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Origins of the institution of corruption in post-socialist states: economic, legal and institutional aspects

Abstract. Which strategy of fighting against corruption proves to be more efficient - «fighting against the evil» and «fighting for the good»? In which ways was the institutionalisation of corruption developing in post-socialist countries and why in some of them the implemented reforms failed? What are the prospects for deinstitutionalisation of corruption in Ukraine?

In search for replies to these questions the authors proceeded from the premise that research on corruption as an informal social institution would allow identifying certain regularities in its formation and to create an efficient national anti-corruption strategy upon this basis. The article comprises comprehensive analysis of the process of institutionalisation of corruption in select post-socialist states, in particular Ukraine; the paper further elaborates on a pressing need to create a new anti-corruption paradigm of transitional society with focus on economic, legal and ideological tools; the work further contains substantiation for a formula of deinstitutionalisation of informal corruption practices.

Keywords: Corruption; Informal Institutions; Economic and Legal Systems of Post-Socialist States; Institutionalisation of Corruption; Anti-Corruption Strategy

JEL Classification: B52; D02; K40; K49; Z18

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Генезис інституту корупції у постсоціалістичних країнах:

економічні та організаційно-правові аспекти

Анотація. Яка стратегія протидії корупції є більш ефективною – «боротьба зі злом» чи «боротьба за добро»? Як відбувалась інституціалізація корупції у країнах постсоціалістичного простору, і чому в деяких із них проведені реформи не мали успіху? Які перспективи деінституціалізації корупції

в Україні? У пошуку відповідей на ці питання автори виходили з того, що дослідження корупції як неформального соціального інституту дозволить виявити певні закономірності в його становленні й побудувати на цій основі ефективну антикорупційну стратегію. У статті представлено комплексний аналіз процесу інституціалізації корупції в окремих постсоціалістичних країнах і, зокрема, в Україні; доведено необхідність нової антикорупційної парадигми перехідного суспільства з акцентом на економічному, правовому та ідеологічному інструментарії; обґрунтовано формулу деінституціалізації неформальних корупційних практик.

Ключові слова: корупція; неформальні інститути; економічні і правові системи постсоціалістичних країн; інституціалізація корупції; антикорупційна стратегія.

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Генезис института коррупции в постсоциалистических странах:

экономические и организационно-правовые аспекты

Аннотация. Какая стратегия противодействия коррупции является наиболее эффективной – «борьба со злом» или «борьба за добро»? Как происходила институциализация коррупции в странах постсоциалистического пространства, и почему в некоторых из них проведенные реформы не имели успеха? Каковы перспективы деинституциализации коррупции в Украине? В поиске ответов на эти вопросы авторы исходили из того, что исследование коррупции как неформального социального института позволит выявить определенные закономерности в его становлении и построить на этой основе эффективную антикоррупционную стратегию.

Институционализация коррупции – это превращение ее из разряда преступлений отдельных чиновников в массовое социальное явление, которое становится привычным элементом социально-экономической системы. В статье представлен комплексный анализ процесса институционализации коррупции в отдельных постсоциалистических странах и, в частности, в Украине; доказана необходимость новой антикоррупционной парадигмы переходного общества с акцентом на экономическом, правовом и идеологическом инструментарии; обосновано формулу деинституциализации неформальных коррупционных практик. Доказано, что борьба с коррупцией в современных украинских реалиях будет успешной при условии применения нового подхода, когда борьба с носителями этого «зла» будет заменена построением системы, не позволяющей ему развиваться.

Ключевые слова: коррупция; неформальные институты; экономические и правовые системы постсоциалистических стран; институциализация коррупции; антикоррупционная стратегия.

1. Introduction

Corruption is one of the most hazardous «diseases» of the modern society. It inflicts tremendous amounts of damage to economy, undermines the confidence of the citizens in the political and economic institutions and causes nationwide loss of moral and ethical compass. Every country develops its own strategy in the fight against corruption defined by historical traditions, religion, political regime patterns, national culture's peculiarities and social maturity degree of the civil society. Specialists in this field tend to single out diverse models of successful anti-corruption policy of the state («Singapore», «Swedish», «Finnish», «German» and many others), analyzing their positive and negative aspects as well as prospects of their implementation in other countries. Should we abstract away from particular characteristics of such strategies, it becomes possible to consolidate them into two groups according to the anti-corruption activity's objective: «fighting against the evil» or «fighting for the good».

Ricardo Hausmann (2015) emphasizes that corruption is evil that is caused by the absence of good. To fight against evil and to do good are different notions. The researcher points out that people engage more actively in fighting against evil (e.g. hunger or poverty) than fighting for, say, the economic growth and development that grants sustainable welfare. «The good» is strong law-governed state, capable of protecting the country and its people, keep the peace, enforce adherence to the rules, maintain infrastructure and social services, regulate economic activity in a proper manner and ensure tax revenues into state budget. It is the absence of a strong capable state that causes corruption, as well as poverty and economic backwardness. Quoting Pope Francis that «the corrupt deserve to be «tied to a rock and cast into the sea», Hausmann justly observes: casting

all «evil» in the world into the sea does not imply the sudden appearance of « good» on the shores, for which we aspire so much.

The unsustainability of the strategy of «fighting against evil» consists in the fact that the efforts are directed at the carriers of «evil», not at the conditions favourable for its existence. In such case, one group of corrupt individuals will be replaced by another similar group, however and more than that, they will already be equipped with all the knowledge and experience of their predecessors, as well better accustomed to functioning in an «informal mode», when the relevance is attributed not to statutory provisions, but to arrangements and shadow interaction schemes. This way informal social practices become widely adopted and transform into being customary and functional, acquiring all necessary attributes as time flows by: subjects, rules of conduct and communication, instruments of counteracting external infringements. Institutionalisation of such practices ensues, signifying the process of formalisation of social actors interaction to form the institutional system with its elements acquiring universal acceptance and becoming rooted into real-life social relations to create a «parallel matrix» of social life. This, in its turn, results in the gradual decline of the rule of law and, consequently, criminalisation of the society. The trend towards the spread of informal practices has a direct dependence on the degree of efficiency of reforms implemented in the country: successful reforming of economic sectors strategically important to the state renders informal relations in the society virtually impossible.

Institutionalisation of corruption is a gradual legalisation of corrupt practices and processes within regulatory and management activities. It is characterized by systemic nature, established connections, a complex of standards, values and behavioural models, which establish conditions for entrenching tolerant attitude towards corruption in the social consciousness. Spontaneous corrupt behaviour of certain individuals transforms into regular actions of a broad group of subjects and, consequently, establishment of a well-coordinated self-reproducing system that serves in the interests of a certain group of individuals.

The problem of a majority of contemporary approaches to fighting against corruption and corresponding national strategies is the lack of perception of this phenomenon as an integral social organism which encompasses its own «life cycle», its national specificity, particular structure, form of manifestation in specific historical conditions. We are of opinion that the research on corruption as an informal social institution with all its intrinsic structural elements and cause-effect relationships will allow identifying certain regularities in its formation and creating on this basis an efficient national anti-corruption strategy. An indicator of validity of such strategy will be a gradual deinstitutionalisation - the process of «fading out», disintegration of the institution of corruption, determined by the change in social, economic, legal, political and other relations as well as the growth of the anti-corruption cultural practices level on the level of political elites and government authorities, as well as average citizens.

2. Brief Literature Review

There exists only a scarce number of works dedicated to the complex research of corruption as an informal social institution. As a rule, this phenomenon is considered within a standalone research domain: sectorial (in economy, policy, law enforcement authorities, etc.), territorial (in specific regions, country groups), cause-effect (determinants, conditions, consequences for the society), temporal (within certain timeline, at specific historical stages), instrumental (instruments of measurement and counteraction). Such «mosaic» view of corruption causes complications in the efficient fight against it. Therefore, we primarily drew on such scientific works that comprised the research of corruption as a multi-faceted phenomenon by its structure and means of realization based upon the principles of systemic consistency, institutionality and synergy. For instance, in the thesis by Binions (2018) the study of corruption is conducted with the use of institutional analysis; MacMullen (2017) examines corruption from several historical perspectives and with a comparison drawn between western and eastern cultures; Shedii (2015) substantiates the determinants of institutionalisation of corruption as a social phenomenon; Walczak (2018) investigates corruption from the standpoint of the choice of management methods and decision-making in socio-economic environment. Working on the presented scope of studies, we found the research works dedicated to corruption in post-Soviet states particularly useful, among them the studies by Dimitrova-Grajzl, Grajzl & Guse, (2012); Ledeneva (2014); Djankov, Nikolova & Zilinsky (2015); Pavlovska-Hilalael (2016); Ledeneva, Bratu & Köker (2017); Tomkiewicz (2018) and Uberti (2018), as well as Bašná (2019). A substantial contribution to disclosing specific features of fighting against

corruption in Ukraine was made by Bratu (2016). Exposing the peculiarities of «fighting against corruption» in a Ukrainian way, the author concentrates upon subjects, institutions and practices of combating corruption.

In contrast to other research efforts within the presented scope of study, we have considered corruption comprehensively as an informal social institution that possesses its own regularities and cycles of development. Furthermore, this phenomenon was studied from two perspectives:

- 1) positive and negative experiences of countering manifestations of corruption in select post-socialist states;
- 2) institutionalisation and prospects of deinstitutionalisation of corruption in Ukraine.

We selected three criteria of economic development, one legal criterion and one complex criterion that exposes the level of corruption perception by a society as peculiar «indicators» of institutionalisation of corruption within both Pan-European and national dimensions.

3. Purpose: study on the process of institutionalisation of corruption in select post-socialist states, Ukraine in particular; substantiation of anti-corruption paradigm of the transitional society with focus on economic, legal and ideological tools of deinstitutionalisation of informal corruption practices.

4. Results

4.1. Institutionalisation of corruption in the conditions of post-socialist states: key problems and counteraction scenarios

Institutional system of society is comprised of specifically organized combination of institutions. The category of institution is multidisciplinary, spanning broad subject matter and innumerable interpretations. Classical interpretation of institution is considered to be given by Douglass C. North in his work «Institutions, Institutional Change and Economic Performance» (1990), according to which institution is defined as a combination of government-imposed formal (laws, constitutions) and self-reproducing informal (agreements and willingly accepted codes of conduct) norms as well as enforcement and control factors that structure their interaction. Together they define the incentive structure for development of society as a whole and economy in particular. Creating new institutions requires synchronization of changes within formal and informal constituents. Nonetheless, while the laws can be adjusted at a relatively quick rate, informal norms would demonstrate slower change as they are deeply rooted in the nation's mentality.

Fundamental distinction between these two types of norms lies in the fact that the formal norms are strictly defined, represented in the form of laws, by-laws, decrees, orders, etc., while the informal ones are not officially documented, formed during many generations, becoming subjectively entrenched in the human consciousness and functioning through customary norms of social life organization. Informal norms are inclined towards value-oriented normative core of the nation and are directly associated with its mental «framework» which defines specific properties of social interaction.

If following formal rules creates obstacles to development of economic relations within the society and results in additional costs, the subjects in such relations choose an alternative variant, i.e. an informal norm that allows reducing such costs. This norm can be illegal or partially legal, however due to its long existence and entrenchment into social consciousness it can be sufficiently functional. Mass divergence from norms in conjunction with the thought rooted into the social consciousness that «everybody does this» leads to such divergences acquiring regular, recurrent character. As a consequence, formal norms become covertly violated on a broad scale, by silent consent and even with the public support. This results in the gradual decline of the rule of the law and the spread of the rules of conduct that are illegal but more beneficial to the majority of actors in the social life.

In developed countries with well-established democratic regimes and efficient legal systems people give preference to following formal norms as it is deemed more feasible, including the considerations of economic benefit. On the contrary, in less developed countries with deficient legislation, in the absence of adequate control over the compliance with law and political will on the part of ruling elites, economic agents show preference to using informal rules, thereby expanding the shadow economy.

Hence, what are the determining factors of choice between formal or informal norms and how is it connected with the institutionalisation of corruption?

We have carried out the analysis of data from 8 countries, 4 of which belong to former socialist bloc and are members of the European Union (Group I), and the other 4 belong to former republics of the Soviet Union (Group II). The choice of these particular countries is stipulated by a number of reasons, specifically due to their inherent «stepwise» dynamics according to one or several research criteria or the absence of the expected correlation between specific indicators (e.g. a significant share of «shadow» economy → high rate of corruption in the society). All countries from Group I, except Romania, are the member of the European Union since 2004 (Romania - since 2007). The countries from Group II gained independence in 1991. Correspondingly, the chosen time frame of research covers the periods of active (both chaotic and conscious) modernization and further economic and legal stabilization in these countries.

The subject of analysis comprises the indicators of global studies and resulting international ratings compiled on their basis, in particular The Corruption Perceptions Index (CPI) by Transparency International (2001-2018), Index of Economic Freedom (2000-2018), The Rule of Law Index (2018), as well as the share of shadow economy in GDP of countries (2001-2015). All indicators except for The Rule of Law Index, are represented in their dynamics over the past 15-18 years (Table 1).

Table 1:
Dynamics of indicators, connected to the institutionalisation of corruption, in the post-Soviet countries who have and have not become the members of EU

Country	Corruption Perceptions Index (2001-2018)	Share of shadow economy in GDP, % (2001-2015)	Index of Economic Freedom (2000-2018)	The Rule of Law Index (2018)
Group I				
Poland	4.1-61	26.9-16.7	60.0-68.5	0.66
Latvia	3.4-58	25.2-22.2	63.4-73.6	-
Romania	2.9-47	32.2-30.1	52.1-69.4	0.65
Czech Republic	4.3-59	15.8- 14.83	68.6-74.2	0.74
Group II				
Georgia	2.4(2002)-58	66.7-53.1	54.3-76.2	0.61
Ukraine	1.5-32	49.1-42.9	47.8-51.9	0.5
Moldova	2.6-33	45.2-39.7	58.4-59.6	0.49
Belarus	4.1-44	49.4-32.4	41.3-58.1	0.51

Note: In 2012, Transparency International changed the methodology of studies: instead of a 10-point scale, a 100-point scale was introduced. In both cases, the higher the indicator, the lower the level of corruption. The relative share of indicators according to both scales is correlative.

Share of shadow economy in GDP: <https://www.imf.org/en/publications/wp/issues/2018/01/25/shadow-economies-around-the-world-what-did-we-learn-over-the-last-20-years-45583>

Index of Economic Freedom: <https://knoema.ru/HFWSJIEF2016/index-of-economic-freedom>

The Rule of Law Index: <https://gtmarket.ru/research/rule-of-law-index/info>

Source: Corruption Perceptions Index: <https://www.transparency.org/research/cpi/overview>

The obtained data asserts the presence of sustainable positive dynamic in the indicators of Group I countries, with each of them wielding both conventional for European practices and country-specific instruments in the fight against corruption. Herewith are represented several key problems, the solution for which enabled the studied countries to achieve progress on their path to deinstitutionalisation of corruption.

1. How to shift profit from the hands of corrupt elites into functional and transparent corporate structure?

Created in Romania, the so-called Fondul Proprietatea (FP), or the Romanian Property Fund, transferred minority stakes (5% to 25%) of top 20 state-owned companies and 49 private companies in 2005. A part of the stocks was distributed among the households which suffered from the confiscation conducted by the communist regime, while a small part of stocks remained in state ownership and was sold later in tranches on the stock market. With the Fund's help Romania has succeeded in revitalising the country's stock market, improve the quality of state-owned corporate rights management and significantly decrease the level of corruption at the enterprises, making them profitable.

It would be expedient to establish a similar Fund in Ukraine as well. With the presence of a sound strategy it would help to resuscitate the stock market, improve the management at state-owned enterprises and increase their profitability, which would ultimately help overcome corruption.

2. How to form an effective regulatory framework for countering corruption?

The Czech Republic has no uniform specific legislation related to countering corruption, and the anti-corruption activity of state authorities is governed by the corresponding parts of the Criminal code. The anti-corruption programme in this country is based upon the principles of strengthening personal responsibility; systemic surveillance of public property management; controlling activity and public disclosure of corruption scandals; promotion of anti-corruption know-how and creation of a network of anti-corruption activists. The anti-corruption policy of the Czech Republic is based on three maxims: prevention, transparency and punishment. Key target groups are state administration, government procurement, police and prosecution authorities, legislative branch of power.

3. How to render manifestations of corruption impossible on the local government level?

In Poland, similarly to the majority of developed European countries, «human factor» has been excluded from the process of providing administrative services, which were automated through the use of the Internet. Overall, the country has developed a powerful electronic system, which allows maximum distancing within civil servants and law enforcement officials' interaction, as well as remote tracking of the application status.

4. How to create an effective institution for fighting against corruption?

In 2002 Latvia saw the creation of KNAB - Corruption Prevention and Combating Bureau that was vested with wide powers from the very outset. In particular, it was granted a unique capability to control the observance of financial requirements for electoral campaigns. Employees of the Bureau are permitted to conduct investigations and operational procedures, including these related to senior government officials with the purpose of detecting corrupt activities within government institutions of various levels. In its modus operandi KNAB employs diverse methods spanning from verification of the asset declarations of government officials, complaints and applications from citizens to as far as monitoring public opinion.

Success in creating similar institution in another post-socialist country - Romania, namely the Anticorruption Directorate, can be largely attributed to the head of this organization - Laura Kövesi. She implemented the principled policy of control over potential corrupt officials and their relentless persecution regardless of their high-level positions. It must be noted that the European Union adopted special monitoring mechanism to exert control over integrity and fair practices of Romanian law enforcement officials and officers of justice as well as timely prevention of manifestations of corruption on their part. Such practice was de facto implemented in all of EU member states. Apart from the aforementioned, the countries of Group I actively involve non-governmental institutions and mass media in their fight against corruption.

Among the studied countries from Group II, the experience of Georgia deserves particular attention. Its peculiarity consists in paradoxical discrepancy between active upward movement in the Corruption Perceptions Index (since 2002 the indicator improved by more than two times) and a slightly slower rate of reduction of relatively sizeable share of shadow economy - from 66.6% to 53.1% of GDP. Further to it, Georgia displays positive trend according to the indicators of the Index of Economic Freedom (54.3-76.2) and high results with the Rule of Law Index (0.61). This phenomenon requires specific study on par with another successful experience showcased by Belarus - a country with authoritarian political regime - in the direction of economic advancement and combating corruption. Although, from a formal standpoint, Belarus is a semi-presidential republic, the analysis of the correlation of authority between branches of government testifies to a super-presidential character of the republic.

Indicators of Ukraine and Moldova are similar according to their dynamic. For instance, in the past 18 years Ukraine improved its position in the Index of Economic Freedom by 4 points, while Moldova improved by 1 position (for comparison, Georgia «leaped» by 22 positions upwards in the rating, Belarus - by 17 positions); furthermore, no considerable improvements are observable with regard to shadow economy: in both countries positive dynamic is limited to 5.5-6.2% of GDP.

Low indicators by practically all the criteria of economic development in the majority of post-Soviet countries have a root cause in the processes which occurred in the 1990s. Disintegration of the old system with the absence of «road map of development» for at least the next 10-20 years in terms of such newly-created system resulted in the solidification of the informal economy, manifesting in literal looting of enterprise assets, illegal privatization of enterprises, «under the table» salaries and widespread corruption on all levels of public life. Efforts from governments of these countries to bring about revolutionary changes only by formal means through the implementation of political and economic models from developed western markets generally caused economic recessions and social disruptions - such significant «leaping ahead» within behavioural systems inevitably sets the society back in its development. Countries created out of the ruins of the former Soviet Union faced mental challenge: the overwhelming majority of citizens had not yet formed new individualistic mindset and skills set necessary to effectively operate in the conditions of then-new capitalistic relations.

Unsuccessful deinstitutionalisation in most post-Soviet countries, which was presumed to be instrumental in destroying old institutions and changing social rules, in practice resulted in the development of double institutionalisation based on the consent of the people to live in such institutional space, where old and new institutions coexist. Therefore, informal relations dating back to Soviet times (shadow labour market, favouritism and corruption) transformed within new independent states into a form of «legalized lawlessness». The predominant character of informal relations over formal regulatory mechanisms served as the root cause for the failure of majority of reforms in these countries.

4.2. Recurrent emergence of the institution of corruption in the independent Ukraine and prospects for its deinstitutionalisation

In twenty-eight years of Ukrainian independence, an efficient anti-corruption system has not been formed. Steps to overcome this negative phenomenon were carried out predominantly on a formal level: numerous acts of legislation were passed, new organisational structures were created and procedures developed, intended to expose and investigate corruption-related crimes. The government has been acting according to common bureaucratic logic - for every problem a new institutional structure was created (often - several) in order to shift the responsibility for solving this problem on to such structures. For instance, in the course of 2015-2017 a number of anti-corruption agencies became operational, among them National Agency on Corruption Prevention (NACP), National Anti-Corruption Bureau of Ukraine (NABU), Specialized Anti-Corruption Prosecutor's Office (SAPO); further, the system of submitting electronic income declarations for government officials and deputies was implemented. However, the performance of these structures and efficiency of established procedures presently is virtually at zero level.

Electoral «trilogy» of 2019, resulting in V. Zelenskyy being elected as the President of Ukraine, as well as the new composition of the Verkhovna Rada of Ukraine, is perceived by the overwhelming majority of Ukrainians as the beginning of renewal and productive development of the state. This trend towards replacement of political elites due to growing corruption level in the country, formation of new political parties and strengthening existing political parties by addition of new members with no previous discreditable political experience was substantiated by Sikk & Koeker (2015) in their research «Replacing the rascals? Corruption and candidate turnover in Central and Eastern Europe». Authors arrive at a conclusion that in the conditions of increasing perception of corruption the pro-government parties tend to rely upon more experienced albeit corrupt candidates. Despite such conclusions, we firmly believe that the trend towards involving «new faces» in the state administration as a form of public protest against corrupt government is prevalent in present-day Ukraine.

Changes become possible under the condition of thorough analysis of past mistakes and employment of new economic and legal tools for state-building. In order to ensure effective fighting against corruption, it is essential to reconsider the determinants, regularities and driving forces of its institutionalisation during the past three decades.

Considering the purpose, mentioned above, we have carried out the analysis of correlation between the «shadow» economy indicators, GDP per capita, total public debt, corruption perceptions index and quantity of anti-corruption legislative initiatives from 1991 to 2018. We further identified the existence of recurring cycles in economic and legal dimensions of corruption institutionalisation in the independent Ukraine, with the cycle duration of approximately eight years.

The first cycle traces back to 1991 with the declaration of independence of Ukraine. It is illustrative that at the time the government focused on centralization of authority, not on the formation of the actual grass-roots level of democracy. The adopted Constitution, which postulated the rule by the people, did not conform to the existing informal constraints which synthesized economic and legal policy of the Soviet Union with the interests of newly emerged business elites. Chaotic conditions of the economic development in conjunction with ever-growing need for personal enrichment of these new elites led to early elections of the President of Ukraine in 1994. In the 1990s the vast majority of the population underwent radical change of the fundamental values and objectives which ensued in the formation of a shadow mode of interaction between business entities, government employees, law enforcement official of various levels and ordinary citizens in their interaction with the state.

The correlation between the share of shadow economy in GDP and GDP per capita in this period (Table 2) allows identifying the following trend: transition of economy into the «shadow» was accompanied, up to a certain point, by growing GDP which can be explained by the inclusion of products and services of informal shadow economy - its most economically efficient constituent - into this indicator. The leading sectors of shadow economy in that period were: shadow foreign trade and financial sectors; criminal sector; organizing illegal export of resources abroad; import through «grey» customs schemes, direct contraband and sales of overpriced consumer goods. This is how high level of economic and organized crime in the 1990s gave impetus to the growth of corrupt constituent in the activities of government officials and politicians which, in its turn, facilitated the institutionalisation of corruption and changes of its qualitative characteristics. Corruption perceptions index in Ukraine was first established in 1998: from 85 countries Ukraine occupied the 69th position with a value of 2.8.

Table 2:

Dynamics of the «shadow» economy indicators, GDP per capita, total public debt, corruption perceptions index and quantity of anti-corruption legislative initiatives in Ukraine in 1991-1998

Year	1991	1992	1993	1994	1995	1996	1997	1998
Share of shadow economy in GDP, %	38.9	41.8	44.1	48.1	48.9	51.8	56.3	57
GDP per capita, USD	1489	428	677	741	752	914	1038	874
Total public debt, % of GDP	0	0.53	5.52	9.18	17.04	19.6	28.9	46.5
Anti-corruption legislation*	-	-	-	-	1	1	3	3

Note: in this and in the next tables * is the number of the passed anti-corruption legislative initiatives (Laws, Resolutions of The Cabinet of Ministers of Ukraine, Decrees of the President of Ukraine). The source of information on these initiatives is official websites:

The Verkhovna Rada of Ukraine. The Laws of Ukraine: <https://zakon.rada.gov.ua/laws>

The Government Portal. The Cabinet of Ministers of Ukraine: <http://www.kmu.gov.ua/ua/diyalnist/antikorupcijna-diyalnist>

The President of Ukraine: <https://www.president.gov.ua/documents/decrees>

The Ministry of Finance of Ukraine: <https://index.minfin.com.ua/ua/finance/debtgov>

Source: Compiled by the authors based on official data available

In the period from 1995 to 1997 (specifically, the two last years of the cycle), a growing activity related to legislative initiatives aimed at combating corruption and gradual withdrawal of the economy out of the «shadow» was observed. Specifically, a number of legal acts and programmes were enacted, among them the Law of Ukraine «On Fight against Corruption» (1995), Comprehensive targeted crime-prevention programme (1996), National program of fighting with corruption (1997). The passed legislation, nonetheless, remained only on paper. Instead, further fusion of government structures and big business occurred, resulting in the formation of oligarchic structures that established control over primary commodity sectors of Ukrainian economy and obtained the power to influence the activities of legislative, executive and judicial authorities of the state. At the same time, the fight against corruption acquired a declarative character and was used chiefly to settle the score between competitors, not for the purpose of improving the life of the people. It is exemplary that in 1998 the value of GDP per capita decreased by USD 164 in comparison with 1997.

The next cycle, which spans the period from 1999 to 2006 (Table 3), is characterized by positive, though uneven dynamic in such directions of economic development as the share of shadow economy (decreased by 9.83%) and GDP per capital (increased by USD 1175). Simultaneously,

Table 3:

Dynamics of the «shadow» economy indicators, GDP per capita, total public debt, corruption perceptions index and quantity of anti-corruption legislative initiatives in Ukraine in 1999-2006

Year	1999	2000	2001	2002	2003	2004	2005	2006
Share of shadow economy in GDP, %	51.91	52.2	49.1	47.1	45.3	41.9	42.1	40.9
GDP per capita, USD	665	664	785	885	1056	1375	1840	2319
Total public debt, % of GDP	59	43.8	36.7	33.6	29.4	24.8	14.8	14.8
Corruption perceptions index	2.6	1.5	2.1	2.4	2.3	2.2	2.6	2.8
Anti-corruption legislation	-1	0	0	0	0	1	1	5

Source: Compiled by the authors based on official data available

the establishment of market relations in Ukraine and other post-Soviet countries was accompanied by a rapidly growing stratification of society by income level and surging level of corruption. For instance, while in the early 1980s the income of 20% of the wealthiest families surpassed the income of the same percentage of the poorest families by less than two times, the early 2000s saw the incomes of opposite social groups vary by thirty times, which at the time was typical of the most economically backward African states.

Furthermore, favourable conditions for thriving corruption are created: from the very start of administrative reform in December 1999 until the end of the cycle the total number of government employees increased by 21%.

Notably, at the beginning of the cycle the anti-corruption legislation once again reached «zero balance», starting out from the elimination of the National Bureau of Investigation (The Decree of the President of Ukraine, 1999). The majority of anti-corruption legislative initiatives, similar to the 1991-1998 period, were enacted at the end of the cycle - in 2006. This concerns the ratification of The Criminal Law Convention on Corruption of the Council of Europe and the Additional Protocol to it (Law No. 252-V dated 18.10.2006; Law No. 253-V dated 18.10.2006), The Civil Law Convention on Corruption dated November 4th, 1999 (Law No. 2476-IV dated 16.03.2005), The United Nations Convention against Corruption dated December 11th, 2003 (Law No. 251-V dated 18.10.2006). The significance of adopting the Law of Ukraine «On Fight against Corruption» (with regard to the subjects of corrupt activities and other offences involving corruption) must be further emphasized. However, experience shows that the rule of «transition from quantity to quality» does not apply in the Ukrainian realities of fight against corruption.

The third cycle of institutionalisation of corruption lasted from 2007 to 2014 (Table 4). The Orange Revolution of 2004 became the departure point for the «era of lost opportunities» with regard to the economic development of our country in general and combating corruption in particular. One of the key reasons for this proved to be the unabated crisis in the circles of political elites. The onset of the global economic crisis of 2008 sent the already weak Ukrainian economy into the «free fall». In 2009, GDP per capita in 2009 declined by 35.17%, while the exports decreased by 49% in three quarters of the year. At the same time, the total public debt increased from 12.3% in 2007 to 40.6% in 2010. The situation further aggravated in the absence of appropriate international support at the time with EU overburdened by an overwhelming number

Table 4:

Dynamics of the «shadow» economy indicators, GDP per capita, total public debt, corruption perceptions index and quantity of anti-corruption legislative initiatives in Ukraine in 2007-2018

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2018
Share of shadow economy in GDP, %	38.7	36.6	43.5	42.2	39.2	39.7	39.9	39.9	42.9	-*
GDP per capita, USD	3101	3945	2557	2983	3590	3873	3969	3054	2125	2963
Total public debt, % of GDP	12.3	20.4	35.4	40.6	36.9	37.5	40.5	70.3	79.5	60.9
Corruption perceptions index	2.7	2.5	2.2	2.4	2.4	26	25	26	27	32
Anti-corruption legislation	-	-	-	1	2	-	4	15	2	1

Note: According to The Ministry of Economic Development and Trade of Ukraine, the level of the «shadow» economy in Ukraine in 2018 was 30%. We are of opinion that it would be incorrect to give this figure in the table, since the previous years data was taken from the «IMF Working Paper» (1991-2015). Some experts (for example, A. Kushch, V. Cherkashin) believe that in 2018 this figure is 45-50%. This is in line with the general trend for the middle of the cycle.

Source: Compiled by the authors based on official data available

of new member states (Poland, Romania, Czech Republic, Estonia, Latvia, Lithuania) and prospects of Ukraine's EU membership being illusory.

The year 2014 marked the finalized establishment of social and economic system based upon the control of ruling elite over legislative and law enforcement authorities and its fusion with oligarchic circles. Owing to selective justice practices certain oligarchic groups effectively gained full-scale access to state administration. The disproportion, originating from tangible benefits of oligarchs, found its expression in legal acts aimed at protecting the interests of political elite as a whole and its constituent parts - political parties. The latter transformed into short-term electoral projects with the primary objective to defend the interests of specific groups of oligarchs. Such state of affairs did not contribute to economic development, rendered it practically impossible to attract direct foreign investment due to insecurity of ownership rights and functioning of the considerable part of the national economy (ca. 40%) in the «shadow», caused drastic impoverishment of the population and the increasing level of total public debt, which constituted 70.3% of GDP in 2014. As a consequence, the country witnessed the violent events of the 2014 Revolution of Dignity, loss of its territories, war in the east of Ukraine with numerous casualties.

At the end of the cycle a significant increase in anti-corruption legislation is yet again observed: in 2014 alone, 15 legislative acts were passed including the Law of Ukraine «On principles of preventing and countering corruption in Ukraine». Nevertheless, zero outcome of such explosive activity in anti-corruption legislation can be evident from the indicators of the very first year of the next cycle, which lasts from 2015 until present. As a consequence, the share of shadow economy increased by 3%, GDP per capita decreased by USD 929, total public debt increased by 9.2% of GDP. Ukraine climbed only 1 position in the Corruption perceptions index.

Each new spike of economic crisis has invariably led to the intensification of corruption mechanisms of wealth redistribution in favour of those who managed to adapt and take advantage of such mechanisms. Ukrainian version of economic reforms from its inception was chiefly focused on corruption mechanisms of privatization of national wealth. For big business in Ukraine, corruption has become not only an important factor of economic success and market competition, but also an instrument of direct influence on the economic policy of the state.

The analysis of data from three cycles of institutionalisation of corruption in Ukraine allows identifying certain recurring phases, separated by specific «reference points of institutionalisation» (hereafter referred to as «RPI») - periods when positive/negative dynamic reached its peak and phase of recession / growth began. Such periods for our country were registered in every second and every eighth year of each cycle, accordingly.

In 1992, the share of shadow economy grows, the indicator of GDP per capita «collapses», the indicator of total public debt «surges» despite being at zero level in 1991. In 1998 - the last year of the cycle - all indicators except the number of legislative initiatives reached the bottom of negative dynamic. In the next cycle, the disposition of RPI has an inverse character in comparison to the previous eight-year period: the second year (2000) of the cycle has the lowest indicators (with exception of total public debt decrease by 15%), while the eighth year (2006) demonstrated the peak of positive dynamic according to all criteria. The third cycle reproduces the first cycle in terms of RPI disposition: in 2008 the indicators of the share of shadow economy reached the lowest levels in eight years with a relatively high GDP per capita - USD 3945 and total public debt at 20.4% of GDP, while the last year of the cycle, similar to 1998, manifested a considerable deterioration of indicators according to all criteria, except anti-corruption legislation. Low indicators of 2009 were as well stipulated by objective circumstances - the consequences of the global economic crisis, which permits to identify one more RPI caused by an external factor.

In the course of three cycles we can observe a sharp increase in the quantity of anti-corruption legislative initiatives in the last year of each cycle (1998 - 3, 2006 - 5, 2014 - 15). Simultaneously, growing number of documents and institutions focused on fighting against corruption led to the improvement of indicators according to other criteria. In this way, one may observe a parallel existence of the formal «anti-corruption institution», with an extensive network of anti-corruption structures, numerous subjects of such anti-corruption practices and relatively large legislative framework, and the informal «institution of corruption», which is testified by the economic development indicators of the state. In addition, the imperfection and the inconsistency between legislative initiatives, amplified by the inaction and corrupt practices within government institutions, which were initially aimed at preventing corruption, became contributory factors to a full-scale institutionalisation of corruption in Ukraine.

Currently, the fourth cycle is underway - 2015-2022. Similar to previous three cycles it manifests all the previously identified regularities. The second year of the cycle - 2016 - became the RPI of corruption with a «negative sign». According to the research by the international Association of Chartered Certified Accountants (ACCA), in 2016 Ukraine occupied the third position in the list of countries with largest shadow economies (45.16%) worldwide. Higher results were shown only by Nigeria and Azerbaijan. During this period, GDP per capita showed the decrease to USD 2200, while the indicator of total public debt reached the highest value in the last 5 years - 81.2% of GDP. At the same time, the movement of Ukraine up the list of the Corruption perceptions index is extremely slow: it managed to gain only 5 positions in 4 years (2015-2018). In 2022, the last year of the cycle, we may expect the peak of the positive dynamic according to all indicators, especially when the renewed political elites and the newly formed government of the country both serve as a favourable factor for such changes.

At the same time, such consistency of recurrence of the periods of «surges» and «falls» of indicators by criteria of institutionalisation of corruption demonstrates «walking around in circles» in the absence or very weak indication of elimination of this informal institution. Hence, it is too early to mark the beginning of the process of deinstitutionalisation of corruption in Ukraine.

5. Conclusions

Corruption is a «product» of distorted social consciousness, unsustainable legal system in conjunction with the inaction on the part of law-enforcement agencies complemented by an economic downturn. Moral degradation of ruling elites, their focus on self-enrichment with simultaneous disregard of national interests lays the foundation for creation of a well-coordinated system with established connections, a complex of standards, values and behavioural models - the institution of corruption.

Post-socialist states displayed distinct, often contradictory methods of response to the problem of corruptionalisation of the society. If the concept of corruption is regarded as a «disease», it becomes expedient to single out two main forms of «treatment» of the society from corruption.

The first - «radical surgery», which stipulates strict control by law-enforcement agencies over all potential subjects of corruption activities and similarly harsh punishment for such activities; «removal» of government authorities and institutions, which make the very existence of corruption possible; strengthening of law-enforcement agencies and granting them special authority for counteracting corrupt officials. Such path of anti-corruption activity was chosen by Romania, Georgia, Belarus and Moldova. Significant support on the way of deinstitutionalisation of corruption in some of these countries was provided by international community and accession to the European Union, which adopted special monitoring mechanism to exert control over integrity and fair practices of political elites, law enforcement officials and officers of justice, as well as timely prevention of manifestations of corruption on their part.

The second form of «treatment» is «preventive care in the most favourable conditions», which stipulates the facilitation of regulatory framework for business; cancellation of various quotas, licenses, permits that create obstacles for solving vitally important issues for legal entities and private individuals alike; elimination of human factor from the sphere of administrative services. Such tactics was employed in Poland, Czech Republic, Latvia and other Baltic states.

In Ukraine, a special mode of «treatment» was developed: the increased «dosage of medication» - anti-corruption institutions and organizations, laws and by-laws, staged and superficial attacks by mass media - which only served to strengthen the institution of corruption. Deinstitutionalisation of corruption in contemporary Ukrainian reality is impossible so long as the obsolete Soviet paradigm reigns supreme within economic, legal and cultural dimensions of social life. Chaotic attempts at resuscitation of the obsolete system in the new form by means of changing individual «players» and forming new institutions were doomed. The cyclical pattern of institutionalisation of corruption in Ukraine, as substantiated in the present work, serves as the proof of validity of the previous argument. We are of opinion that the process of breaking the «vicious circle» of informal corruption practices in social life must occur according to the following formula for Ukrainian society: «cultivating the ideology of non-perception of corruption in all of its aspects in the society» + «formation of new, productive system of economic and legal relations by the example of the leading European countries, however accounting for national peculiarities» + «mobilization of civil society» + «tight control (both internal and external) over observance of law and inevitability of punishment for corrupt individuals». The principal marker

of positive changes in this direction will be the economic growth and increase in the level of legal awareness of the citizens, therefore at the present stage of development of Ukrainian national identity it is expedient to combine the strategies of «fighting against evil» and «fighting for good».

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