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## INSTITUTIONAL AND LEGAL BASIS OF COUNTERACTING CORRUPTION: EXPERIENCE OF THE EUROPEAN UNION AND UKRAINE

### ABSTRACT

The intensification of the challenges, threats and risks of the global financial and economic system and the unreadiness of national economies to resist their destabilizing effects lead to the formation of a new paradigm of the world economic order, an integral component of which is corruption. The spread of corruption in the global dimension intensifies the disparities in the structure of socio-economic systems and creates obstacles to the legal and socio-political system of the country, as this destructive phenomenon penetrates not only the public sector but also the economy, politics and society, and it significantly affects the quality of life of the population, which is manifested in the enrichment of a small proportion and the impoverishment of the majority of the population.

The article defines the essence of corruption substantiates the relationship between corruption and the quality of life of the population. The economic and legal analysis of normative and legal support of counteracting corruption in the countries of the European Union and in Ukraine is carried out. A study of the dynamics of the Corruption Perceptions Index and the Quality of Life Index in the countries of the European Union and Ukraine during 2018-2021 is conducted. Based on multifactor (cluster) analysis using the k-means method, the grouping of the countries of the European Union and Ukraine by the Corruption Perceptions Index and the Quality of Life Index is carried out, which allowed to distinguish three groups among the countries of the European Union: (1) highly developed countries, which have a high quality of life and low levels of corruption; (2) highly developed countries which provide high quality of life, but corruption is high enough; (3) countries with a high level of corruption and a relatively low level of quality of life, including Ukraine. In order to ensure effective counteraction to corruption, the main measures to combat this destructive phenomenon have been proposed, the implementation of which requires the improvement of current legislation and its harmonization with international regulations.

**Keywords:** corruption, quality of life of the population, acts of corruption, law, legal relations, rule of law

**JEL Classification:** H49; O17

### INTRODUCTION

In the context of globalization and the instability of the international economy, there is an increase in the spread of corruption, the development of new schemes and methods of committing acts of corruption and avoiding responsibility for crimes related to corruption. Undoubtedly, corruption, as one of the most threatening destabilizing phenomena, is involved in the movement of shadow financial flows not only within one country but also among other countries, and affects the formation of the international financial market of shadow capital. Therefore, under such conditions, it is important to study the state and trends of counteracting this destructive phenomenon and determining the impact of corruption on the quality of life of the population, which indicates the actual absence of the middle class, and instead, there is the growth of the poor and a small share of the rich. Corruption is considered to be one of the most common methods of

illegal receipt of funds, personal enrichment and misappropriation of money and property.

## LITERATURE REVIEW

Problematic aspects of the study of the institutional basis of counteracting corruption have long been the focus of leading scholars from both the European Union and Ukraine. The available scientific achievements testify to the deep understanding of the theoretical foundations of counteracting corruption and the presence of significant practical developments in this area. In this context, scientific developments on economic and legal support of counteracting corruption are important, since corruption, as a complex socio-economic phenomenon, is a significant threat not only to society, economy and politics, but also to democracy and national security. In addition, corruption significantly violates the rights and freedoms of man and citizen and, at the same time, forms a stereotype of a simplified form of solving problems and speeding up the provision of services.

Examining the phenomenon of corruption from a legal point of view, it is not difficult to see that, in today's conditions, there is a significant contribution to the regulatory and legal support to determine its essence and countermeasures. In particular, the Law of Ukraine «On Prevention of Corruption» [1] defines corruption as the use by an official of official powers and opportunities provided to him / her for the purpose of obtaining illegal benefits. In addition, this legislative act regulates the legal and organizational basis for the functioning of the national system of prevention and counteraction to this destructive phenomenon, as well as provides for the application of preventive anti-corruption measures and rules, establishes mechanisms to eliminate corruption consequences and corruption acts. At the same time, attention is focused on the legal justification and definition of acts that contain signs of corruption and are related to the corpus delicti of corruption but do not constitute the fact of its commission.

The Criminal Code of Ukraine [2] establishes criminal liability for offenses that contain signs of corruption aimed at concealment, disguise, possession, disposal, use of funds and property obtained by criminal means. This Law clearly defines organizational and legal measures to counteract corruption, namely: (1) taking special measures to identify persons involved in corruption; (2) pre-trial investigation of corruption; (3) verification of the integrity of officials of public authorities and local self-government; (4) search, seizure and confiscation of funds obtained as a result of corruption; (5) protection of persons who have reported the acts of corruption; (6) international cooperation in the field of counteracting corruption.

It should be noted that the anti-corruption legislation in Ukraine is imperfect and insufficiently effective, as evidenced by the lack of anti-corruption strategy of the state during 2018-2022. In order to regulate and solve the problems of fighting against corruption the Law of Ukraine «On the Principles of State Anti-Corruption Policy in Ukraine» (Anti-Corruption Strategy) for 2014–2017 [3] has been adopted, the aim of which was to coordinate activities in the field of counteracting corruption. However, the approved Anti-Corruption Strategy did not have the desired effect, did not become an effective tool of anti-corruption policy, as evidenced by the lack of effective reforms and insufficient effectiveness of law enforcement agencies to prevent and combat corruption. At the same time, the adoption of the Anti-Corruption Strategy for 2018-2024, which has not yet been approved, remains problematic, which, in fact, creates significant obstacles and makes it impossible to legislate against corruption and implement anti-corruption policy.

Instead, the legislation of the European Union regulates the organizational and legal mechanisms for counteracting corruption, paying considerable attention to the principles of interpretation and fixation of acts of corruption. European anti-corruption practice is based on the fact that corruption is a fixed moment of the proven fact of obtaining funds or property as well as promises and offers of illicit benefits. At the same time, each country of the European Union at the legislative level approves the amount of such illegal benefits, in particular: in France, it is not more than 35 French francs [4], in Germany – no more than 200 euros [5], in the Netherlands – no more than 50 euros [6]. Accordingly, European legislation provides for a fairly large amount of liability for corruption – from disproportionately high fines to imprisonment for up to 10 years with confiscation of property and deprivation of the right to hold certain positions.

It should be noted that the institutional basis of counteracting corruption in the European Union and in Ukraine differs significantly. It is obvious that there is no comprehensive nature of the fight against corruption in Ukraine and the imperfection of current national legislation in this area, which makes it impossible to implement measures to detect, assess and prevent corruption, and there are fairly loyal responsibilities for corruption acts. The transnational nature of corruption necessitates its study at the global international level. In view of this, ratification of international regulations in the field of preventing and counteracting corruption is of great importance. In particular, it is worth noting the UN Convention against Corruption [7], which regulates a clearly defined list of measures to ensure effective and efficient counteraction to corruption and liability for acts of corruption. At the international level, there is also the non-governmental organization Transparency International, which assesses the level of corruption in the world and seeks ways to minimize and counteract

corruption. According to the definition of this organization, corruption is recognized as an abuse of power for personal purposes [8].

It should be noted that scientific views on the economic and legal category of «corruption» are multifaceted and ambiguous. Z. Varnaliy [9, p. 111] considers corruption to be one of the greatest threats to national state-building, a problem of sustainable socio-economic development and a destabilizing factor in Ukraine's integration into the European Union. The researcher's views are focused not only on the political and legal aspect of corruption, but also on its economic essence, as a specific share of corruption crimes is committed in the financial and economic sector of the state. A similar view is shared by G. Feichtinger and F. Wirl [10], who found that ensuring democracy significantly depends on reducing corruption and increasing the quality of life in society. Scientific research shows that in democratic countries the level of corruption is higher than in countries with dictatorial regimes.

M. Vinichuk [11, p. 21, 25] argues that corruption causes socio-economic problems and reduces the quality of life, and V. Kopytko and H. Levkiv [12] prove that rising corruption leads to lower macroeconomic security of the state. This hypothesis is confirmed by the research of M. Losien [13], who found that the growth of corruption leads to destabilization of the macroeconomic situation in the country and decrease in its economic growth, resulting in reduced quality of life of the population of the state. At the same time, the emphasis is on the problem of assessing the level of corruption, as it is proven that in today's conditions, in fact, there is no mechanism for fixing corruption, dealing with official statistics. Thus, the results of the analysis of the theoretical foundations of counteracting corruption in the European Union and in Ukraine give grounds to state about its incompleteness and sufficient inefficiency in Ukraine. Anti-corruption practices in the European Union are effective and can be borrowed and adapted in Ukraine.

## RESULTS

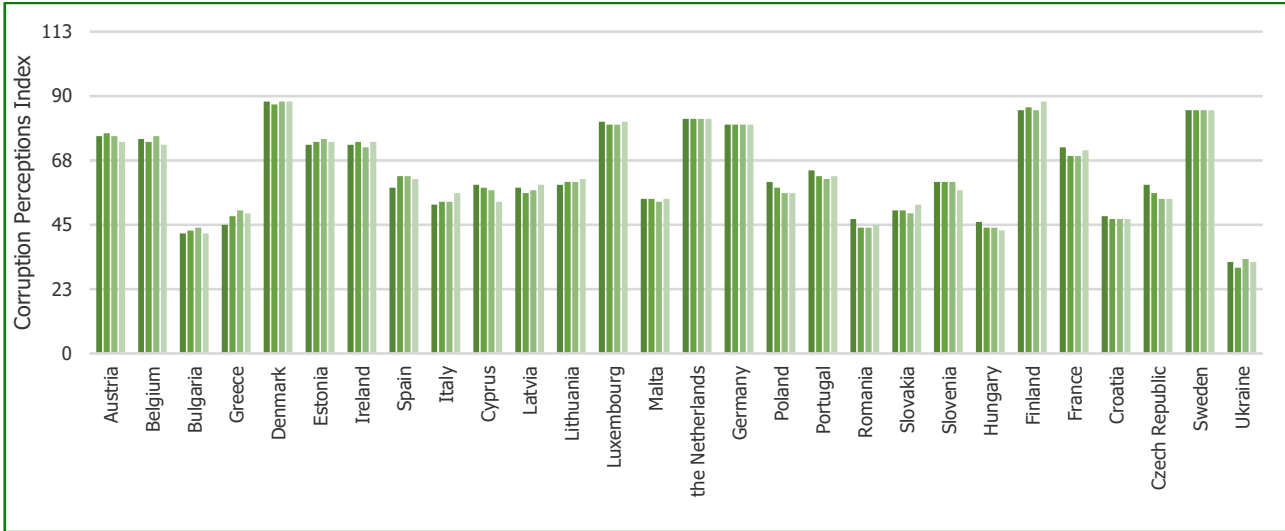
The purpose of the article is to substantiate the theoretical and applied foundations of the study of the institutional basis of counteracting corruption in the European Union and Ukraine.

The phenomenon of corruption, as a threatening transnational phenomenon, consists in the implementation of several forms of corruption acts, namely: (1) the use of official powers and opportunities for illegal gain; (2) the direct acceptance of an improper benefit or the promise and offer of such benefit; (3) an offer, promise and acceptance of an improper benefit by an official.

The etymological analysis of corruption shows the need to prove the fact of corruption through the commission of objective actions that are considered corrupt. At present, the assessment of real corruption in the European Union and Ukraine is somewhat limited and complicated by the imperfection of anti-corruption legislation and the lack of clear methodological tools for such measurements and calculations, and the methods of assessing the level of corruption, developed by Transparency International, are based on its objective assessments and subjective perception. At the same time, objective measurements are based on information on established and recorded acts of corruption, and subjective – on the perception of these acts by society as corruption. The main problem in this context is the significant bias in statistics of corruption, the lack of official statistics and the fact that a significant number of corruption crimes are not related to money and property, which, in fact, undermines their value and quantity. In addition, the proposed methods involve conducting opinion polls and expert evaluation, which is subject to a high level of subjectivity and contains significant errors. It should be taken into account that the assessment of the level of corruption is carried out on the basis of data on its perception, rather than the actual situation, therefore, the calculated values of the index of perception of corruption and their comparison in different countries are not entirely appropriate.

However, the annual calculations of the level of corruption carried out by Transparency International and systematized in the reports of The Global Corruption Perceptions Index Report [14; 15; 16; 17] indicate the lack of a steady trend toward its growth or decline. A detailed analysis of the level of corruption conducted in the European Union and Ukraine on the indicator of the corruption perception index for the period of 2018-2021 (*Figure 1*) suggests that Ukraine lags far behind the European Union. At the same time, according to the results of calculations, there is no steady trend among the countries of the European Union. In particular, in highly developed countries such as Denmark, Finland, Sweden, the Netherlands, Luxembourg and Germany, the lowest levels of corruption were recorded, and the highest was observed in countries that have completed the transformation process and are characterized as transit countries that belonged to the USSR (Bulgaria, Hungary, Romania).

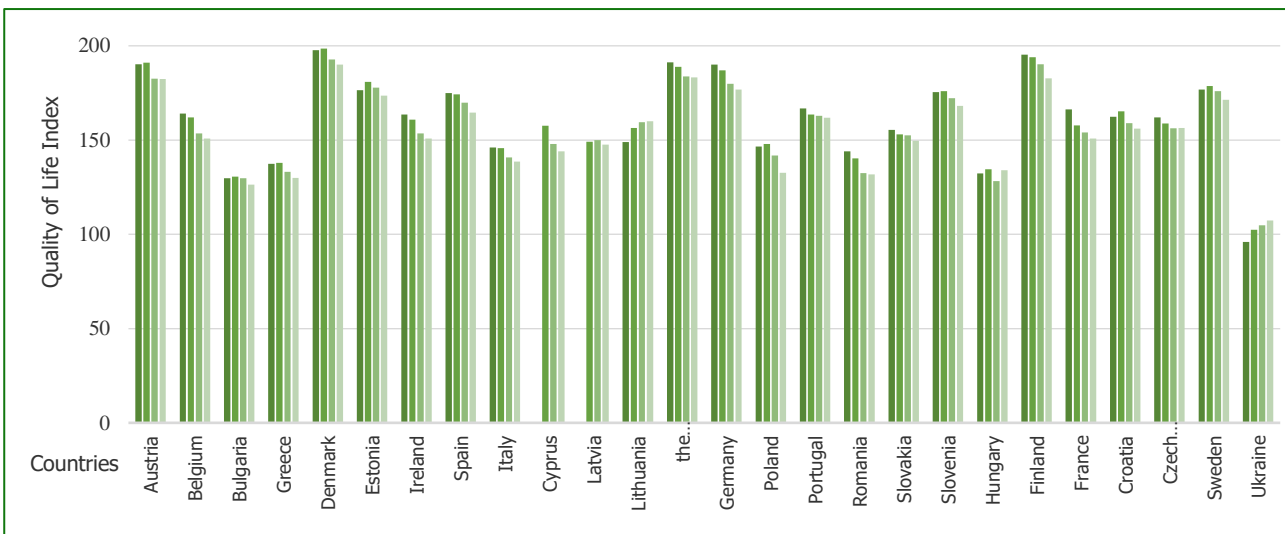
It should be noted that in the analyzed group, there are countries that are highly developed, however, have problems in ensuring effective anti-corruption legislation, which has led to an increase in corruption (Austria, Belgium, Estonia, Ireland).



**Figure 1.** Dynamics of the Corruption Perceptions Index in the European Union and Ukraine, 2018-2021 (Source: [14–17])

In particular, we should note the experience of counteracting corruption demonstrated by Estonia – a country that has successfully passed the way of a transition economy and ensured high socio-economic development due to the political will of politicians and the eradication of corruption without special anti-corruption bodies. However, among the countries of the European Union, there are a number of countries that are

exposed to external and internal destabilizing factors, resulting in an increase in corruption. These include Poland, Greece, Slovakia, Croatia, Malta and Cyprus, which are related to high-profile corruption scandals and argue over the rule of law and political stability, which in turn calls into question the state of democracy in those countries. The latter thesis confirms the hypotheses of M. Losien, V. Kopytko, H. Levkiv on the relationship and interdependence of corruption with the level of development of the country and the quality of life of its population. In fact, assessments show that corruption is much lower in highly developed countries and the level of quality of life is higher than in developing countries. In-depth research conducted in this direction to establish the relationship between corruption and quality of life, allows us to determine the impact of corruption on the quality of life: with increasing corruption, there is a decrease in quality of life (Figure 2). It should be noted that in the analyzed period in most countries of the European Union there is a decrease in the quality of life index.



**Figure 2.** Dynamics of the quality of life index of the population in the countries of the European Union and in Ukraine, 2018-2021 (Source: [18; 19; 20; 21])

Separately, we should note a steady trend towards the distribution of the countries of the European Union to ensure optimal values of quality of life and their change under the influence of rising levels of corruption. To illustrate the results

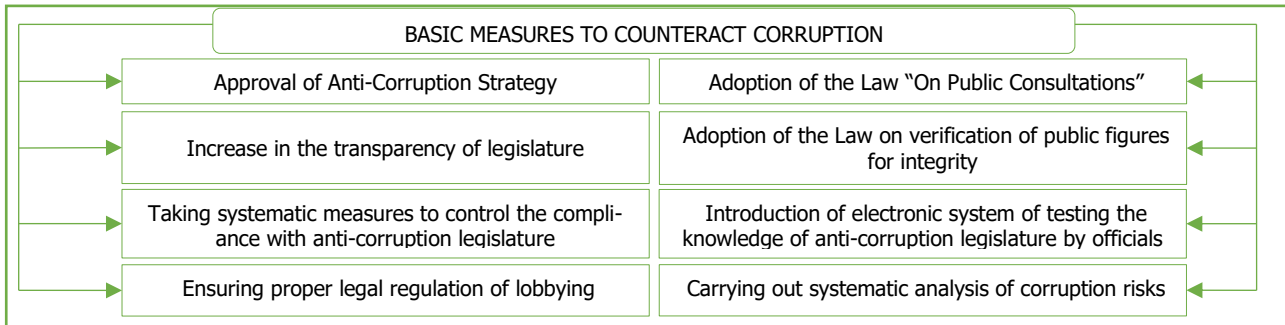
of the research, we consider it appropriate to group the countries of the European Union according to the Corruption Perceptions Index and the Quality of Life Index in 2018-2021 and determine the place of Ukraine among them (*Table 1*). Necessary calculations will be performed using the technology of multidimensional (cluster) analysis based on the method of k-means.

**Table 1.** Grouping of the countries of the European Union and Ukraine according to the indicators of the Corruption Perceptions index and the Quality of Life Index in 2018-2021

2018		2019		2020		2021	
Country	Cluster number	Country	Cluster number	Country	Cluster number	Country	Cluster number
Austria	1	Austria	1	Austria	1	Austria	1
Denmark		Denmark		Denmark		Denmark	
Estonia		Estonia		Estonia		Estonia	
The Netherlands		The Netherlands		The Netherlands		The Netherlands	
Germany		Germany		Germany		Germany	
Finland		Finland		Finland		Finland	
Sweden		Sweden		Sweden		Sweden	
Belgium	2	Belgium	2	Belgium	2	Belgium	2
Ireland		Ireland		Ireland		Ireland	
Spain		Spain		Spain		Spain	
Italy		Italy		Italy		Cyprus	
Lithuania		Cyprus		Cyprus		Latvia	
Poland		Latvia		Latvia		Lithuania	
Portugal		Lithuania		Lithuania		Portugal	
Slovakia		Poland		Poland		Slovakia	
Slovenia		Portugal		Portugal		Slovenia	
France		Slovakia		Slovakia		France	
Croatia		Slovenia		Slovenia		Croatia	
Czech Republic		France		France		Czech Republic	
Bulgaria		Croatia		Croatia		Bulgaria	
Greece		Czech Republic		Czech Republic		Greece	
Romania	Bulgaria	Bulgaria	Italy				
Hungary	Greece	Greece	Poland				
Ukraine	Romania	Romania	Romania				
	Hungary	Hungary	Hungary				
	Ukraine	Ukraine	Ukraine				

Source: [14-21].

According to the results, during 2018-2021, the first cluster includes countries such as Austria, Denmark, Estonia, the Netherlands, Germany, Finland and Sweden, which are highly developed countries, have excellent anti-corruption legislation, provide high social and economic development of the country and high standards of quality of life. The second cluster includes countries that are characterized as capable of ensuring quite high levels of socio-economic development, however, anti-corruption legislation needs to be clarified, revised and improved, as evidenced by corruption scandals (Belgium, Ireland, Spain, Italy, Cyprus, Latvia, Lithuania, Poland, Portugal, Slovakia, Slovenia, France, Croatia and the Czech Republic). The third cluster consists of countries that have not completed the process of economic transformation, and anti-corruption legislation needs to be harmonized with international and European regulations (Bulgaria, Greece, Romania, Hungary). Ukraine is also included in this group of countries in terms of levels of corruption and the quality of life of the population. It is becoming clear that the European institutional basis for combating corruption is more developed, effective and efficient than the national one. In addition, countries with a high level of socio-economic development are more effective in counteracting corruption in various spheres of socio-economic and socio-political life than developing countries, where corruption poses a significant threat to democracy. In particular, we are talking about Ukraine, which launched anti-corruption reform after pressure from the European Union in response to its refusal to provide funding. Therefore, the need to form a strategic anti-corruption document and approve the Anti-Corruption Strategy is justified. In order to strengthen the effectiveness of the fight against corruption in the countries of the European Union and Ukraine, it is necessary to develop and implement a set of measures, which are systematized in *Figure 3*, as it has been proven that anti-corruption measures are characterized by low levels of effectiveness and inefficiency in developing countries.



**Figure 3.** Basic measures to counteract corruption

Equally important is the strengthening of international cooperation in the field of counteracting corruption, development and implementation of a system of measures for continuous monitoring of corruption-sensitive areas and strict control over the activities of officials, setting international ethical anti-corruption standards and establishing a state security mechanism for counteracting corruption.

## CONCLUSIONS

Thus, studies of the institutional basis of counteracting corruption in the European Union and in Ukraine give grounds to conclude that European anti-corruption legislation is more effective than the current Ukrainian. It is established that the growth of corruption has a significant destabilizing effect on the quality of life, welfare and social protection of the population. It has been proven that in highly developed countries there is a lower level of corruption and a higher level of quality of life than in developing countries. In order to increase the effectiveness of corruption, it is proposed to implement a set of anti-corruption measures, which should be carried out not only within one country but at the international level, as corruption is transnational in nature and extends beyond the country.

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## **ІНСТИТУЦІЙНО-ПРАВОВИЙ БАЗИС ПРОТИДІЇ КОРУПЦІЇ: ДОСВІД КРАЇН ЄВРОПЕЙСЬКОГО СОЮЗУ ТА УКРАЇНИ**

Інтенсифікація викликів, загроз і ризиків функціонування глобальної фінансово-економічної системи та неготовність національної економіки протистояти їх дестабілізуючому впливу зумовлюють формування нової парадигми світового економічного порядку, невід'ємною компонентою якої є корупція. Поширення корупції в глобальному вимірі посилює диспропорції структури розвитку соціально-економічних систем і створює перешкоди правовому й суспільно-політичному устроєві країни, оскільки це деструктивне явище проникає не тільки в державний сектор, а й в економіку, політику, суспільство, а також істотно впливає на рівень якості життя населення, що проявляється в збагаченні незначної частини та зубожінні більшості населення.

У статті визначено сутність корупції, обґрунтовано взаємозв'язок корупції з рівнем якості життя населення. Здійснено економіко-правовий аналіз нормативно-правового забезпечення протидії корупції в країнах Європейського Союзу та в Україні. Проведено дослідження динаміки індексу сприйняття корупції й індексу якості життя населення в країнах Європейського Союзу та в Україні впродовж 2018-2021 років. На основі багатофакторного (кластерного) аналізу з використанням методу k-середніх здійснено групування країн Європейського Союзу та України за показниками індексу сприйняття корупції й індексу якості життя населення, що дозволило виокремити серед країн Європейського Союзу три групи: (1) високо розвинуті країни, у яких спостерігається високий рівень якості життя населення та низький рівень корупції; (2) країни, які належать до високо розвинутих, забезпечують високі показники

якості життя населення, але рівень корупції мають достатньо високий; (3) країни з високим рівнем корупції та порівняно низьким рівнем якості життя населення, до яких належить і Україна. Із метою забезпечення ефективної протидії корупції запропоновано основні заходи боротьби з цим деструктивним явищем, реалізація яких потребує вдосконалення чинного законодавства та його гармонізації з міжнародними нормативно-правовими актами.

**Ключові слова:** корупція, якість життя населення, корупційні діяння, право, правовідносини, правова держава

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