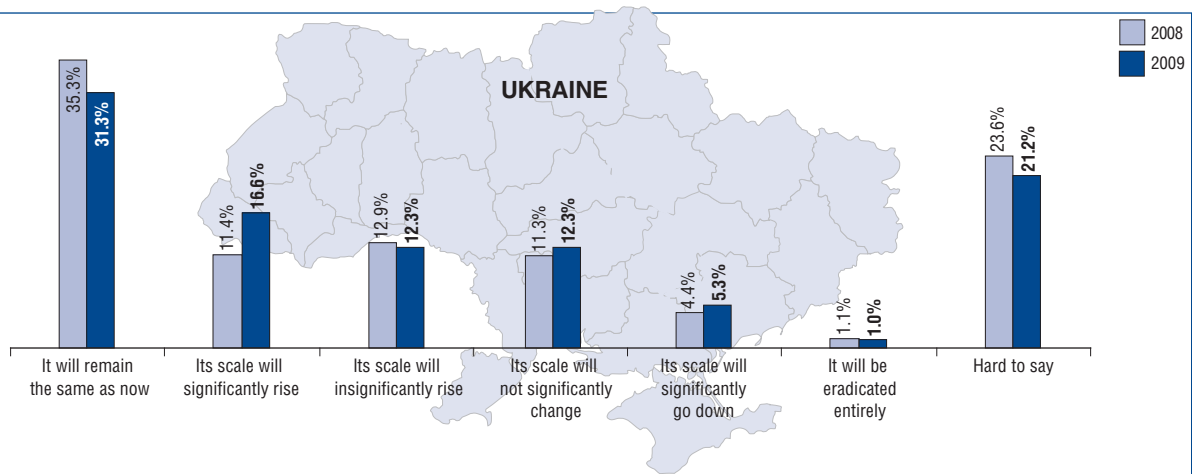
* Respondents were supposed to give not more than three acceptable answers.

Which measures would be the most effective to fight political corruption in Ukraine?*
% of those polled

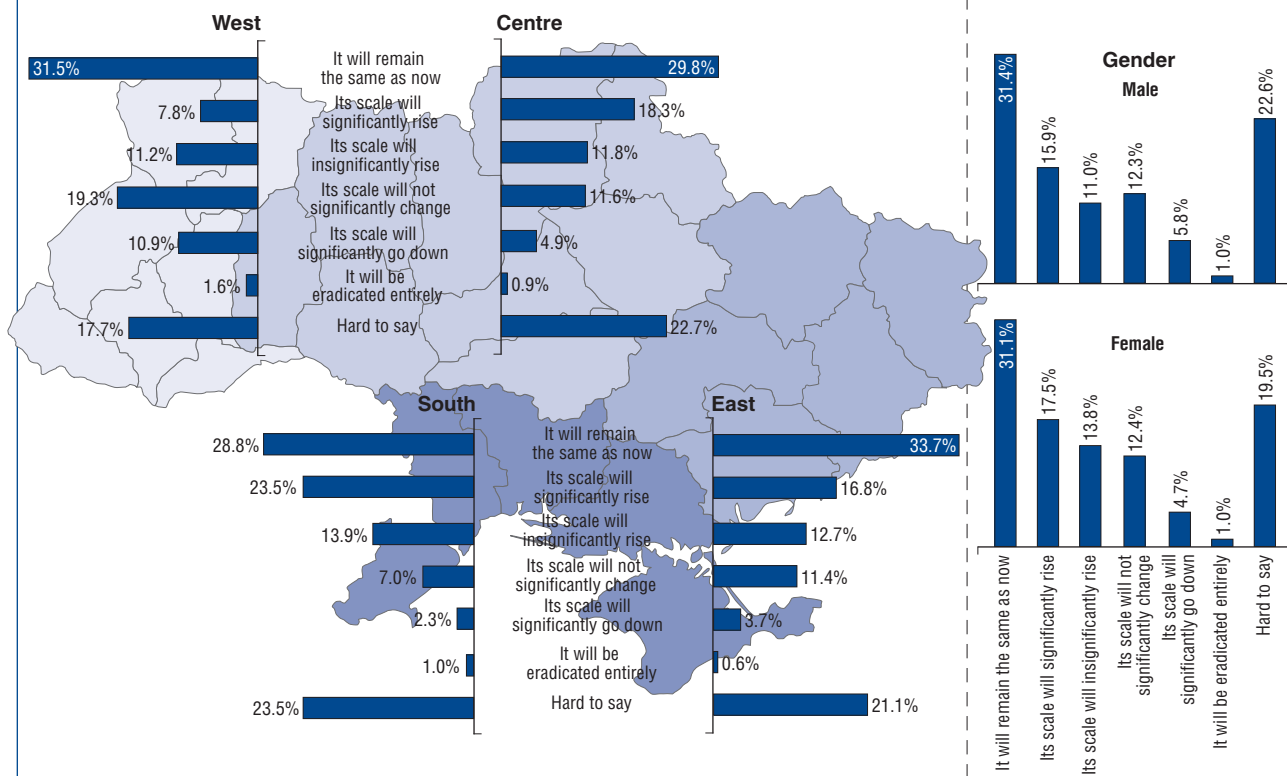
	UKRAINE		Regions (2009)				Age (2009)					Gender (2009)		Employment status (2009)			Education (2009)		
	2008	2009	West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant	Junior secondary	Secondary or secondary vocational	Higher or incomplete higher
Simplification of the procedure of bringing top officials to responsibility for corrupt acts (simplification of the procedure of presidential impeachment, cancellation of immunity of MPs)	45.4	42.0	32.8	43.7	40.9	46.0	39.2	42.8	43.0	45.3	41.6	43.3	41.0	43.5	48.0	41.5	35.5	43.1	41.8
Establishment of stricter punishment for corrupt acts	34.0	36.1	34.9	36.9	38.4	35.1	33.4	36.2	37.5	37.3	36.8	35.4	36.7	40.0	38.6	36.4	39.6	35.9	35.2
Cancellation of immunity of judges	31.2	35.2	39.6	30.6	38.9	35.5	34.8	34.5	35.7	35.5	35.5	36.2	34.4	29.8	47.2	34.8	30.6	35.9	35.2
Enhancement of control over observance of the legislation on funding political parties, tougher responsibility for its violation	25.7	24.4	27.6	25.7	26.2	20.5	26.3	28.2	24.0	24.4	20.8	22.3	26.1	23.5	27.0	24.4	16.8	26.6	22.7
Obligatory declaration of property, incomes and expenditures by top officials and their close relatives	21.7	24.3	27.3	20.6	31.7	22.8	25.0	26.7	20.2	26.5	24.1	24.2	24.4	18.8	32.3	23.9	17.3	24.7	26.0
Establishment of an anticorruption agency independent from other branches, tasked to fight corruption within the highest institutes of governance	20.1	21.0	23.4	26.1	13.5	18.1	21.2	21.6	22.2	22.6	19.0	22.3	20.0	12.9	16.7	21.6	16.8	20.5	23.5
Reformation of the election system, in particular, refusal from election by closed party lists	11.7	14.0	8.3	18.2	11.9	14.1	12.8	14.1	15.0	18.3	12.0	14.4	13.7	11.9	14.3	14.1	11.2	14.1	14.5
Stricter control by international organisations where Ukraine is a member or which it wishes to join over implementation of commitments of fighting corruption assumed by the Ukrainian authorities	14.4	11.8	8.3	12.2	14.9	11.8	15.5	9.5	13.2	10.4	9.9	13.3	10.6	10.6	11.8	11.9	6.6	12.6	11.7
A more irreconcilable attitude of citizens themselves to instances of political corruption	10.0	11.1	9.4	8.3	16.5	12.6	12.6	12.4	10.1	10.4	10.1	12.4	10.1	12.9	7.9	11.2	11.7	11.1	11.1
Obligatory reaction of law-enforcement bodies to media publications about facts of political corruption	8.0	9.6	14.6	13.5	8.6	3.4	10.6	10.1	8.5	9.0	9.4	10.4	8.9	8.3	2.4	10.0	11.7	9.3	9.6
Development of the anticorruption NGO network, growth of its influence	6.4	8.8	8.9	10.4	7.6	7.5	10.6	10.3	7.5	9.3	7.0	8.5	9.1	9.4	4.7	9.0	8.7	8.5	9.2
Other	0.8	3.5	1.8	2.8	3.6	5.2	2.0	3.2	5.2	3.2	3.9	4.2	2.9	7.1	2.4	3.5	4.1	3.3	3.7
Hard to say	8.7	7.7	10.4	4.9	8.6	8.5	7.5	4.3	7.0	4.3	12.3	5.9	9.2	4.7	5.6	7.9	16.8	6.7	6.8

* Respondents were supposed to give not more than three acceptable answers.

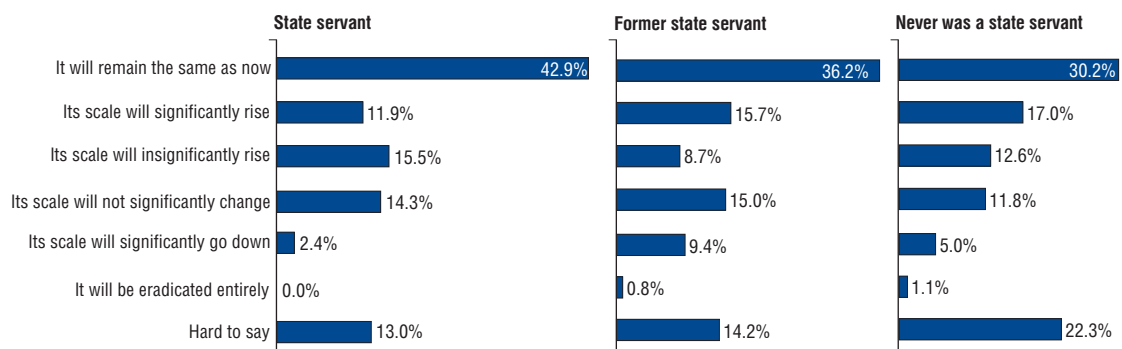
What will the state of political corruption in Ukraine be like in three years?
% of those polled



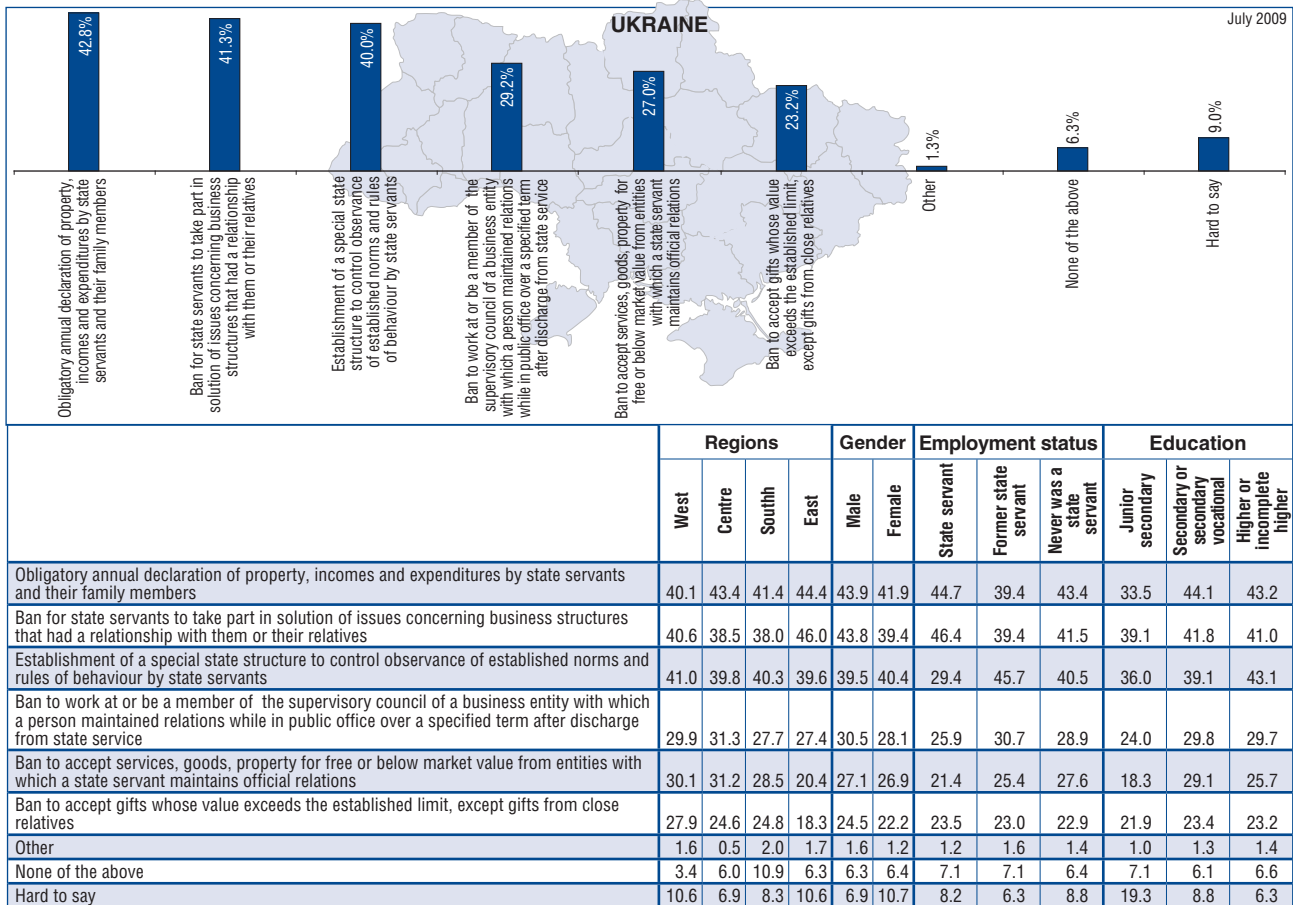
July 2009



Employment status

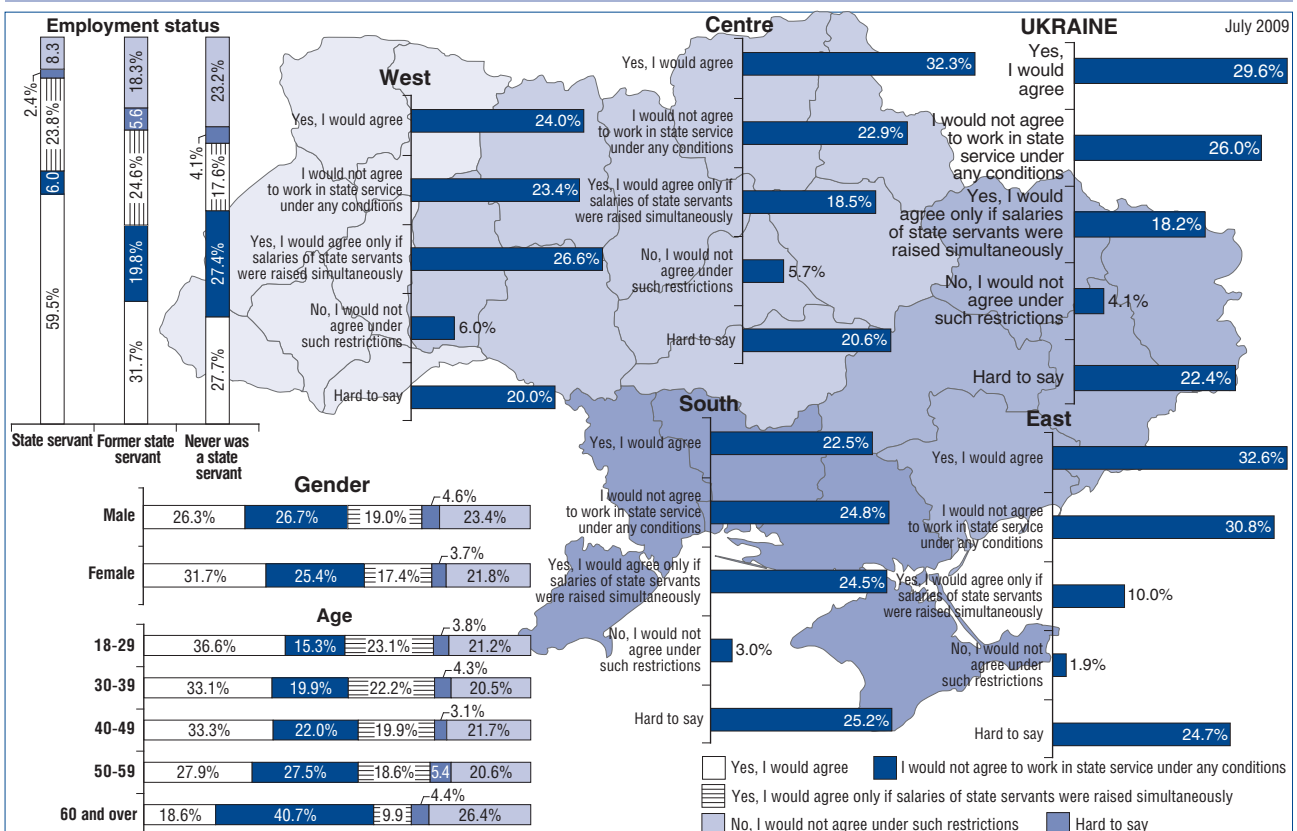


Which of the following is the most effective for separation of power from business (i.e. to bar use of powers by state servants in private business interests)?*
% of those polled

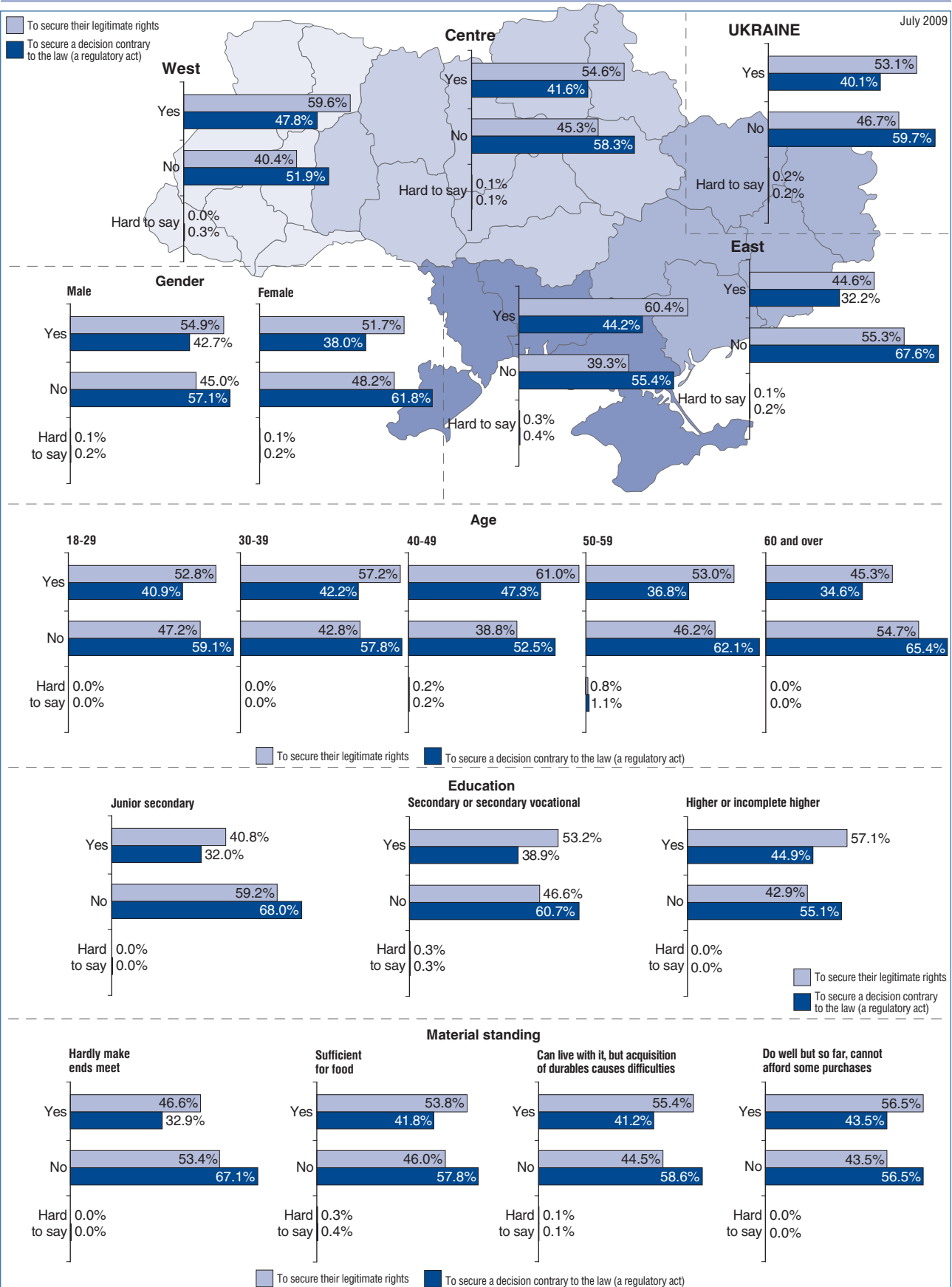


* Respondents were supposed to give not more than three acceptable answers.

Would you agree to work in state service if the above restrictions for state servants were in force?
% of those polled

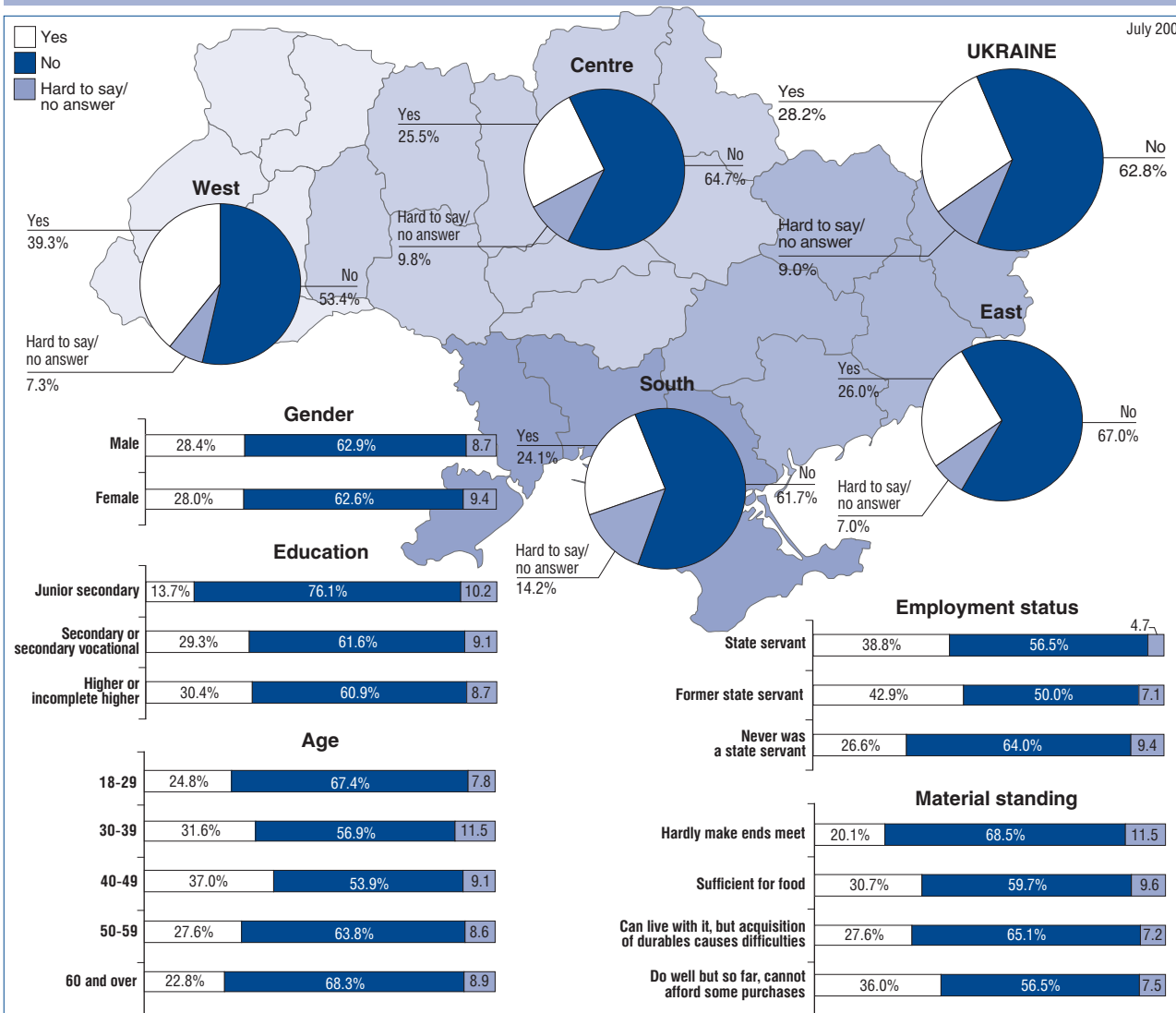


**Do you know specific cases with your friends when to secure their legitimate rights
or a decision contrary to the law (a regulatory act),
a bribe was to be given to a state servant?**
% of those polled



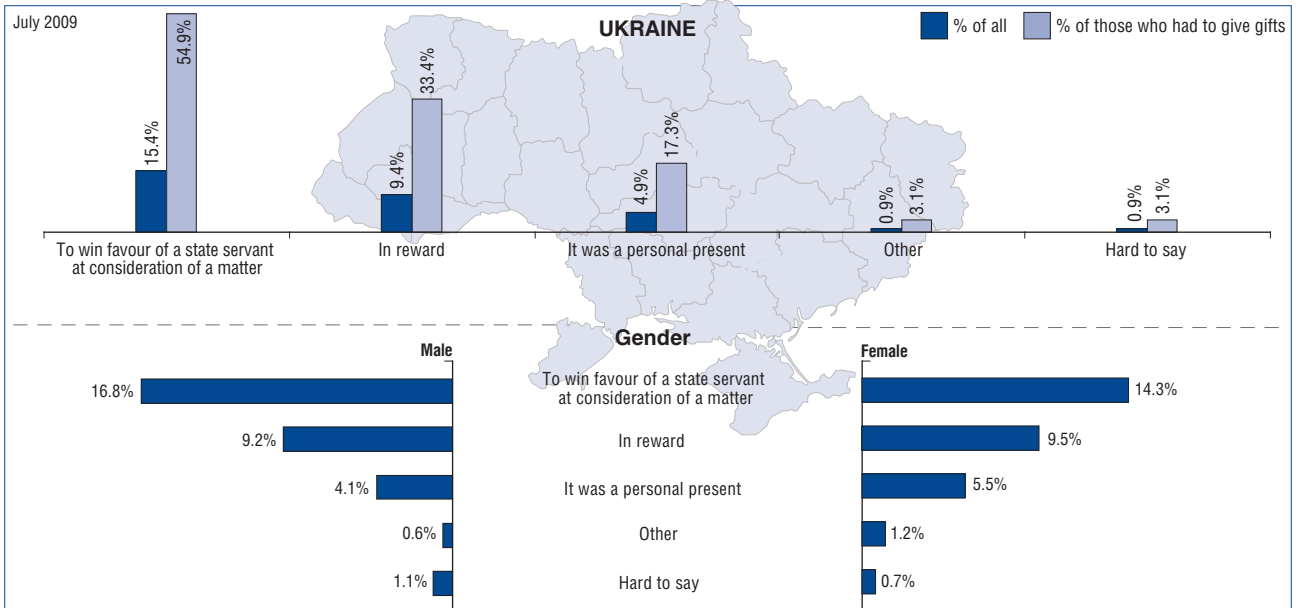
Have you ever had to give gifts to state servants? % of those polled

July 2009



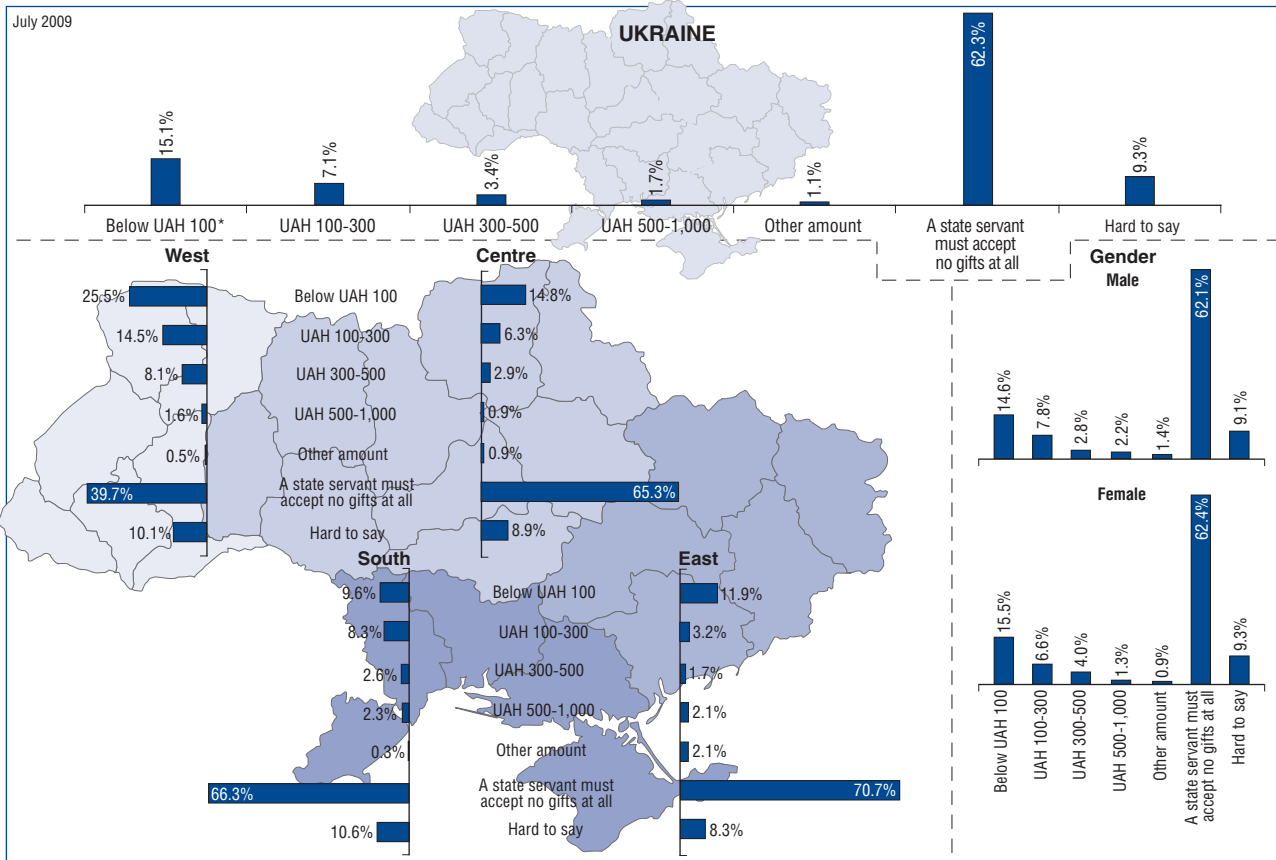
Why did you give gifts to state servants?*

% of those polled

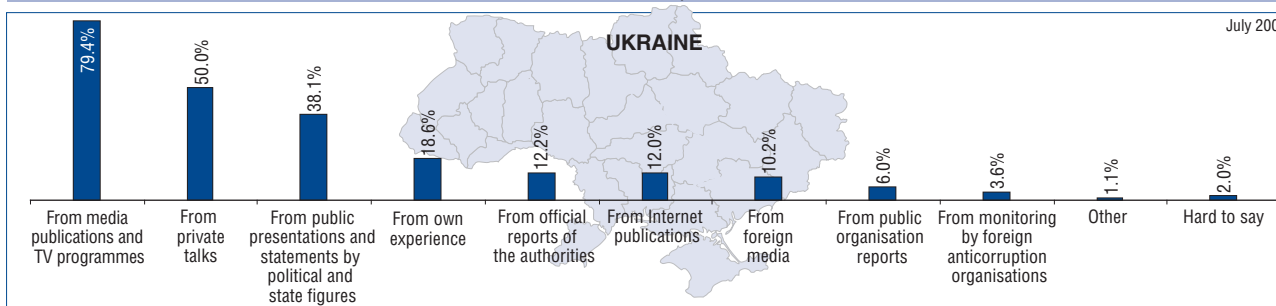


* Respondents were supposed to mark all acceptable answers.

What should the maximum price of a gift to a state servant be (including birthday presents, except gifts from close relatives) for such gift not to be considered a sign of corruption? % of those polled



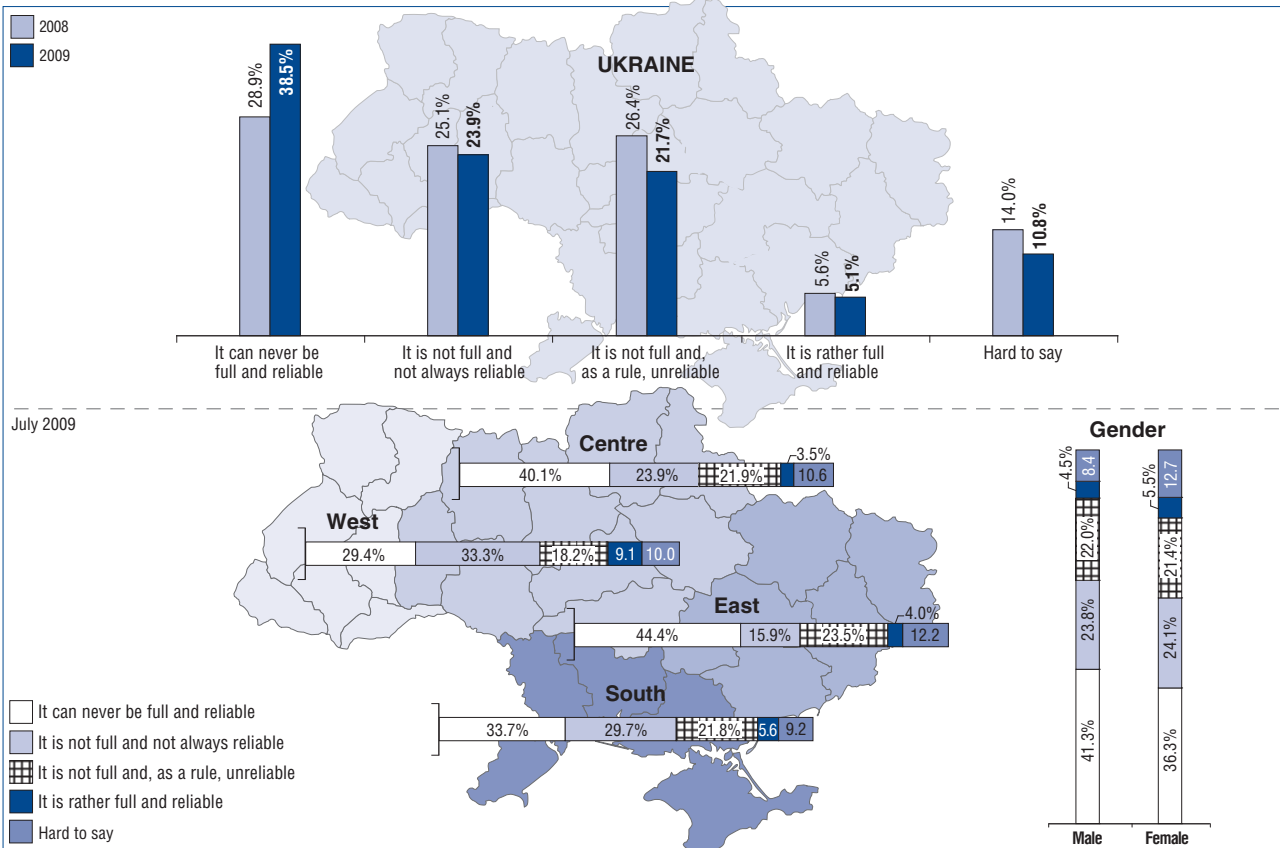
From what sources do you usually get information about political corruption?*



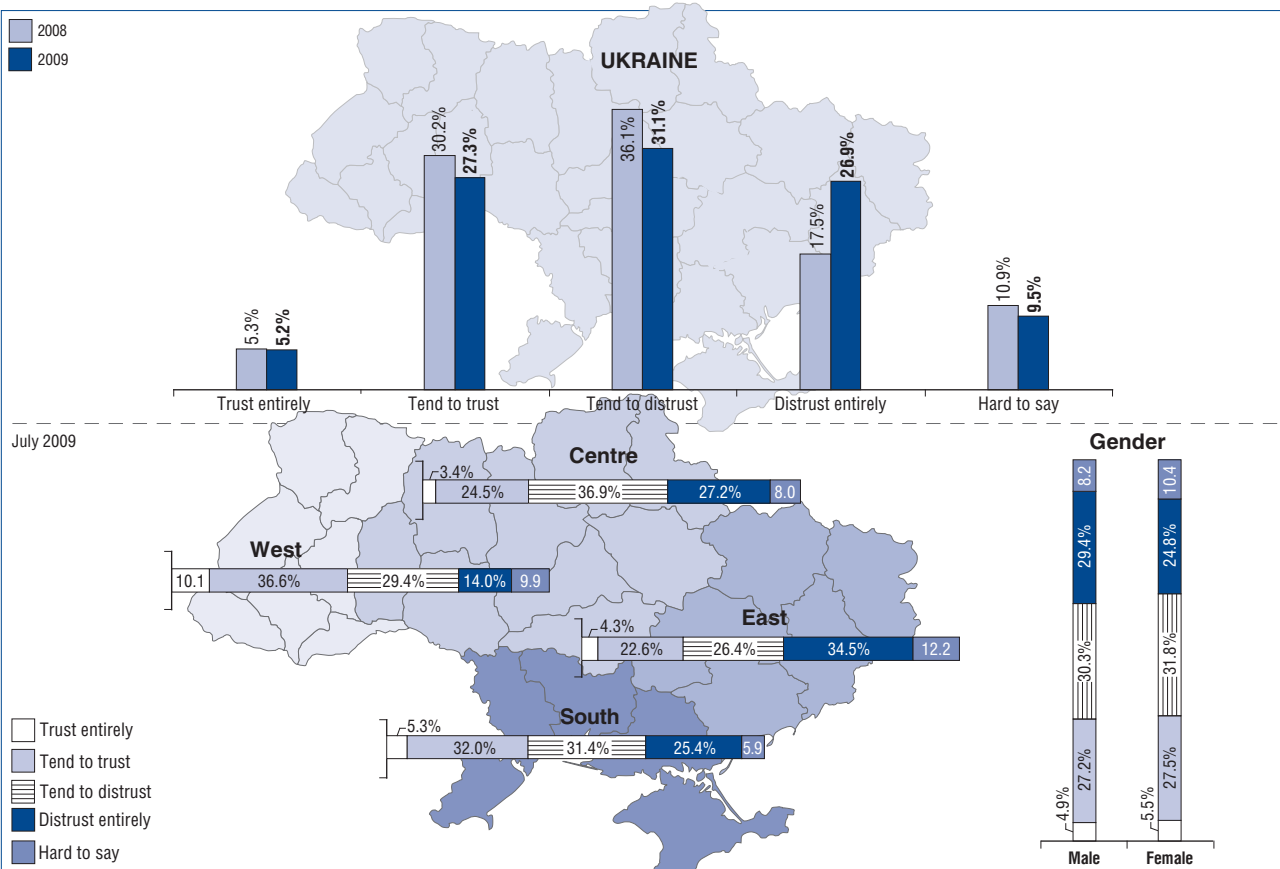
	Regions				Age					Gender		Employment status			Education		
	West	Centre	South	East	18-29	30-39	40-49	50-59	60 and over	Male	Female	State servant	Former state servant	Never was a state servant	Junior secondary	Secondary or secondary vocational	Higher or incomplete higher
From media publications and TV programmes	80.5	75.2	82.8	81.4	76.7	79.3	79.8	84.2	79.0	79.8	79.1	76.2	71.7	80.5	77.2	82.2	74.9
From private talks	52.9	51.5	53.3	45.3	52.7	48.6	47.7	49.1	50.8	49.8	50.3	42.4	48.0	50.3	40.3	51.9	49.4
From public presentations and statements by political and state figures	45.1	31.2	47.5	36.6	38.1	37.9	38.0	39.1	37.8	39.0	37.4	44.0	38.9	37.6	35.0	38.4	38.7
From own experience	27.3	18.2	21.9	12.6	15.9	23.0	23.1	17.9	15.3	20.5	17.1	12.9	29.1	18.0	9.2	18.5	21.7
From official reports of the authorities	11.7	9.5	14.6	14.1	11.1	12.1	14.0	12.9	11.6	11.7	12.7	16.7	21.4	11.3	8.7	11.6	14.5
From Internet publications	12.2	10.7	18.5	10.2	23.9	15.5	10.9	7.9	2.8	14.3	10.2	23.5	12.6	11.5	1.0	8.8	21.7
From foreign media	13.0	6.9	14.9	9.7	13.9	10.6	9.8	10.0	7.2	11.1	9.5	17.9	18.3	9.1	2.0	9.3	14.5
From public organisation reports	6.0	4.6	6.9	7.2	6.0	7.2	5.7	7.2	5.0	7.1	5.1	3.6	10.3	5.9	1.5	5.3	8.7
From monitoring by foreign anticorruption organisations	3.4	1.7	5.6	4.7	3.3	6.0	3.9	3.2	2.4	5.0	2.5	3.5	4.0	3.6	1.0	2.5	6.6
Other	0.5	0.3	1.7	1.8	0.9	0.6	1.3	1.1	1.3	1.3	0.8	1.2	0.0	1.0	2.0	0.7	1.4
Hard to say	0.8	3.2	0.7	1.9	1.3	2.0	1.8	0.7	3.1	1.8	2.1	4.8	3.9	1.6	4.6	1.3	2.4

* Respondents were supposed to mark all acceptable answers.

How full and reliable is the information about political corruption in Ukraine you get?
% of those polled



To what extent do you trust the information about political corruption in Ukraine you get?
% of those polled



POLITICAL CORRUPTION: ESSENCE, FACTORS, COUNTERMEASURES



Mykola MELNYK,
Legal expert

Corruption as a social phenomenon has a clear political tint: on one hand, it is a product of the authorities' activity, on the other – it directly influences formation and operation of the governance institutes, and largely shapes the essence of public authority.

Since public authority by itself is primarily a political institute, corruption as a form of abuse of that authority is primarily a political phenomenon. Under such approach, it may be said that any corrupt acts committed by representatives of state power or local self-government bodies have a political meaning and may be considered political corruption.

Meanwhile, it makes sense to distinguish a specific category of corrupt acts, for its “special political essence”, i.e., to distinguish a specific kind of corruption – political. Its rationale is attributed to three main factors: the status of corrupt offenders, the thrust and motives of their unlawful activity, and the nature of its effects. Distinction of political corruption is also necessary for informed understanding of the social essence of corruption as a phenomenon and enhancement of the effectiveness of its fighting.

Actors of political corruption

By the status, termed as actors of political corruption may be the persons immediately involved in formulation and implementation of the state policy in different sectors and on different levels.

On the national level – first of all, state and political figures, including the head of state, heads and members of supreme bodies of state governance, heads of central executive bodies, MPs, leaders of political parties. That category of actors should also include heads and members of state bodies that do not belong to any branch of state power and, possessing a constitutional status, act as independent bodies (the Central Election Commission, the Higher Council of Justice, the Accounting Chamber, etc.). Proceeding from the legal status and actual influence on the exercise of powers by state and political figures, actors of political corruption may also include state servants of the first and, to some extent, second categories (such as deputy ministers and heads of other central executive bodies, advisors and aides to top officials).

On the regional level (province, city), such actors may include heads of local bodies of state power and local self-

government bodies, as well as members of regional and city councils, that is, those tasked to provide support for implementation of the state policy on the regional level. Reference of those persons to actors of political corruption is rather conventional, since they are not politicians. However, they represent the state power in a region or city and are the main bearers of the state policy in the country's regions.

Hence, such (political) status of said persons *a priori* imparts their corrupt acts a political nature, even if they are committed with purely personal (not political) motives. In that case, the official status of the offender is decisive, as it envisages his possession of political and/or huge executive (public) resources. Due to the possibility of unlawful use of political and state powers, political corruption may be considered a specific form of power abuse. Political corruption entails (unlawful) exchange of political and public resources for resources of a different kind: political support, material wealth, other personal and political benefits.

Depending on the actors, the sphere of political corruption may be identified – it is the sphere of politics and the top level of state and regional governance.



Goals of political corruption

Another indicator of political corruption is presented by political trend of corrupt offences. Political corruption involves clearly politically motivated acts. In a wide sense, political corruption may be defined as abuse of power for political goals (at least, such goals should prevail over others). Such *goals* mainly include: (1) obtaining power; (2) its keeping, strengthening or enhancement (expansion of powers).

Another goal (secondary or primary) of political corruption may lie in enrichment or other material benefits. The world and domestic experience proves that in most cases that goal still remains the key objective of corrupt politicians, for whom political and state power is only a means to satisfy personal interests. I.e., the end result of the activity of politically corrupt officials lies in conversion of political and administrative resources they possess into material values and other personal benefits. In fact, there is only one thing that differs them from other corrupt officials – the scope and scale of administrative capabilities for personal enrichment and other benefits.

Corrupt officials can obtain (and keep) political power, expand administrative powers and illegally enrich themselves through most varied unlawful corrupt acts.

Power (political influence) is taken in a corrupt way mainly in course of formation of state power bodies and other political structures of the state. The same may be achieved through redistribution of powers at passage of laws and other legal acts (e.g., giving an official or a body powers not granted to them by the Constitution or legal status). In fact, it deals with unlawful appropriation of state power, its seizure through appointment of “own people” to political and state posts, building the system of governance not on democratic and lawful principles but on the basis of personal devotion and political affiliation. This results in a situation where political and state institutes, formally preserving their public status, are in fact used in the interests of separate persons and certain political forces (Parliament passes laws favouring a certain political force; the Government passes decisions to the benefit of some business structure; a city council allots land or grants/leases out property to a “required” person or entity).

If some actors of governance in a corrupt manner appropriate powers not delegated to them, assume ruling functions not intrinsic in them, concentrate in their hands state power breaking the legal principle of division of power, they in fact usurp power.

In the executive branch this primarily takes the form of payment for posts (purchase and sale of posts), appointments not on the basis of a candidate’s performance but solely (or mainly) on political and personal grounds. This way of formation of the executive branch in Ukraine is facilitated, in particular, by the absence of political responsibility for human resources management and no competition at appointment to the top executive posts on the state and regional levels, along with very poor public control of the executive branch.

There is a wide range of corrupt methods that may be used at formation of the judicial branch. In particular, they include bribery during selection of candidates for the positions of judges, their passage of qualification commissions and the Supreme Council of Justice, at election of judges for an indefinite term. Politicisation of

the process (in particular, political bias of the Supreme Council of Justice, prevalence of the political component in the activity of the concerned parliamentary committee and Parliament in general) enable enhancement of the influence of political corruption on the formation of the corps of judges. This is witnessed by instances when judges were not indefinitely elected or were dismissed for evidently political reasons (of course, disguised under formal legal pretexts), as was the case, in particular, during the political crisis of 2007.

Corrupt influence on the formation of representative bodies results in violation of fundamental principles of organisation and conduct of elections:

- illegal funding of political parties and election campaigns;
- bribery of voters, candidates, members of election commissions, representatives of the authorities;
- “purchase and sale” of parliamentary seats by payment for “likely-to-pass” ranks in election lists of parties (blocs);
- abuse of powers during canvassing; falsification of election results;
- obstruction (and even barring) of the right to elect and be elected.

Bribery and use of the administrative resource (both essentially being manifestations of corruption) emasculate the essence of elections and produce the result needed for the ruling team. In fact, representative bodies are no longer formed by the people but produced by the authorities themselves instead. In that way, it is the authorities who decide the result of elections – at the final stage, it is recorded by election commissions formed by them, and ensured during the election process by all state and public institutions, including law-enforcement bodies influenced by the authorities.

The election process in fact follows the rules practiced by society. If Ukrainian society has long lived under the rules far from lawful, if it cultivated the law of power, dual standards of behaviour, grey business, bureaucratic arbitrariness, etc., the same rules and approaches were applied in the election process, specifically, in 1999, 2002 and especially in 2004. More than that, political corruption is practiced at elections not at random, not spontaneously – falsification of election results is preceded by the authorities’ insistent attempts to restrain society, curtailment of democratic principles of its operation, political persecution of the opposition, monopolisation of the economy and its going grey, growing dependence of mass media and the judicial branch.

Such was the case in Ukraine for many years, especially showily – before and during the presidential elections in 2004. Those elections differed from previous (e.g., in 1999 and 2002) not by their essence but by the scale, nature and methods of falsifications. For the first time, falsification of elections bore a systemic, total and aggressive character. At those elections, falsification (in the wide sense) ceased to be a local and spontaneous matter but was organised on the state level, employing its key institutes. The whole state machinery worked to produce the desired result of the elections.

The present scale of political corruption, huge problems with civil society development and building a law-ruled state witness that the danger of falsification of election results persists.



Summing up the examined goals of political corruption, it may be concluded that the main tasks underlying the whole basic activity of corrupt authorities are self-enrichment, self-preservation and consequent organisation of public life.

Notion of political corruption

Having identified the essence of political corruption, lying in the abuse of power in the process of getting and exertion of public authority, along with its actors, goals and sectors, we may produce the general definition of political corruption.

Political corruption means abuse of office by actors vested with political power (political and state figures, public servants of the top level), aimed at attainment of political goals (keeping and entrenchment of power, expansion of powers) and/or at enrichment.

It should be noted that the definition of political corruption makes sense only from the viewpoint of its perception as a specific socio-political phenomenon, identification of the reasons and conditions facilitating its spread, and planning of general, social and special, criminological measures at its countering and prevention.

Meanwhile, such definition is insignificant from the legal viewpoint, namely – for establishment of legal grounds for responsibility of corrupt politicians. After all, grounds for legal responsibility for corruption are the same for all actors – presence of elements of the relevant corrupt offence in their actions (taking bribes, abuse of authority, plunder by abuse of official position, unlawful support for business activity, illegal interference in the work of other official persons or bodies, breach of oath, etc.) that, dependent on the character of such offence, involves criminal, administrative, constitutional, disciplinary or civil responsibility.

In other words – no special or additional legal grounds are needed to bring corrupt politicians to legal responsibility. In most cases, there is no special procedure of bringing them to such responsibility either – one exception being the persons that have some immunity against criminal or administrative responsibility (e.g., the President, MPs, city mayors).¹

The fact that corrupt politicians, as a rule, avoid legal responsibility has one explanation – their official status, political, administrative and financial influence, that, in absence of the law-ruled state and developed democratic society, neutralise actions of law-enforcement bodies and courts against actors of political corruption. More than that, in such situation, corrupt politicians can use law-enforcement bodies and courts for their unlawful goals (including in political struggle for power) and dispatch law-enforcement officers detecting and investigating their corrupt acts.

It may be said that political corruption tops the corrupt pyramid of power. By contrast to so-called “small-scale” corruption, specific of the lowest level of public service, dealing with issues insignificant for the public, political corruption is inherent in the activity of the most influential political and state actors shaping the state policy on the

level of laws and other legal acts, and deciding the lines and methods of its implementation.

So, it may be concluded that political corruption presents the determinant of corrupt processes within the state. Since it is inherent in actors generating the factor fundamental for state-building – political will, the degree of their affection with corruption determines the essence and content of the state policy in all domains of public life, including in the field of fighting corruption. The current state of affairs in the country, the main trends and prospects of political, economic and social development, results of fighting corruption (or, rather, their absence) also give grounds for the conclusion of the extremely high, critical level of corruption of the actors personifying political (state) power in Ukraine.

Political effects of corruption

Effects of political corruption are seen mainly in the political sector and lie in that it: changes the essence of political authority, impairs its legitimacy both within the country and beyond its borders; breaks principles of formation and operation of the institutes of governance, democratic fundamentals of society and the state; undermines the political system; brings estrangement of the authority from the people, reducing dependence of the state on its citizens; destabilises the political situation; subordinates state power to private and corporate interests, including interests of corrupt groupings and clans.

Figuratively speaking, corruption turns all functions of the state and exertion of public authority upside down: power, whose bearer and the only source is the people, is used not in the interests of entire society, not in the interests of the people but in the interests of separate persons or a group of people. In other words, corruption involves employment of public authority in private interests. A corrupt person or other persons in whose interests a corrupt act is committed, unlawfully (by bribery, in violation of the established procedure, in absence of grounds for that, etc.), exceptionally through unlawful use of granted powers or official duties by a corrupt actor, get certain gains, preferences, advantages or other benefits.

With the extreme spread of political corruption, state governance far departs from democratic principles and easily comes into the hands of corrupt officials, with their simplistic idea of authority, its essence and social destination, their own official status, viewed as a means to secure personal interests. Rank-and-file citizens and representatives of the authorities are changing their idea of the role of public authority in society management.

Corruption results in the shift (deformation) of the main policy goal – instead of securing public interests, policy pursues attainment of private and group interests.

Systemic political corruption substantially weakens the state (which we now see in Ukraine). It undermines respect for the state, makes people mistrust political authority. Citizens see the authorities not as an exponent of their interests and their defender but as a source of danger for their rights and freedoms. And such is the case, indeed: today, the greatest threat for the Ukrainian statehood,

¹ It should be noted however that such immunity is necessary in Ukraine, since, first, it enables the state activity by the President, MPs and city mayors, protecting them from political persecution, second, in a civilised state, such immunity cannot be an obstacle for accountability, in presence of sufficient legal grounds for that.

legal and democratic principles of its development, constitutional rights and freedoms of citizens is posed by the corrupt authorities.

Spread of political corruption

Political corruption poses problem No. 1 for the country development. Long enough (roughly, since mid-1990s), it has been exerting decisive influence on all key processes – economic, political, social, legal. All the key problems now faced by Ukraine mainly have a corrupt origin.

Now, few people doubt that policy in Ukraine is formulated and implemented, proceeding mainly from the personal interests of the key political actors – the head of state, heads of supreme bodies of state power and political parties, council members, actual “masters” of political entities (parties, factions). Therefore, it contains in its very basis a corrupt element, ever deeper rooted in Ukrainian politics.

Inability to find a political compromise or political solution of an urgent social problem, endless treason, permanent cheating of political partners, political persecution of opponents using punitive bodies, betrayal of national interests in strategic sectors (e.g., energy), passage of evidently lobbyist state decisions, resort in political activity to bribery as a method of attainment of political goals – all this proves that bearers of political power are guided by the desire to get personal benefit (material or political, later also converted into material).

Political corruption is so widely and deeply embedded in the national political activity that the leading figures of the present political community, even if they wish (which is not the case), will find it very difficult to bail out of the web of political corruption, making their political activity fair and legal.

First, it may be reasonably assumed that many actors came and still come to politics using corrupt links and means. And judging by the actual state of affairs in the country, this trend is on the rise.

Second, essentially corrupt relations and rules of conduct get ever more spread in politics. The scale, nature and influence of corrupt processes on public life witness that:

- corruption has become a systemic element of state governance, and the present so-called political elite cannot effectively solve urgent social problems in the interests of society;
- the political structure of the state is largely built and rests on corrupt ties and relations; political and state figures in their everyday activity regularly resort to means that may be directly or indirectly deemed corrupt.

A great deal of the state machinery works like that. If those means are removed from the political and state activity, that machinery will fail – it will require their immediate replacement with other, legitimate means.

Such replacement requires either the replacement of the current bearers of political power, or amendment of the present rules of political activity. Its need is objectively required – the existing social problems can be solved only through radical changes, first of all, of the anticorruption trend. The absence of the required key changes (in the

political, economic, social, legal sectors, etc.) led to the grave political crisis, obstructed positive developments in the country.

Changes are not made mainly for personal reasons. *First*, none of the current bearers of power is eager to part with it voluntarily, neither are they willing to let a new political generation to the political “pool”. *Second*, life of many of the current “high and mighty” under different rules (that is, in all fairness and according to the law) will mean the end of their political career and the status of political outcasts.

Nevertheless, they must realise that an exodus of corrupt relations bearers from politics and establishment of legitimate rules of conduct in politics and other sectors are imminent. Attempts to mark time only complicate the general political situation and the country’s future. Furthermore, this may lead to the situation where settlement of the problem can take not evolutionary but revolutionary forms – as it happened, say, during the presidential elections in 2004, when political corruption (in particular, in the form of mass falsification of the election results organised by state actors) was one of the main drivers of the social crisis and public movement in defence of election rights – the Maydan.

In today’s Ukraine, corruption hit all sectors of formulation and implementation of the state policy, all branches, all state bodies without exception. The main danger however stems from politicisation of corruption – it becomes intrinsic in the key centres of political and state decision-making, determinant for functioning of public authority, distribution and use of public resources (funds, land and other immovable property, state orders, investments, etc.), implementation of the principle of the rule of law, establishment of social justice.

Factors of political corruption

Political corruption in Ukraine enjoys highly favourable conditions for growth and enhancement of influence on public life. This process is facilitated by a set of political, economic, organisational and managerial, legal, ideological, moral and psychological factors.

If we speak only about the key factors of political corruption, at the current stage of the country development they mainly include the following.

Political instability. It is manifested, in particular, in the instability of the main existing political institutes, involving ineffectiveness of their operation, substitution of legal principles of activity with political expediency. Such instability and its “protracted” course are especially evident in the “political war”, waged not only and even not as much against (formal) political opponents as against political allies (also formal). Such war *a priori* involves unlawful use of powers and systemic abuse of authority in political and personal goals, making the essence of political corruption.

Absence of political reforms and their faulty ideology. *First*, reforms needed by the country are not regularly implemented. *Second*, episodic and selective changes are not socially motivated and oriented – they have mainly personal motivation and pursue personal or narrow party (corporate) interests of the key political actors (getting and keeping state power, expansion of powers, and various gains of staying in power – hence, those interests actually entirely coincide with those inherent in political corruption).



This explains the long and tough political struggle “without rules” and imparts the corrupt component an important role in that process, as without it, an unrighteous war cannot be won (this refers, in particular, to unlawful funding of political campaigns, employment of the administrative resource for that purpose, use of law-enforcement bodies for persecution of political opponents, unlawful influence on courts, including Constitutional).

As a result, escalated political problems are either not solved at all, slowing down society development, or are solved in an inadequate and legally inadmissible way (in particular, through bribery of politicians, judges, passage of unlawful decisions), encouraging further spread of political corruption and complicating the socio-political situation in the country.

Imbalance of functions and powers of branches and breach of the principle of division of state power. The existing imbalance in powers of different branches stems from the unaccomplished political system of the state, continued attempts of its leaders to get additional powers. For a whole decade (1994-2004), Ukraine witnessed a trend towards unreasonable elevation of the executive branch over the other two, descent of the legislative branch, immaturity of the judicial branch, not strong and independent enough. The trend was largely formalised and continued by the Ukrainian Constitution of 1996 that substantially cut the powers of Parliament, in particular, in the field of parliamentary control. In course of regulation of the political crisis in 2004, accents in political influence were shifted towards Parliament and the Government, which seems to be barely tolerated by the current President. This led to another round of struggle for powers bordering on attempts, by way of accomplished fact, contrary to the Constitution, to appropriate powers that cannot be vested in the concerned official or body by their status or already ruled unconstitutional by the Constitutional Court. In this connection, one should just recall provisions of the Law “On Cabinet of Ministers of Ukraine” or the Bill “On Judiciary and Status of Judges” submitted for the second reading, whose provisions conflict with at least 30 provisions of Ukraine’s Constitution.

Regarding the problems of establishment and development of the judicial branch, that process sees serious conflicts, irregularity, incompleteness, and at the current stage – also, insistent attempts to legislatively establish control over courts, get extra tools of influence on their rulings, politicise the judiciary.

Departure of the main political actors from democratic principles. The Ukrainian reality already sees signs that the democratic way of formation and operation of bodies of power is replaced with authoritarian and/or corrupt methods (during elections, appointment/election to official posts, passage of critical decisions). There are cases of organised information blockade of publicly important events that involve criticism of the current authorities. So far, all this seems irregular, but with toughening political struggle, recurrences of the information policy of 2003-2004 may well come back.

On top of all, control of mass media and PR manipulations can bring to nought anticorruption efforts in the policy domain.

Let alone other factors of political corruption (not less important than political), it makes sense to dwell upon one more thing. We mean the factor being legal, social, political and psychological at a time and dealing with escape from criminal responsibility by ideologists and sponsors of large-scale political corruption that took the form of unprecedented abuses and falsifications at presidential elections in 2004 and was actually aimed at seizure of state power in a corrupt way. Such escape became possible, because despite great many criminal cases brought for falsifications at those elections against immediate doers (over 1,500), the investigation failed to reach the top level of organisation of election results falsification. The likely reasons may include the difficulty of proof of their guilt and low skills of law-enforcement officers, along with arrangements of such persons with the new rulers about their immunity (being the most likely), not least of all enabled by corrupt ties between them.

Three conclusions may be drawn. *First* – after the latest presidential elections, the old system of governance was not replaced entirely. *Second* – there remains a practical probability of recurrence (maybe on a smaller scale, and adapted to the new conditions) of “elections 2004”). *Third*, and the main – this proves that the country is ruled not by laws but by other rules, including rules of political corruption.

Main means of countering political corruption

Corruption in general and political corruption in particular can be effectively fought on the condition of a systemic approach, combination of preventive, law-enforcement and repressive measures. In presence of many elements (a proper anticorruption legislation, its full and effective application, priority of preventive measures, etc.), the anticorruption policy can be effective only in presence of the political will of the state leadership. It is the political will that determines the content and, respectively, the effectiveness of other factors of fighting corruption and, therefore, the effectiveness of fighting corruption in general.

Political will means *true* intention of the country’s political leadership to *effectively* oppose corruption in all its forms and on all levels of state governance. Demonstration of political will suggests that in presence of legal grounds, the law should apply to any person, irrespective of the post, political likings, proximity to the political leadership of the state and other subjective circumstances. The key role in formulation and implementation of political will, as a rule, belongs to the head of state who usually has the greatest powers in the field of national security, leadership and coordination of activity of law-enforcement structures.

Demonstration of political will is conditioned by a set of outside and inside factors: personal qualities of the state leadership, the existing political system, the character of social psychology, legal consciousness of citizens, development of democratic institutes of the state, principles of functioning of the judicial and law-enforcement systems. And by one more critical factor – corruption in the top state leadership (which, in turn, depends, among other things, on the method of its coming to power, principles of its exercise, goals of stay in power). The fact that for a long time (at least, the last decade) the country’s political leadership demonstrated

no true intent to effectively oppose corruption gives grounds at least to question the legal purity of its activity and socially-oriented goal of its stay in power.

And if we speak about the main countermeasures for political corruption at the present stage of the country development, they are mainly confined to the following.

First – democratic and fair elections that guarantee conscious and free manifestation of the will and true establishment of voting results. The experience of the past election campaigns witnesses huge problems with key elements of such elections – informed choice and adequacy of its results to true political attitude of society. The ways of attainment of the “required” result are being modernised: while previously, it was secured mainly by primitive criminal methods (coercion to vote “as required”, obstruction of the candidates’ activity, falsification of commission protocols, etc.), now, the same is done in a more “civilised” and “refined” manner – using manipulations of information, voter brainwashing, wide employment of technical candidates and parties, outwardly legal forms of the administrative resource usage as state and public activity. As we noted, the probability of falsifications at the future elections remains high enough (as witnessed, in particular, by attempts of an organised information blockade (actually, censorship), recorded recently, attempts of unconstitutional appropriation of powers, that can be used as the administrative resource).

Only presidential and parliamentary elections based on democratic and legal principles, guaranteeing true manifestation of the will of citizens and unbiased establishment of its results will create systemic political and legal preconditions for reduction of political corruption and change of the nature of its manifestations.

Speaking of elections as a democratic form of countering political corruption, one should specifically note the need of amendment of legislative regimentation of political party funding – both during the election process and beyond it. The experience of the most recent election campaigns in Ukraine undoubtedly proves that: *first*, self-declared party funding is clearly untrue; *second*, in reality, it is performed out of other than officially reported sources and in different volumes; *third*, illegal funding of political parties and, respectively, election campaigns presents one of the main factors of political corruption in this country.

Second – effective (true) separation of politics from business. Contrary to the announced plans of such separation, over the past five years politics and business have actually merged together (melted) in uncovered, often – evidently brutal forms (almost undisguised funding of election campaigns of political parties and separate candidates by businesses, “purchase” of presence in election lists, passage of evidently lobbyist decisions to the benefit of some business structures by state authorities and local self-government bodies, purely formal repudiation of politicians from doing business, etc.). Business (personal material interest) dictates policy, motivates politicians, their behaviour and decisions. In that way (in most cases because of various corrupt relations), politicians serve private business, not society.

Third – establishment of the independent, competent and unbiased court. Such court is the main tool and

safeguard of democratic development of societies and establishment of a law-ruled state. At the same time, it presents an extremely strong and effective anticorruption tool, since it can legally correct any, so to speak, political deviation, stop a concrete instance of political corruption and restore law and order in the policy domain. Instead, the latest events concerning the national judicial system witness toughening of political struggle for the court, fraught with complete loss of its independence and impartiality. Particularly dangerous, the process involves the head of state who officially supports legislative proposals aimed at enhancement of the court’s dependency, its politicisation, granting officials (including the President) and separate institutions (e.g., the Higher Council of Justice) unconstitutional powers in the field of judiciary. This gives grounds to reasonably assume the desire to unlawfully establish control of the activity of judicial bodies and in that way obtain additional tools for employment of the administrative resource at the future elections.

Fourth – introduction of effective public control over the activity of politicians and guarantee of political and legal responsibility for their asocial, amoral and unlawful acts and decisions. This, in particular, envisages creation of preconditions for the existence of independent and impartial media, and an effective law-enforcement system. But today, the level of political corruption and corruption in law-enforcement bodies not only effectively obstructs their anticorruption activity in the policy domain, but also lets corrupt politicians use them in political struggle under slogans of fighting corruption.

Fifth – strengthening of moral and psychological immunity of society to corruption, and anticorruption motivation of citizens. This is the main and at the same time the most difficult line of the anticorruption activity, involving a fundamental shift in the views and values of the people. Measures at its implementation should transmute the whole anticorruption activity, but this, in turn, depends on two things: *first*, the political will, mentioned above; *second*, the existence of a specially developed, scientifically based programme of anticorruption socio-psychological “recovery” of Ukrainian society.

A question, instead of conclusion

Political corruption is the main reason for the situation, in which Ukrainian society and state appeared. The level of socio-economic development, the quality of people’s life, the degree of their legal protection in the modern world are largely determined by the organisation of public life. That organisational function is vested in the public authorities. It is evident that neither the previous nor the present authorities can properly organise public life in Ukraine. Such inability is caused, in the first place, by the domination of personal interests in their activity, incompetence, excessive political engagement and large-scale corruption.

There is one way out: fundamental change of the principles of formation and operation of power institutes, democratic change of the main bearers of state power, that is – urgent qualitative changes in the national authorities.

And there is one question, too: who can do that in the near future, and how? ■

POLITICAL CORRUPTION IN UKRAINE: THE STATE, FACTORS AND COUNTERMEASURES¹

TWO THINGS ARE IMPORTANT FOR FIGHTING CORRUPTION: POLITICAL WILL AND RESOLUTION TO ACT



Heike DÖRRENBÄCHER,
Head of Friedrich Naumann
Foundation Office
in Ukraine

First of all, I wish to thank you for the initiative of this discussion on the critical issue that should be resolved as soon as possible. We believe that democracy and corruption are incompatible, and if someone wants to stabilise democracy, he should fight corruption. That is why we are very happy that we could help to arrange this expert discussion.

If a society is full of corruption, it penetrates into politics and begins to ruin democracy. And if we wish to fight corruption, political will is needed for that in the first place. Georgia is a very good example, it managed to stop corruption within three years. Now, Georgia is 67th in the *Transparency International* rating, and Ukraine, unfortunately – far lower.² Last summer, the *Transparency International* leader Mr. Eigen visited Kyiv. His words were very simple: “Don’t talk – act, work. Start fighting from your own house, your school, your quarter”. ■

Expert discussion, November 27, 2009



I think that two things are important for fighting corruption: political will and resolution to act, not talk. I look at the results of this study with hope and expect an interesting and fruitful discussion.

PROBLEM OF POLITICAL CORRUPTION DEALS WITH LEGITIMACY OF GOVERNANCE



Eleonora VALENTINE,
Parliamentary Development
Project Director³

We focus on law-making policy development. The Verkhovna Rada of Ukraine is our main partner, but we also expanded cooperation with the Presidential Secretariat and the Government, and continue cooperation with civil society.

Our main goal is to identify “bottlenecks” together with our partners, and look for ways to remove them and strengthen the institutes of governance and democracy in Ukraine. We are trying to apply methods of problem statement, conduct a study, review that study and use it then – to find mechanisms of problem solution for attainment of positive results.

In the recent years, a lot has been said about corruption in Ukraine. There were many attempts to study that phenomenon. But when Razumkov Centre turned to us with a request for assistance in the study of political corruption proper, we provided such assistance – since, indeed, there were great many surveys of corruption, but this survey of political corruption is among the first. We supported that initiative, since the problem of political corruption in fact touches the legitimacy of governance in Ukraine. If the structures of power are affected by corruption – how can they work, with their legitimacy questioned?

I hope that presentation of the survey and expert discussion of its conclusions will help our partners in Ukraine to do away with negative phenomena and achieve good results for the country. ■

¹ The expert discussion was held on November 27, 2009. The texts are cited according to the records, in an abbreviated form, in the order of presentation in course of the discussion.

² According to the *Transparency International* survey, Ukraine ranked 146th among 180 countries in 2009.

³ The Parliamentary Development Project II: Legislative Policy Development Programme is implemented with support from the Democracy and Governance programme of the USAID Mission to Ukraine, Belarus and Moldova.

**UNLESS WE DEFEAT CORRUPTION, THE
UKRAINIAN STATE WILL CEASE TO EXIST...**

Volodymyr STRETOVYKH,
*National Deputy of Ukraine,
Deputy Chairman of the
Verkhovna Rada of Ukraine
Committee for Legislative Support
for Law-Enforcement Activity*

I wish this discussion were attended not only by representatives Presidential Secretariat but also by advisers to the Prime Minister and the Supreme Court Chairman. Since the problem of corruption is a problem of the state governance, state machinery. And everybody should know how to cure that disease.

Yet in 2002, when I chaired the Parliamentary Committee for Fighting Organised Crime and Corruption, we understood that the causes should be fought, rather than effects. It was evident that the country sank in corruption due to the proportional system and oligarchisation of parties and political life, when a few groups of the strong and mighty make lists for money, an MP turns from an exponent and defender of the popular will into a “button-pusher”. Just one example. When I asked MPs from Donetsk why they did not support recognition of the Holodomor as genocide, knowing that Donetsk region suffered the most, I heard in response: We were so instructed. In other words, an MP fulfils not his own will but the will of those who instruct him.

This is another reason for what is going on in Ukraine now: MPs no longer have their opinion, their stand, they obey to the party leadership. Voting to override the presidential veto on the law on enhancement of fighting corruption was one example. The Party of Regions refused to vote, and the chairperson laid the issue on the table, although 423 MPs voted for the Law in the first reading. That is, the leadership’s stand changed: what if that law is applied to us? Who knows what may happen...

Where is the difference between political and “ordinary” corruption? In the size of bribes. But I would not divide corruption, because the issue of political corruption and corruption as such is the issue of authority. And authority means policy. They should not be divided. All done on the Pechersk hills (where Government and Parliament are situated — Ed.) and on a district level — all is political corruption, since it undermines authority as such and sows public mistrust in the institutes of governance.

Regarding the depth of corrupt affection. Today, all branches, institutes, agencies are equally affected by it! The Supreme Court alone stood firm, when chaired by Boiko who staunchly resisted President Kuchma. But as soon as he left... There is no Supreme Court today. No court as such. Today, people understand that “he is right who has more rights”. And rights ever more go with those who pay more. I speak frankly about that, proceeding from my personal experience — today, one actually cannot defend himself in the supreme judicial instance.

By the way, if we analyse data of the real estate market, it appears that the list of buyers of expensive estates is topped by judges. Tax officers go second, public prosecutors — third, militiamen — fourth, and businessmen — only fifth.

Another example: the [Lviv Regional] Court of Appeal Chairman Zvarych. Soon, there will be one year after Ukraine learned about that grafter. But the Security Service recorded on a video 10 (ten!) episodes where judges of the same court give him bribes. I asked more than once: why is the Court of Appeal not dissolved yet? Grafters who took bribes and carried them to the Court Chairman continue to exercise justice! “Check is underway. We are investigating...”. What can an MP do in such situation? Chain himself with handcuffs to the Supreme Court or the Presidential Secretariat in protest? What can we say about ordinary citizens then?...

Next: the worst thing we did was that we mixed crime with politics. As soon as a high-ranking official appears in the hands of justice, “friends” immediately raise their banner — political persecution! Be logical — there would be no political persecution, if there were no crime. Be pure, unstained, and no one will persecute you. Be a model of conduct, but as soon as you appear in the hands of justice, one law is for all! Right? Is this our slogan of the day? No, not one for all. There are those holding [MP] mandates, and ordinary citizens who cannot defend themselves.

And there is no belief that we can do something. According to the results of the study presented here, 63% of citizens are sure that nothing will change in the future. Because we do not fight effectively. National Bureau of Investigation, prevention of corruption — all remained good intentions...

And the last thing. What are the means to oppose corruption? In 2005, I told the President: if you want to make a law-ruled state — make perfect courts. They are the least numerous, only 7,500. They are formalised, all judicial procedures are prescribed. Any departure from a provision should automatically influence the status of a judge. Give them high salaries, but for a deliberately wrongful verdict — deprive of the status, pension, and right to ever be re-established on the post. This is not our experience, this is the easiest thing to do. Unless we defeat corruption, the Ukrainian state will cease to exist, there will be only Ukrainian territory. ■

**EFFECTIVE FIGHTING CORRUPTION CAN BE
ACHIEVED ONLY THROUGH JOINT EFFORTS**

Serhiy MISHCHENKO,
*Chairman of the
Verkhovna Rada of Ukraine
Committee for Legal Policy*

I draw attention to political corruption starting from 2005, when nobody spoke of it. Only now, the subject came into the forefront, and this gives hope. Analysis of the corruption phenomenon lets me say the following.



Expert discussion, November 27, 2009



First: political corruption is a specific form of struggle for power, since it enables conversion of money into power, of power into money. This is a reciprocal and inseparable process: money fights for power, power – for money.

I would term “ordinary” corruption differently – “criminal-domestic”. Criminal-domestic and political corruption should be distinguished and defined separately. One example: if a tax officer comes to a businessman and requests money, this is criminal-domestic corruption. But if the same tax officers gets instructions and goes to the same businessman requesting him to make contribution to one or another political party, one or another candidate for MPs, or make the employees of his company to vote in a certain way, that is not domestic corruption but political. Its main danger is that it affects entire society. When ordinary citizens get relevant information from mass media, from journalist investigations, they follow the principle: if the strong and mighty may do that, why can’t we?

Second: political will is the main thing for countering corruption. I mean not only politicians – all of them have their skeletons in the closet. Effective fighting corruption can be achieved only through joint efforts of all institutes and public structures.

Indeed, we passed three laws on countering corruption. But the political will lacked to legislatively introduce the very term of political corruption and relevant amendments to the election, criminal, administrative legislation, to establish responsibility for politically corrupt acts.

Even worse: we lack not only the definition of political corruption – you will nowhere find a definition which criminal offences involve corruption, except statistical reports of law-enforcement bodies that decide for themselves which criminal offence is corrupt. Murder of journalist Gongadze – was that political corruption, or not? That is, murder cannot deal with corruption. But what if a man, a journalist, a political figure is killed for political motives – is that political corruption?

So, the legislation should be improved, for us to be aware what we fight. There is some international experience of the election legislation, the legislation on political parties, their reporting to voters, there is a practice of MPs codes of conducts. That experience should be used.

Finally, it is an issue of not only criminal responsibility but also of responsibility of a politician to oneself. You broke the Code – resign, as politicians in the West do. In this country, unfortunately, violation is normal, there are no resignations, scandal may even make good publicity. So, we should all unite and aim all efforts at fostering political will to finally get off the ground. ■

THERE IS A DANGER THAT CONTENDERS FOR THE “STRONG ARM” WILL LEAD CORRUPTION, INSTEAD OF REMOVING IT...⁴



Ihor POPOV,
Deputy Head of the
Presidential Secretariat

Corruption is the main problem of the Ukrainian politics and authorities. So, it makes sense to speak not about definitions but about phenomena now – we all understand what is meant.

Political corruption begins with elections: closed lists, trade in seats. Unfortunately, my forecast here is pessimistic: we will not change the system in the near future.

Elections are a very expensive show campaign, in fact, a race of very big budgets. And at the forthcoming elections, direct purchase of votes is planned. Many signals arrive on how the purchase is being prepared, strikingly big sums are reserved, I did not expect that – \$100 for a vote. That figure is mentioned in all regions, by different mediators from different political parties. The trends are too sad, one of the reasons being that now, nobody campaigns but money is reserved for direct subornation. Early parliamentary elections may also be held using corrupt schemes – with closed lists and purchase and sale of seats.

What sectors are affected by corruption the most? According to the expert assessments I have, in the executive branch – tax and customs, so-called “resource” ministries, along with the judicial and law-enforcement sectors. And elected authorities “cover” all that, since they influence appointments of all persons immediately engaged in siphoning budget funds.

Great many instances may be cited: from state procurement and privatisation of state residences to the latest example – creation of an intermediary to accept reports to state tax administrations, to which every legal entity was to pay a thousand hryvnias... Allocation of land plots by local councils is an example of collective irresponsibility. Since a decision is collective, nobody may be punished for it, and it is next to impossible to cancel it. This happens openly in many cities, but nobody fights this... The case of Lozinskyi is not only another signal for immediate limitation of immunity. What is not detained, what is hidden and not searched for, is even worse...

How to fight? Such a difficult problem cannot be solved overnight. And a “strong arm”, much spoken about today, will not help, because all current contenders for it do not look like enlightened monarchs or dictators. There is a very strong threat that they will lead corruption, instead of removing it. Redistribute cash flows, instead of fighting.

We face another road. It involves the balance and mutual control of the authorities, not usurpation of power.

⁴ At the beginning of his presentation Mr. Popov made a remark that he spoke as an expert and did not present an official position.

It involves free media, journalist investigations. Without them, corruption will be even more terrible than now. It involves gradual reformation, not populist laws, such as the law on enhancement of responsibility for bribery up to life imprisonment. Corruption cannot be restrained by punitive measures alone, only the amounts of “reward” will grow, due to a higher risk.

Instead, there are effective measures that show that corruption in education can be gradually restrained, for instance, by independent external assessment. Not being ideal, it still removed many problems; others arise, that should also be removed. With respect to elections, it involves removal of limitations on election funds, which legalises money. State servants should declare their expenses. Transparency is highly important. There should be those gradual steps, plus obligatory education of society, since we are too tolerant to corruption. And political resignations, where necessary. Along with punishment, of course, first of all, in publicised cases. According to the letter of the law. ■

WILL OF CIVIL SOCIETY AND RESPONSIBLE POLITICAL ACTORS SHOULD BE TRANSLATED INTO CONCRETE ACTS



Ihor KOHUT,
*Chairman of the Board,
Laboratory of
Legislative Initiatives*

The problem lies not in legal or academic definition of political corruption but in search for safeguards and countermeasures. Attempts of implementation of such measures have been made since 2001, in particular, in political party funding. The first step that we managed to make in 2003 was to propose a bill and secure its passage by Parliament and signing by the President. However, no government respected that law all those years, and the government established after the early elections of 2007 cancelled it, with the Law on State Budget for 2008.

I realise that it is insufficient to introduce state funding of political parties in the proposed form. Evidently, we should also speak about the sources of funding and their publicity, as well as about internal party democracy and activity of a democratic party. Just recall how happy we were 18 years ago, when the multi-party system was introduced. But have we created the institute of true political parties over those years?

The issue of the election system is issue No. 2, discussed at least since 2002. Who and how finances elections? The issue of open lists or any modification of the election system also arose not yesterday. Parliament registered a

number of innovations. However, there is no movement at all. Is any of the politicians motivated to introduce those changes?

Issues of conflict of interests and lobbying also remain unsettled. Today, lobbying perceived very negatively and creates a bad background for the institute of parliamentarianism in general and for the other branches, since the issue of political corruption deals with the issues of establishment of all institutes...

Or maybe the effective laws should be followed, instead of passing new ones? For instance, the effective law on political parties – with financial reports published annually. I wonder if at least the parliamentary parties released reports for 2008? Did the Ministry of Justice accept them, at least for itself, for review?

There were many proposals and recommendations for countering corruption, some of them were even adopted – but never reached the stage of practical implementation. The new legislation is to enter into effect from the 1st of January, but I am afraid that it may be refuted by some other law. Everything may happen in this country.⁵

So, to sum up – I would love to see our will of civil society and responsible political actors translated into concrete actions... ■

COUNTERING CORRUPTION REQUIRES AN INTEGRAL APPROACH



Denys KOVRYZHENKO,
*Law Expert,
Laboratory of
Legislative Initiatives*

I do not guess that distinction between “ordinary” and political corruption is required in principle. There is a definition of corruption, and who commits corrupt acts is an issue of the level of public danger. Maybe the political status of the persons committing corrupt acts, in particular, MPs or the President, should be taken into account. They should be subject to specific measures of influence, since the measures applied to state officers are not applicable to them. But those two notions should not be separated, because the notion of corruption, in fact, covers public and state officers, local self-government officials and politicians alike.

What institutes are affected by corruption the most? This cannot be assessed statistically, in percent. All are affected equally – and the problem lies in the policy domain. We have already spoken about the system of Parliament formation, whereby candidates for MPs are proposed by parties financially dependent on a limited circle of “donors”. There are also problems of non-transparency of the authorities, lack of basic reforms,

⁵ The Laws “On Principles of Prevention and Countering Corruption” (basic), “On Responsibility of Legal Entities for Commitment of Corrupt Offences”, “On Amendment of Some Legislative Acts Concerning Responsibility for Corrupt Offences”. As we noted above, those laws were to enter into effect on January 1, 2010, but Parliament postponed their effectiveness till April 1, 2010.



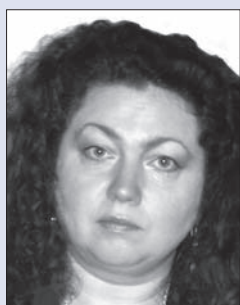
they are much spoken about, but things did not get off the ground: neither the public service has been reformed, not the judicial branch... The bills pursuing the judicial system reform are actually stalled.

Regarding concrete proposals, I agree that we should start with parties and the election system. What should go first – party funding or the election system? I guess, both. That is, first, limitation of private funding and, respectively, compensation of the decline in proceeds at the expense of the state budget. It is often speculated on – they say, money is not enough even for pensions. But it is not enough for pensions exactly because decisions are passed non-publicly and under the influence of different factors of corruption. Hence, mechanisms of transparent funding of parties and elections are needed. We know that money is spent on election campaigns, but who does specifically give contributions, how do funds move from parties to election funds, from what persons?

The role of mass media in countering corruption should be raised. For instance, it is proposed that candidates should report on the results of their activity. But in absence of true mass media, such reports will have no sense. Many try to report now, telling what effective leaders they are. But in reality, this is nothing but eyewash, conditioned, among other things, by the fact that mass media are actually controlled by the same people who now control the entire political process. Here, reforms are also needed, including privatisation of the mass media owned by the state.

Finally, a systemic approach to the public administration reform should be introduced. It involves the judicial reform and the public service reform. Business should be deregulated, which was also discussed. Ownership should be protected, for big owners not to interfere into politics to lobby their interests and defend their gains. That is, there should be a set of measures, while their priority will depend on the political expediency. ■

POLITICAL CORRUPTION IS AN INDICATOR OF THE NATIONAL ELITE'S ABILITY TO RULE THE STATE



Oksana MARKEYEVA
Head of Department
of Corruption Fighting Problems
at Ukraine's NSDC Staff,
member of Interdepartmental
Working Group for
Countering Corruption

[A few words] on the difference of political corruption from general and criminal. The danger primarily lies in its very serious consequences.

First, political corruption has a multiplicative effect, corrupt behaviour is followed on the lower levels. This looks as kind of a stepped scheme. First, client groups non-transparently finance political parties and election

campaigns. Next, they form the demand for distribution of some resources – and in that way make “their” politicians to act the way they need. And since the “top-level”, political corruption is not just evident but absolutely unpunished, whole society begins to act like that, legal nihilism becomes all-embracing.

Second, what is dangerous is that the most valuable public resources go to unknown pockets: today – land, tomorrow – possibly, water... or we see this even now, in southern regions.

On the other hand, work in the most publicly valuable sectors is remunerated in corrupt way – so-called capitulatory salaries now paid in education, public health and, the most important, in the judicial and law-enforcement sectors. Indeed, one can live with such salaries very modestly or poorly. It is presumed that one will somehow make ends meet through exaction. In that way, bribery and corruption sweep over whole sectors...

Next – political corruption and impunity cause criminalisation of power and politics. We already see not just a corrupt but a flatly criminal way of life and thinking. Instances are many when people involved in crimes come to power.

Corrupt society lives by mutual oppression. Some roll in poverty and match the top mainly by their criminality. We now see colossal growth of crime, noted at the September meeting of the Security Council. In turn, the top stratum, living at the expense of unlawful, corrupt and/or criminal proceeds, is continuously subjected to blackmail. Everybody blackmails it: tax officers, politicians, judges. And have gains from that, making the basis for the formation of a parasitical stratum. Today, we see a parasitical stratum made up of executives highly interested in the maintenance of “grey”, unsettled rules of the game. By the way, this bars formation of the middle class, making the core of the most developed nations. The niche of the middle class in this country is occupied by the stratum of executives.

Noteworthy, that parasitical group is in a very difficult situation, in which it itself put it. The total legal nihilism makes representatives of that group to be in terror for their property that at any time may be corruptly redistributed. That is, all the time one needs to hide, conceal his money and wage a half-legal life.

Finally: where is the limit of our tolerance of corruption, the threshold of its acceptance? As we know, corruption is found in all societies to a smaller or lesser degree. But there is a serious difference between effective and ineffective corruption. Evidently, the limit will be reached when corruption ceases to be effective here, when it gets into the pocket and personal life of everyone. I guess that we are approaching that limit.

Summing up, I can say that political corruption is an indicator of the national elite's ability to rule the state. Today, we must state that our elite cannot rule the state in transparent and legitimate conditions. ■

THE MOST EFFECTIVE WAY TO FIGHT POLITICAL CORRUPTION IS TO REMOVE POLITICISATION OF ORDINARY CORRUPTION

Volodymyr RUSSKOV,
*Prosecutor of the
General Prosecutor's
Office of Ukraine Department
of Supervision of Observance
of Corruption Laws*

Having studied the presented materials, I can say that as a citizen I fully agree with what is written. But as a lawyer, I have a slightly different stand.

A few words about the legislative definition of corruption. Really, the 1995 Law on Fighting Corruption remains valid. Its main drawback is that its notion of corruption is confined to administrative offences involving relevant measures of responsibility. So, the laws set to enter into effect on January 1 were needed – since if corruption is described from the viewpoint of public threat (and we all admit that the public threat of that kind of offences is the strongest), it is not enough to establish administrative responsibility for corrupt acts. Indeed, the effective legislation dealing with such criminal offences as bribery, abuse of power or official duties does not specify them as corrupt offences. This is mentioned only in statistical bulletins, on logical grounds. The legislation set to enter into effect from January 1, despite all its imperfection, still more widely treats that problem, gives a wider definition of corruption and clearly establishes the kinds of responsibility, up to criminal. That is, everything is legislatively defined. But I fully agree that corruption can be fought even using the current legal framework.

Should one distinguish between political and ordinary corruption? The question is disputable. I think that if we managed to do away with ordinary corruption, there would be no political one. For what is political corruption? It is a politicised variety of ordinary corruption.

And it would be much easier for law-enforcement bodies to fight ordinary corruption if they were not politicised. It would be fair to say that more or less publicised cases affecting someone's interests are immediately politicised, presented as political persecution. Although they may involve ordinary criminal offences.

It was also rightly said that if a tax officer exacts money – this is ordinary corruption, if he exacts it for some political force – this is political corruption. But why does a tax officer begin to exact money for a political force? If he is appointed for that force. So, in that way, ordinary corruption is politicised in many sectors of governance, especially in the executive branch. Replacement of a principal – and principals are replaced dependent on the quota of one or another political force – involves a reshuffle of the whole team. In the recent years, such reshuffling has led to replacement of not only executives of the middle level – department and section heads – but also specialists. New people come by quotas,

they are engaged, in the first place. Second – those who remained in their jobs are not sure that they will not be replaced tomorrow and begin to “justify” their posts. This is one of the factors of ordinary corruption growth.

So, it makes sense to speak about politicisation of ordinary corruption. The distinction is hard to draw, but this must be done. Who imposes such politicisation? A very narrow stratum that we call the political elite. Everybody is well aware of that. Lawyers have a saying: the main thing during investigation is not to track oneself. That is, the circle of the persons politicising ordinary corruption is very narrow.

Therefore, the effectiveness of fighting political corruption will be higher if we manage to do away with this politicisation. First of all, this refers to law-enforcement bodies and courts. The effectiveness of their fighting corruption immediately depends on their de-politicisation. They should be granted legislative guarantees of independence from political influences, but so as not to cross the red line where they can hide behind those laws as fences and be afraid of nothing and no one. This is a very difficult issue, but I still think that the most effective way to fight political corruption is to remove politicisation of ordinary corruption. ■

THE CORE OF ANTICORRUPTION STRATEGY SHOULD LIE NOT IN FIGHTING BUT IN PREVENTION AND AVOIDANCE OF CORRUPTION AS A PHENOMENON

Roman ZVARYCH,
*National Deputy of Ukraine,
Chairman of Subcommittee
on Standards of Lawmaking
Activity and Planning of the
Verkhovna Rada of Ukraine
Committee for Legal
Policy Issues*

I see the problem we discuss today as the most threatening not only for democracy development but also for further establishment of our state and society in general. That is why I hail the very fact of raising the issue of political corruption.

However, I tend to believe that introduction of the notion of political corruption in legal circulation at this stage is inexpedient. On the contrary, it may even be dangerous to an extent, since it remains unclear what is meant by “removal of political corruption” from the legal viewpoint. Will introduction of that term give us an opportunity to eradicate instances of corruption in society? I am sure that it will not.

Much of what was said today dealt with political party activity. Since I used to be a party functionary myself, I must say that this was not always true, the criticism largely stems from the critics' unawareness how parties work. Why do I make such maybe harsh comments? The question should be raised as follows: is corruption inherent in political and party activity, or introduced on the personal or corporate levels by persons empowered to take decisions, including for corrupt motives, because of their political and party activity? I want to be heard: this is a very fine but fundamental distinction.



It was more than once said here that fish rots from its head. I am sorry, the fish is so rotten that this means nothing. Instead, I would agree that the fish should be cured from the head. That is, we realise that today, the greatest threat to our state stems not from corruption in the top echelons of governance and imperfection of laws but from that entire society, all citizens see corruption as a fact (as witnessed, by the way, by the results of the sociological survey presented here), while anticorruption laws are seen as small barriers that can be easily bypassed, if not overjumped. That is, the problem of corruption is not a legal but a social and moral one.

Regarding the fight with this phenomenon: in 2005, the Ministry of Justice set up a working group to study that issue, its participants analysed anticorruption programmes of 12 states. The conclusion was that in the states that fought corruption through, for instance, toughening criminal responsibility for corrupt acts, gains were minimal. The most effective were the programmes of the states that tried to prevent the phenomenon of corruption, resorting mainly to preventive measures. Noteworthy, this approach was not sufficiently covered in the presented report. It would be nice if the authors examine the mentioned work by the Ministry of Justice. They should be made public – and I think that Razumkov Centre could effectively do this.

Next: I agree with the need of legislative provision of declaration by different categories of persons – including state servants and politicians – of not only incomes but also expenditures, along with verification of such declarations. But who will verify them? We should admit that we have failed to set up a single anticorruption body, present in every country that successfully fought corruption, or successfully avoided it. And we for years speak of that anticorruption bureau, of bureau of investigation, or something of the kind.

It is also absolutely rightly proposed to establish networks of special prosecutors. However, they should not be vested with the function of preliminary investigation. Those two functions should be separated, although the public prosecutor's offices disagree. The thing is that a prosecutor who, according to the Constitution, is to make a charge against a specific person on behalf of the state cannot simultaneously conduct preliminary investigation.

Regarding courts. There is a problem. According to the effective legislation, the Minister of Justice has the exceptional right to file petitions to disciplinary or qualifying commissions, or the Higher Council of Justice, in connection with corrupt acts or signs of corrupt acts found in decisions made by some judges. When the Minister of Justice in 2005, I filed 96 petitions to different commissions (by the way, my predecessor filed seven within three years). Only five of them were sustained. Even when I, for instance, filed a petition with respect to a concrete judge signing a writ of execution without a trial, the qualifying commission overruled the petition. Why does this happen? Qualifying commissions, by the way, on the Council of Europe demand, are 66% made up of judges – a corporate interest is evident. That is, something should be done in this domain.

On the issue of state procurement: I stood against cancellation of the Law of state procurement, although I sharply criticised the Tender Chamber, because removal of that sector from the legislative framework and its passage into the hands of state servants of one agency within the Cabinet of Ministers' system means conscious creation of a much deeper corrupt scheme. And the present statistics prove this: nearly 65% of state procurements are arranged with only one participant in the Ministry of

Economy. Hence, there may really be signs of political, and purely political corruption there. Something must be done with this.

To sum up – one thesis we should think over. If we write an anticorruption strategy, we should decide what its core will be. I am absolutely positive: if we make fighting corruption the core of that strategy, instead of its prevention and avoidance, our steps will be vain. ■

AFTER GAINING FREEDOM, RULE-MAKING IS ON THE AGENDA



Taras STETSKIV,
National Deputy of Ukraine

The materials presented today are more than enough to conclude that corruption in the top echelons of governance is all-embracing. And it makes no sense to name one branch or institute of governance.

Political corruption is an act committed by bearers of power with the purpose of getting a monetary reward or other material benefits. That act may be unlawful or lawful – because of skilfully used gaps in the legislation. I believe that political corruption should be differed from ordinary, since, *first*, corruption in the top echelons of power has much stronger negative effects than, say, corruption in business, education, public health, etc. *Second*, political corruption results in de-legitimisation of authority – since the society that sees the authorities not following laws written by those authorities is free to act in the same way. The so-called “corrupt consensus” arises.

Probably, political corruption derives from ordinary, but now, it dominates and shows society that one cannot live like that. This is the worst of all. If this Gordian knot is not cut, the country may face outside rule, in one or another form.

If we analyse Ukraine's modern history, probably, political corruption began to rise in 1992 from the executive branch, in particular, through export and re-export licences. Somewhere at the juncture of 1997-1998, it affected Parliament – through the influence of big financial/industrial groups, already formed at that time, lobbying laws on privatisation of big enterprises. Courts seem to be the last link in that chain, but the corruption that affected them was much deeper than in the other branches.

And today, we are to realise what we should start with, to ruin that corrupt system. I agree that prevention is better than fighting. But today, we are in a situation that makes us to do both. Ideally, the winner of this presidential election should display the political will. But if this is not the case, I hope that the “post-Maydan” potential will go out from the bottom, in some forms of civic action. And if this is also not the case, I say again: Ukraine may face outside rule, as a failed state.

We may start with amendment of the legislation, but here is one purely Ukrainian nuance: today, Ukraine is not

a nation that got used to live by the law, we are to learn this yet – the authorities and citizens alike. So, amendment of the legislation is important, but not enough.

I guess that we should start with parties and the judicial system.

Why parties? *First*, I think that parties active at the current presidential elections are clannish, fueder-oriented. But society needs parties that are programme-based, if not ideological, proposing some ideas and massing up supporters around them. If we finally implement the principle of state funding of political parties, their susceptibility to corruption will drop drastically. *Second*, we may adopt the majoritarian election system, since nothing prevents the three democratic factions in Parliament making the majority to introduce majoritarian elections on the local level – and in that way seriously reduce corruption locally.

Why the judicial system? *First*, this step will be supported by society. *Second*, we have the best tested concept of its reform. Furthermore, there is a good experience of Georgia that made anticorruption steps in such sequence. And if at least one branch begins to work transparently, others will follow.

To sum up, let me remind of the Orange Revolution, that was a great act of success for the Ukrainian people – but not completed. After gaining freedom, rule-making, implementation of the rule of law is on the agenda. This task is both for the authorities and society. ■

THE PROBLEM OF TOTAL CORRUPTION CAN BE SOLVED ONLY BY TRUE DEMOCRACY



Vyacheslav KOVAL,
*National Deputy of Ukraine,
Secretary of the Verkhovna Rada
of Ukraine Committee
for Procedures, Parliamentary
Ethics and Support for
the Verkhovna Rada Activity*

I regretfully note one thing: the nice document presented here existed even earlier, maybe in a less perfect form. Within the framework of the Ukraine-US Policy Dialogue programme, in 2005, recommendations for the new authorities were drawn up, including on corruption problems. But... five years passed, and we are again at the beginning.

Political corruption is the extreme instance of corrupt acts, enabled by the inertia of state governance and wilful inaction of the state authorities. The general reason for that, I guess, is that the “wild” process of accumulation of capitals is not over yet, and no one, including the first persons, is interested in demonstration of political will and establishment of order. This brings total corruption.

Political corruption may be compared to the process of corrosion – slow, imperceptible, but persistent – that in the end result inevitably leads to ruination. As we know, empires broke apart and passed away because of corruption, since corruption affects not only the authorities, it leads the nation to a moral decay.

Our situation indeed may lead to tyranny, although no tyranny can solve the problem of corruption. It can be solved only by true democracy that has clearly defined

procedures and ensures their strict observance. The power of democracy lies in following procedures. If procedures are not followed, there appear incidents like a person with a fake diploma occupying the post of the Security Service Deputy Head.

Regarding proposals: it was proposed here to start with elections – either to reinstate the majoritarian system, or to introduce open lists... As a man experienced in party activity, I state: if we introduce open lists, national democrats will buy seats in Western Ukraine, regionals – in Donetsk. Nothing will change, only MPs elected in Lviv region will not be recognised in Donetsk, and vice versa. This means federalisation of Ukraine, a split...

So what to do? I think, to improve the provisions of the law regarding qualification of a corrupt act. To legalise procedures of parliamentary lobbying. To clearly define combination of elected posts with private and business activity, to separate business from power... To legislatively regiment the procedures of drawing MP candidate lists by parties, to provide for their democratic election. The critical factors include enhancement of the political culture of society, including better awareness of civil rights and duties; enhancement of the role of mass media for public control of the authorities’ and officials’ activity; simplification of licensing and registration procedures.

But first and foremost – the political will should be found in the person that, I hope, will appear in Ukraine and say: we will establish order... ■

THE MAIN THING IS TO REFUSE FROM CORRUPT POLITICAL PRACTICES



Volodymyr FESENKO,
*Chairman of the Board,
Penta Centre for Applied
Political Studies*

I strongly oppose identification of corruption with political corruption, since this results in “dissolution” of the problem. If there is no political corruption – there is no need to fight it. The distinction of political corruption is that it means employment of corrupt mechanisms in the political process. It is not struggle for power but keeping power, or, rather, purchase of power. Political corruption is the core reason for deformation of the political and economic systems.

Without fighting political corruption we will never defeat corruption as such. Lawyers and public prosecutor offices should think if it makes sense to legislatively prescribe, say, how to counter purchase and sale of seats in election lists, employment of a political status for corrupt acts, etc.

What institutes of governance are the most corrupt? I would put the question differently: what sectors and institutes of governance are of key importance for the spread of political corruption and for its countering? Here, I fully agree that they are political parties, courts and law-enforcement bodies. Parties – because we see excessive partisanship in the system of governance, whereby most appointments and dismissals are made through parties, mainly built on the principle of clientelism in this



country. Judicial and law-enforcement bodies – because they are the main actors of fighting corruption.

What hinders this fighting now? Lack of political will? It is especially strange to hear this from MPs, representing the authorities. In my opinion, kind of an unofficial corrupt contract hinders it, or unofficial recognition of corrupt mechanisms by all leading political forces, as well as the unofficial corrupt contract between politicians and voters. For instance, according to the survey presented here, 60% of citizens are interested in fighting corruption. But how many are ready to sell their vote at elections?

Preconditions for true fighting political corruption include: *first*, the crisis of legitimacy of authority, for when the authorities are considered legitimate, it is very difficult to fight corruption there. The process of de-legitimisation is underway, but it is not over yet... *Second* – political will. I agree, and not only to fight corruption but also to employ incorrupt political practices. If there is no such alternative – there will be no real fighting corruption.

Corrupt judges and officials will not fight corruption. So, the first step lies in purification of law-enforcement bodies and courts from corruption. How? One should think about it, I have no simple answer, but there is foreign experience...

The second – application of strict legal sanctions against corruption in the authorities and politics. Here, I support the idea of a special anticorruption body. The problem is how to avoid its transformation into a tool of political struggle, instead of fighting corruption.

The third and the main one – refusal from corrupt political practices and formation of new, incorrupt ones. This refers to the election process, funding current party activity, and drawing election lists alike... This also involves the development of internal party democracy and correction of the behaviour of politicians, starting from repudiation of boasting about their estate... Boasting is inadmissible for a modern civilised European politician. Just unacceptable. If they allow this, they allow political corruption.

To sum up: the example of new political practices must be given either by new political forces, or by those that now claim readiness to change policy, make it European – just do it! Or you will fall victim to degradation of the present corrupt policy. There is no other way. ■

ATTRIBUTES OF POLITICAL CORRUPTION: A CLOSED STRATUM OF EXECUTIVES AND POLITICIANS, AND MUTUAL PROTECTION



Yuliya TYSHCHENKO,
*Chair of the Board,
Ukrainian Center for
Independent Political Research*

Distinction between political and ordinary corruption, from the viewpoint of legal definitions, is difficult. But from the viewpoint of a public discourse, it is clear that political corruption means use of an official status by a person empowered to discharge some political functions

to obtain some gains for himself or the political force he represents. Attributive of political corruption is the hierarchy of mutual protection now formed in every agency and among them. It ties together those agencies, public prosecutor offices, courts, finally, Parliament... There is a closed stratum of executives and politicians benefiting from corrupt schemes. So, I think that political corruption means struggle not for power but for resources. It means investments of business in politics with the purpose of a further increase in profits.

As a result, two parallel worlds are being formed: of those who can distribute and use resources – and those who have to accept corrupt rules of the game, since ordinary citizens simply cannot solve their problems in a different, legal way.

How to fight this? Many reasonable but sometimes too apparent and somewhat naïve proposals were put forward here. Naïve, because neither parties nor institutes of governance show signs of political will to refuse from corrupt practices and introduce transparency, publicity, controllability...

In each case, this disease should be treated differently in each sector. Maybe really take some evolutionary measures, modernise political parties, reform law-enforcement bodies... But first of all, everyone should mind his own business and not boast about affiliation with clans actually dividing the administrative resources that later can be converted into material ones. ■

CORRUPTION SHOULD BE EFFECTIVELY COUNTERED YET AT THE STAGE OF ITS POSSIBLE EMERGENCE



Oleksiy KHMARA,
*President, TORO
Creative Union (Transparency
International Contact
Group in Ukraine)*

Our discussion gives grounds for some intermediate conclusions. First: officials speak of the lack of political will, so, they will change nothing. Law-enforcement officers – of absence of a definition, so, there is nothing to fight. Only the third force remains, civil society, that should start the second phase of the revolution.

I am not an adherent of such radical steps, since I represent an organisation that believes that corruption should be countered yet at the stage of its *possible* emergence. For that, seven simple steps have been worked out, first proposed by us yet in 1999.

The first three steps deal with elected officials – the President, members of Parliament and local councils. The most effective way to avoid corruption here, or the first step, lies in the existence of and abidance by ethical codes. This may sound naïve to someone but if there are established rules of the game observed by political actors, the task is reduced to fighting only concrete corrupt officials, not corruption as a total phenomenon. The second step: existence of controlling bodies monitoring observance of the ethical code – internal, within the concerned institutes,

and external, vested, in particular, with the functions of punishment for non-abidance by the code. And the third step – proportionality of punitive sanctions.

The four following steps deal with the election process. They include transparency and accountability of the process itself, declaration of incomes and expenditures by all its participants at all stages of the process and afterwards (annually). This, by the way, is required by the national legislation, but it is not applied... And another, purely national aspects. Equal access of all actors of the election process to media and other canvassing and propaganda resources must be provided. However, in this country, quarantine may be imposed for three weeks – then, only one person can use the resources, all other wait... And the last step – practical application of the anticorruption legislation concerning prevention of a conflict of interests.

So, to sum up: if politicians and officials say that they lack political will, if the business currently sees no sense in financing anticorruption activity, since corruption has not yet attained the critical limit when it becomes disadvantageous, indeed, the third party remains, which is ready to fight. It is civil society. Judging by the ideas I heard today, I see that civil society is ready to do this. Probably, you are the only hope... ■

IF COUNTERING CORRUPTION IS TREATED SERIOUSLY, THERE WILL BE A POSITIVE RESULT



Mykhaylo BUROMENSKYI,
*Director, Institute for
Applied Humanitarian
Research (Kharkiv)*

Studying corruption for some 10 years, I believe that we should treat it as a general phenomenon that may have a political dimension. It makes no sense distinguishing ordinary and political corruption, since it has one main element – a personal interest. Even appointments by party quotas bear that interest, because they in fact mean promotion of decisions later translated either into cash flows or in immaterial preferences. It cannot happen that ordinary corruption is removed, while political one persists, or vice versa.

But I support the idea of this study, because it enables identification of critical aspects of corruption in Ukraine. Demonstration of a corrupt way of use of tools of state governance to secure the interests of a group of people who came to power and will never give it up voluntarily...

Who should fight corruption, and how? Just two points. First, continuous public discussion of the problem of corruption creates an atmosphere that later involves politicians and can have some influence on the public. And the public, in turn, can effectively provide for limitation of corruption – as witnessed, for instance, by the experience of Hong Kong.

However, another thing is required here – free press. Today, we face problems even there, all the press is bought up and involved in political corruption. However, there are two or three publications in Ukraine that may be termed really independent. But this is not for good. If public institutes or at least individual politicians, individual publications work seriously to counter and fight any corruption, then, I think, we will approach positive results. ■

ONE SHOULD PROCEED FROM COUNTERING CORRUPTION, NOT FIGHTING IT



Oleksandr LYTVYENKO,
*Adviser to the Institute
of National Security
Problems Director*

A few points that seem to be of fundamental importance for me. *First*, there is a very strong factor of corruption, not mentioned here – the external dimension of corruption, strongly related with security issues, with the fact that some of our partners, and strategic partners, work with our authorities for the implementation of their foreign policies in a purely corrupt way. I would like to cite J.Sherr here, who says that corruption itself becomes one of the mechanisms of the foreign policy of one of our strategic partners. One should keep this in mind.

Second: it is very difficult to speak about fighting corruption in the country where the state machinery is degrading. One should first of all normalise the situation in the state machinery, and it is fundamental to refuse from the political principle of appointment to state positions, now dominating here, whereby professionalism is absolutely neglected, while “good”, or “friendly”, or “somebody’s” men are appointed.

Third. I may be misunderstood, but I am sure that this must be said. I will say a word in defence of corruption. Today, corruption is the only mechanism enabling operation of the state system in its present form. It’s kind of “oil” letting its gear work. And as long as corruption is rational and people see a rationale of corrupt acts in absence of a practicable alternative, corruption will spread further and further.

Fourth. We should speak not of changes in institutes but of establishment of new institutes, since our institutes have the same name but are essentially different.

Fifth. I realise the fallacy of a purely law-centred approach, but anticorruption examination of legislation, just introduced, gives a fundamental opportunity to prevent corrupt acts.

And the last point. One should proceed from countering corruption, not fighting it, and a special anticorruption body is needed for that. Maybe – very important – with functions of prevention, rather than law-enforcement. ■

THE PROBLEM MAY BE SOLVED ONLY THROUGH IDENTIFICATION OF ITS CAUSES



Mykhaylo SEMENDIAY,
Chair Head at the Security
Service of Ukraine Academy

For me, with my professional activity, the term “fighting” corruption is more acceptable. So, I am sure that the term “political corruption” should be defined in the legislation. The first reason: the huge danger of political corruption is that it is conditioned by good will, so, actors of political corruption make a closed circle. Forgive me this analogy but if a political force wants meat, it is highly naïve to demand vegetarianism from it.

Second: it has been said here that the notion of corruption is a general one, encompassing political corruption – indeed, the general definition of corruption is wide enough. But even a comment to the Law on Fighting Corruption says that the definition cited in it is not exhaustive and may be used only within the context of implementation of that Law.

And the last: we should identify, analyse and assess not only instances of corruption, that is, effects, but also the in-depth causes that originate them. A problem may be effectively solved only through identification of the causes. For instance, if the ceiling of use of funds for preparation and conduct of elections is set – there may be a chain reaction, a political force may think: does it make sense to employ one or another investor and then work off some of his interests? Or the effect may be different: political forces will appear in equal conditions, irrespective of their ability to attract funds. ■

FOCUS IN COUNTERING CORRUPTION SHOULD BE ON BRIBE-INTENSIVE SECTORS



Serhiy DRIOMOV,
Deputy Director,
National Institute
of Strategic Studies

Searching for differences between political and ordinary corruption, we are trying to solve the issue of the difference of the general and the particular. I believe that political corruption is a manifestation of general corruption. Delimitation may be needed only to study this phenomenon, since it has specific traits. I agree with

professor Melnyk who says that political corruption is only the top of the iceberg. It is the highest point, “apotheosis”, reached by general corruption.

Our discussion proves that the notion of corruption in our legislation and in our consciousness is rather vague. There are no limits, we cannot decide where corruption starts and where it ends. The same is witnessed by sociological surveys. Citizens believe that it refers to both a district militia officer taking cigarettes away from people illegally selling them and to the developments in the top echelons of power.

In this connection, I would like to refer to the positive experience of Germany, where corruption problems are done away with rather successfully, since the concerned bodies focus on its countering in the sectors deemed bribe-intensive. Corruption is clearly defined there, and the state focuses on those key sectors. In principle, the conclusion suggests itself that political corruption is what should be in focus, while the rest probably requires attention but political corruption needn't be associated and compared with general.

Regarding the political will. Studying the problem of corruption, me and my colleagues paid attention to election programmes of candidates for the President of Ukraine. Most of them contain common phrases. There are however rather interesting turns, too. One candidate proposes a return to the death penalty, I quote: “Not justified people's confidence – behind bars, with confiscation of property. Did not help – death penalty”...

The person who occupied the post of the Security Service Deputy Head with forged education documents was mentioned here. The Law gives two months for investigation of a criminal case, the case of that guy might be passed to court within a month, maybe even a week. Much more time has passed, but the materials are still absent. This deals not just with the political will but with normal observance of the law by the bodies designed for that...

There is one proposal: to clearly define corruption on the legislative level. To limit that notion, not to dilute it – and concentrate all efforts on countering it in those, so to speak, bribe-intensive functions of the state. ■

CORRUPTION CAN BE EFFECTIVELY COUNTERED ONLY ON THE CONDITION OF TRUE, NOT SHAM POLITICAL WILL



Hryhoriy USATYI,
Deputy Head,
Department of Strategies
of Civil Society Development
and Countering Corruption
of the National Institute
of Strategic Studies

First, one should realise that corruption cannot be totally defeated, it can only be minimised. For that, one should first of all decide on the notions. And I share the

opinion that political corruption and corruption as legal categories should not be differentiated, there should be one definition.

We heard here also rather an unusual opinion of “useful” corruption, being kind of “oil” in the mechanic gear. But that “oil” works until the critical mass is reached. It’s like the road situation: when children of the high-and-mighty began to die along with ordinary people, they realised that nobody can feel safe from a road accident and began to raise fines. Similarly, nobody can feel safe from corruption. Any corrupt official may once become a victim of corrupt encroachment. Or will have to pay in court not for an unlawful but for a *lawful* ruling. Accumulation of the “critical mass” of corruption will promote its limitation even for the persons now involved in corrupt schemes.

But one should not wait for that. Corruption should be opposed now. First of all, through creation of mechanisms of fulfilment of the effective laws and their steadfast observance, instead of obstruction. However, as it was noted here, corruption can be effectively countered only on the condition of true, not sham political will. I think that people will be thankful to any politician who will assume this mission. ■

RISKS OF CORRUPTION SHOULD BE HIGHER THAN ITS BENEFITS



Roman SHLAPAK,
*Project Manager,
Support to good governance:
Project against corruption
in Ukraine (UPAC)*

In my opinion, legal definition of political corruption is unnecessary. Definition of corruption as such is found in the framework law of the anticorruption package. At the same time, corruption certainly should be viewed in the economic, social, and political domains. Corruption in the political sector is indeed very costly and ineffective from the viewpoint of public interests. I guess, society is well aware of this, which is witnessed, in particular, by slogans (including rather radical) of many political parties. Slogans of eradication of corruption reflect social attitude, proving that society is tired of life in the situation of permanent uncertainty and discord. Rules of political life are deregulated. The public and private sectors are not clearly separated. The issue of de-legitimisation of authority, its actual corrosion is high on the agenda. Society and the authorities are similarly tired...

Regarding political corruption. I guess that one of the central issues is that of political party and election campaign funding. There are international standards, including of the Council of Europe, regimenting those issues. With their account, the Government adopted the general rules of prevention of corruption at political party and election campaign funding. Now, a new anticorruption strategy is being worked out (expected to be approved by the Government on December 9),

Expert discussion, November 27, 2009



but its draft did not specifically mention prevention of political corruption.

Now, on the proposals made here. Of course, democratisation of political life, including of political parties, is needed, along with their abidance by the principles of transparency and controllability. We should ensure steadfast abidance of the legislation on political party funding. There should also be sanctions – effective, adequate and valid. Legislative regimentation of state procurements is badly needed, since risks of corruption in that sector are rather high.

Reformation of the judicial system is very important, along with the entire system of public administration – this issue is often overlooked. Meanwhile, if some political force comes to power, it will not be able to implement its slogans without public administration, that is, the administration working in the interests of society. Therefore, political and administrative sectors, political and functional posts should be separated.

To reform the public administration, it is very important to pass a law thoroughly regulating the issue of the conflict of interests. The relevant bill is in Parliament, along with the bill on financial control of the public service. We strongly hope that they will be considered shortly. And, of course, law-abidance is of critical importance – both the effective laws, and those and pending consideration. Relevant mechanisms should be employed, using the positive international experience to the utmost.

To sum up. At one anticorruption event, a journalist termed corruption as the most profitable and the most risky kind of business. Now in this country, unfortunately, corruption is the least risky and the most profitable business for public officers, including those discharging political functions. So, that business should be made risky, for its risks exceeding gains. ■