

Research Article

CONTROL AND PREVENTION OF CORRUPTION CRIMES IN UKRAINE AND LITHUANIA DURING THE STATE OF EMERGENCY AND MARTIAL LAW

Kateryna Kulyk

ABSTRACT

Background: Martial law in Ukraine and the state of emergency in Lithuania have changed the daily lifestyles of many residents of these countries. The circumstances necessitating the introduction of these special regimes have also increased the risk of illegal activities, including corruption, in these territories.

Methods: This study applied a comprehensive approach that included a thorough analysis of Ukrainian and Lithuanian anti-corruption legislation, reports on the implementation of anti-corruption measures during the state of emergency in Lithuania and martial law in Ukraine, and content analysis of news media. The researcher surveyed 13 anti-corruption experts in Ukraine and, based on their answers and previous research materials, identified the factors that contribute to the spread of corruption in Ukraine during martial law and in Lithuania during its state of emergency. Survey results were also used to determine measures to control and prevent corruption during periods of exception in these countries.

Results and Conclusion: The study of corruption in these contexts provides insight into the factors contributing to the spread of corruption. The anti-corruption experts in Ukraine selected the following factors as the greatest contributors to corruption: inadequate control and supervision (53.8%), increased need for funding (23.1%), lack of transparency and openness (53.8%), vulnerability and citizens' moral hazards (38.5%), and aggravation of social problems and mistrust in authorities (61.5%). The analysis of these factors made it possible to provide recommendations to enhance the control and prevention of corruption offences in Ukraine and Lithuania. These measures include strengthening the independence of anti-corruption bodies, increasing the transparency of government activities, disseminating anti-corruption education, promoting international cooperation in combating corruption, and strengthening public control.

1 INTRODUCTION

Corruption poses a significant threat to national security and state stability, leading to substantial and tangible economic, social, and political losses. Corruption undermines the principles of democracy and the rule of law, leads to human rights violations, reduces the quality of life, creates a negative image of the state in the international community, and contributes to the spread of crime.

Fighting corruption has always been an integral part of the public policy of every democratic and rule-of-law state, including Ukraine and Lithuania. The fight against corruption began when these countries declared independence from the Soviet Union in 1991 and 1990, respectively.¹ Anti-corruption activities continue even under a state of emergency and martial law when statehood is at risk.

Since the beginning of the full-scale invasion of Ukraine by Russian troops on 24 February 2022,² Ukraine has faced the need to defend its territory and population while implementing state policies in various areas, including anti-corruption policies. Many partner countries, including Lithuania, have supported Ukraine. Due to the aggression of the Russian Federation against Ukraine, Lithuania declared a state of emergency in its territory on 24 February 2022.³ Later, this declaration remained only in the border area.⁴ Lithuania has made excellent progress in fighting corruption, as evidenced by the 2023 Corruption Perceptions Index.⁵ Moreover, Lithuania was under a state of emergency before 24 February 2022,⁶ and its fight against corruption under these conditions showed positive results. Thus, successful practices must be analysed to reveal their feasibility for implementation in Ukraine.

1 Resolution of the Verkhovna Rada of Ukrainian SSR no 1427-XII of the 24 August 1991 'On the Proclamation of Independence of Ukraine' [1991] Vidomosti Verkhovna Rada of Ukraine 38/502; Act of the Supreme Council of the Republic of Lithuania of 11 March 1990 on the Restoration of the Independent State of Lithuania 'Aktas dėl Lietuvos nepriklausomos valstybės atstatymo' <<https://www.e-tar.lt/portal/lt/legalAct/TAR.12C754906DE4>> accessed 29 August 2024.

2 Decree of the President of Ukraine no 64/2022 of 24 February 2022. 'On the Introduction of Martial Law in Ukraine' [2022] Official Gazette of Ukraine 46/2497.

3 'The Lithuanian Seimas has Extended the State of Emergency in the Border Area with Belarus and Russia' (*UkrInform*, 14 March 2023) <<https://www.ukrinform.ua/rubric-world/3682267-sejm-litvi-prodovziv-diu-nadzvicajnego-stanu-u-prikordonna-z-bilorussu-ta-rosieiu.html>> accessed 29 August 2024.

4 'The State of Emergency in Lithuania will be in Effect Until May' (*State Border Guard Service at the Ministry of the Interior of the Republic of Lithuania*, 14 March 2023) <<https://vsat.lrv.lt/lt/naujienos/nepaprstoji-padetis-lietuvoje-galios-iki-geguzes/>> accessed 29 August 2024.

5 'CPI-2023 Lithuania: Corruption Perceptions Index 2023' (*Transparency International Lithuania*, 2024) <<https://www.transparency.org/en/countries/lithuania>> accessed 29 August 2024.

6 Oleksandr Topchii, 'For the First Time in its History, Lithuania has Declared a State of Emergency over Migrants from Belarus' (*UNIAN*, 9 November 2021) <<https://www.unian.ua/world/litva-vpershe-v-istoriji-zaprovadila-nadzvichayny-stand-cherез-migrantiv-z-bilorusi-novini-svitu-11604361.html>> accessed 29 August 2024.

2 METHODOLOGY OF THE STUDY

The research methodology is based on formal legal methods and special methods of criminological research. This study applied a comprehensive approach that included a thorough analysis of Ukrainian and Lithuanian anti-corruption legislation, reports on the implementation of anti-corruption measures during the state of emergency in Lithuania and martial law in Ukraine, and content analysis of news media. The researcher surveyed 13 anti-corruption experts in Ukraine and, based on their answers and previous research materials, identified the factors contributing to the spread of corruption in Ukraine during martial law and Lithuania during its state of emergency. Survey results were also used to determine measures to control and prevent corruption during periods of exception in these countries.

3 FINDINGS

3.1. Ukraine's fight against corruption during martial law

Corruption in Ukraine was mostly caused by the fact that, after the collapse of the Soviet Union, the state system remained almost unchanged. Ukraine inherited all the management problems of a totalitarian regime. After the declaration of independence, there was no lustration – former Communist Party members were not prohibited from holding positions of responsibility in the governmental structures of the new state.⁷ The old Soviet bureaucracy retained its primary right of access to privatisation, lucrative government contracts, and loans.

In the initial years of Ukraine's independence, the absence of comprehensive legislation, which merely established the foundation for new market relations, played a negative role in this process. The practice of substituting the priority of the law with numerous bylaws was widespread. Well-known Ukrainian criminologist O. Kostenko describes corruption in Ukraine as a crisis-type corruption, stemming from the broader crisis of modern Ukrainian society rather than solely from the imperfection of criminal justice. This type of corruption not only deepens the crisis of society but also negates any political, economic, legal, and moral reforms, posing a direct threat to Ukraine's national security.⁸ Corruption in Ukraine is a consequence of systemic contradictions of political, moral, psychological, economic, organisational, managerial, legal, and ideological nature.

7 BM Holovkin, VV Holina and OYu Shostko, (eds), *Criminology* (Pravo 2020).

8 Oleksandr Kostenko, 'Crisis-Type Corruption: Concept and Ways of Counteraction' (2008) 18 *Fight Against Organized Crime and Corruption (Theory and Practice)* 136.

For a long time, a very high level of corruption has been reported in Ukraine. Until 2014, studies by international anti-corruption organisations,⁹ as well as research by Ukrainian and foreign scholars,¹⁰ recorded a low level of counteraction to these illegal acts. The situation began to improve significantly after 2014,¹¹ and Ukraine received 36 points out of 100 in the 2023 Corruption Perceptions Index.

First, the creation of specialised anti-corruption bodies in Ukraine stems from the provisions of Article 6 of the United Nations Convention Against Corruption (2003)¹² and Article 20 of the Criminal Law Convention on Corruption (1999)¹³ for member states, both of which Ukraine ratified in 2006 and enacted in 2010. As a result, five key institutions were established: the National Agency on Corruption Prevention; the National Anti-Corruption Bureau of Ukraine; the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes; Specialised Anti-corruption Prosecutor's Office; and the High Anti-Corruption Court. These institutions, each with their own distinct functions and defined jurisdictions, operate independently but with the shared mission to fight and prevent corruption. In addition, existing law enforcement agencies, such as The National Police of Ukraine, the Security Service of Ukraine and the State Bureau of Investigation, have special competencies to investigate certain categories of corruption offences. Since Russia's full-scale invasion of Ukraine in 2022, all institutions, in addition to their primary duties, have begun to perform functions aimed at protecting the state and accelerating Ukraine's victory.

Second, in accordance with the Anti-Corruption Strategy for 2014-2017,¹⁴ reforms were introduced in various areas, such as public service, public procurement, judiciary and criminal justice, the private sector, election legislation, executive authorities, and access to information. In addition, legislation on liability for corruption offences has significantly improved. An important element of anti-corruption reform is the formation

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- 9 'CPI-2012 Ukraine: Corruption Perceptions Index 2012' (*Transparency International Ukraine*, 5 December 2012) <<https://ti-ukraine.org/en/research/cpi-2012/>> accessed 20 September 2024; 'Global Corruption Barometer-2013' (*Transparency International Ukraine*, 1 March 2013) <<https://ti-ukraine.org/en/research/barometr-svitovoyi-koruptsiyi-2013/>> accessed 20 September 2024.
 - 10 O Bereza, 'Corruption in the Field of Public Administration as a Deterrent to Socio-Economic Reforms' (2014) 1 *Public Administration: Theory and Practice* 173; Drago Kos, 'War and Corruption in Ukraine' (2022) 2 *Eucrim* 152, doi:10.30709/eucrim-2022-007; Fabian Teichmann, Marie-Christin Falker and Bruno S Sergi, 'Extractive Industries, Corruption and Potential Solutions: The Case of Ukraine' (2020) 69 *Resources Policy* 101844, doi.org/10.1016/j.resourpol.2020.101844.
 - 11 'CPI-2023: Corruption Perceptions Index 2023' (*Transparency International Ukraine*, 2024) <<https://cpi.ti-ukraine.org/en/>> accessed 20 September 2024; Javier Cifuentes-Faura, 'Corruption in Ukraine During the Ukrainian-Russian War: A Decalogue of Policies to Combat it' (2024) 24(1) *Journal of Public Affairs* 3, doi:10.1002/pa.2905.
 - 12 United Nations Convention Against Corruption of 31 October 2003 [2007] UNTS 2349/41.
 - 13 Criminal Law Convention on Corruption of 27 January 1999 [1999] ETS 173/1
 - 14 Law of Ukraine no 1699-VII of 14 October 2014 'On the Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014-2017' [2014] Official Gazette of Ukraine 87/2473.

of the idea of zero tolerance for corruption in society, which is one of the most important factors in combating corruption.

During the period of martial law in Ukraine, many laws and regulations have been adopted, with key amendments made to critical areas, including those related to anti-corruption. Such amendments include “On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Looting”, adopted on 3 February 2022 No. 2117-IX. This law amended Part 4 of Article 191 (Appropriation, embezzlement, or possession of property belonging to another by abuse of office) by adding a provision on the commission of the said offence in a state of martial law or emergency.¹⁵

The Law of Ukraine “On Prevention of Corruption” has also undergone numerous amendments,¹⁶ notably with Article 3 supplemented with a new category of subjects subject to its requirements: “chairmen and members of medical and social expert commissions, as well as chairmen, their deputies, members and secretaries of freelance permanent military medical and flight commissions, who are not persons referred to in paragraph 1 of part one of this article.”¹⁷

A significant milestone in Ukraine’s anti-corruption framework is the adoption of the Anti-Corruption Strategy until 2025, as outlined in the Law of Ukraine “On the Principles of State Anti-Corruption Policy for 2021-2025” (20 June 2022 No. 2322-IX), the country’s main anti-corruption document.¹⁸ In pursuit of this strategy, the Cabinet of Ministers of Ukraine developed and adopted the State Anti-Corruption Programme for 2023-2025,¹⁹ which includes 1187 measures to combat and prevent corruption. The programme aims to achieve significant progress in preventing and combating corruption, ensuring the coherence and systematic anti-corruption activities of all state and local governments, as well as a proper post-war recovery process in Ukraine. The listed legal acts are the most important ones for the formation and implementation of anti-corruption policies in the state; however, they are not the only ones.

A significant achievement in combatting corruption has been the creation of digital systems that facilitate citizens’ access to anti-corruption information and provide the necessary measures to prevent corruption. The National Agency on Corruption Prevention has

15 Law of Ukraine no 2117-IX of 3 March 2022 ‘On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Looting’ [2022] Official Gazette of Ukraine 32/1691.

16 Law of Ukraine no 1700-VII of 14 October 2014 ‘On Prevention of Corruption’ (amended 4 May 2024) <<https://zakon.rada.gov.ua/laws/show/1700-18#Text>> accessed 20 September 2024.

17 Law of Ukraine no 3384-IX of 20 September 2023 ‘On Amendments to Certain Laws of Ukraine on Determining the Procedure for Submitting Declarations of Persons Authorised to Perform State or Local Government Functions under Martial Law’ [2023] Official Gazette of Ukraine 94/5535.

18 Law of Ukraine no 2322-IX of 20 June 2022 ‘On the Principles of State Anti-Corruption Policy for 2021-2025’ [2022] Official Gazette of Ukraine 56/3272.

19 Resolution of the Cabinet of Ministers of Ukraine no 220 of 4 March 2023 ‘On Approval of the State Anti-Corruption Programme for 2023-2025’ [2023] Official Gazette of Ukraine 31/1685.

developed and launched several key platforms, including the “Anti-Corruption Portal” for compliance officers and the “Single Whistleblower Reporting Portal” for persons reporting possible corruption practices.

In 2023, the NACP presented the “Information System for Monitoring the Implementation of the State Anti-Corruption Policy,” allowing stakeholders to track progress on the Anti-Corruption Strategy for 2021-2025. Additionally, a “Learning Platform” featuring online anti-corruption courses was created for the public, civil servants and educators, along with a ‘Knowledge Base’ where the NACP provides guidance on the most common issues related to implementing anti-corruption legislation.

The “PolitData” portal, unique worldwide, discloses information on the financing of all political parties in Ukraine, with party reports expected to be submitted through the platform during elections.²⁰ In reaction to the full-scale invasion of Ukraine by Russian troops, the NACP also developed the “Sanctions portal” to inform foreign governments and the public about sanctions imposed on persons supporting the war, both financially and through informational means.

Ukraine has made significant progress in combatting corruption, undeterred even by the constraints of martial law. While many reforms have already been implemented, challenges remain in implementing the Anti-Corruption Strategy by 2025. An integral component of this effort includes integrating the recommendations from international anti-corruption organisations to enhance the effectiveness of anti-corruption measures.

Non-governmental organisations play a very important role in this fight. There are many anti-corruption NGOs in Ukraine, the most prominent of which are the Centre of Policy and Legal Reform, the Human Rights NGO, the Centre for Political Studies and Analysis “EIDOS”, and the Anti-Corruption Platform Group of the Reanimation Package of Reforms. These organisations have significantly contributed to the development of Ukraine as a state governed by the rule of law, civil society, democratic institutions, and effective self-governance.

3.2. Lithuania's successful control and prevention of corruption during the state of emergency

The Republic of Lithuania has made substantial efforts to fight corruption since declaring independence from the Soviet Union in 1990.²¹ The Corruption Perceptions Index is a good indicator of this success.²² Lithuania has developed a robust framework of legal measures designed to fight corruption, driven largely by its integration into the European

20 Oleksandr Novikov, 'Integrity is a matter of survival for Ukraine' (*UkrInform*, 15 January 2024) <<https://www.ukrinform.ua/rubric-politics/3813501-oleksandr-novikov-golova-nacionalnogo-agentstva-z-pitan-zapobiganna-korupcii.html>> accessed 20 September 2024.

21 Bryane Michael, Eleanor Kennon and Jeppe Kromann Hansen, 'The Future of Anti-corruption Measures in Lithuania' (2006) 1(16) *Public Policy and Administration* 7.

22 'Corruption Perceptions Index 2023' (*Transparency International*, 2024) <<https://www.transparency.org/en/cpi/2023>> accessed 20 September 2024.

community.²³ The country joined the Council of Europe in 1993 and later ratified the Council's Criminal and Civil Law Conventions against Corruption in 2002 and 2003, respectively. Since 1999, Lithuania has been a member of the Council's Group of States against Corruption (GRECO) and ratified the United Nations Convention against Corruption in 2006. In 1997, an independent anti-corruption body, the Special Investigation Service of the Republic of Lithuania, was established. In 2002, the first long-term national anti-corruption program was adopted, further bolstering anti-corruption legislation. All these steps have become a solid foundation for Lithuania's successful anti-corruption policy,²⁴ as reflected in the improvement of corruption indices and declining reports of bribing activities.²⁵

On 10 November 2021, for the first time since regaining independence in 1990, the Seimas declared a state of emergency in the country due to the critical situation with migrants on the border with Belarus. This declaration led to heightened security measures, including restrictions on vehicle traffic in the border area without border guard permission and limited access to the border area for local residents with supporting documents. On the territory where the state of emergency was introduced, the special services had the right to check people, their belongings and vehicles for illegal storage of weapons, ammunition, explosives and other dangerous substances. Rallies and various gatherings were also banned.

During this period, persons who illegally crossed the border with Lithuania were restricted in their right to correspondence and telephone calls, with exceptions for communication with consular and other state institutions. To curb unauthorised entry, Lithuanian authorities decided to build a 508-kilometre-long physical security fence on the border with Belarus.²⁶

The second state of emergency was declared in Lithuania on 24 February 2022 when the Russian Federation began a large-scale invasion of Ukraine. At that time, a state of emergency was declared throughout the country and was subsequently extended several times, but only in border areas. During a state of emergency, the state registry may be used more freely to ensure the financing of relevant institutions and eliminate possible threats to national security.²⁷

23 Raimundas Urbonas, 'Corruption in Lithuania' (2009) 9(1) *Connections* 67.

24 Dainius Velykis, 'A Diagnosis of Corruption in Lithuania' (2010) 10 *ERCAS Working Paper* 5 <<https://www.againstcorruption.eu/publications/lithuania/>> accessed 20 September 2024.

25 Ainius Lašas, *Backstage Democracy: Political Corruption and Governance* (Palgrave Macmillan 2023) 25, doi:10.1007/978-3-031-25531-1_3.

26 Oleksandr Topchii, 'For the First Time in its History, Lithuania has Declared a State of Emergency over Migrants from Belarus' (*UNIAN*, 9 November 2021) <<https://www.unian.ua/world/litva-vpershe-v-istoriji-zaprovadila-nadzvichayniy-stan-cherez-migrantiv-z-bilorusi-novini-svitu-11604361.html>> accessed 20 September 2024.

27 Resolution of the Parliament of the Republic of Lithuania no XIV-1789 of 14 March 2023 'On the Introduction of the State of Emergency' <<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/5aaf73d2c25511ed924fd817f8fa798e?positionInSearchResults=0&searchModelUUID=ef3c6b32-fc47-414d-a1a0-574523b8ee7e>> accessed 20 September 2024; *The Lithuanian Seimas* (n 3).

In response to Russia's invasion of Ukraine, Lithuania took urgent measures to enable contractors to avoid ties with aggressor countries and simultaneously avoid funding from these countries. On 1 April 2022, amendments to the Law on Public Procurement, the Law on Procurement by Customers in the Fields of Water Management, Energy, Transport, and Postal Services, and the Law on Public Procurement in the Field of Defense and Security came into force. Accordingly, on 31 March 2022, the Government of the Republic of Lithuania approved a list of hostile countries prepared by the Ministry of Economy and Innovation, allowing the exclusion of companies associated with these countries from public procurement tenders announced in Lithuania or the termination of contracts with them. These conditions apply in the event of mobilisation, war, or state of emergency, or when the Government of the Republic of Lithuania, having assessed the risk that the factors that led to the declaration of mobilisation, war, or state of emergency pose a threat to national security, decided to apply this provision.²⁸

On 1 January 2022, a new version of the Law on Prevention of Corruption came into force, replacing the corruption-prevention model in place for almost 20 years. The new law sets out the basic principles, goals, and objectives of preventing corruption and strengthening national security by reducing the threats posed by corruption in the public and private sectors, the measures for the creation of a corruption-resistant environment and their legal basis, and the entities involved in the prevention of corruption, as well as their rights and obligations in the area of corruption prevention. The new version of the law establishes the rights, duties, and performance guarantees of the entities responsible for corruption resistance.²⁹

Non-governmental organisations have also contributed to Lithuania's success, activating the public and creating awareness of and dissatisfaction with corruption. The most well-known organisations are the Human Monitoring Institute, Civil Society Institute, National Anti-Corruption Association (NACA), and the Development Cooperation Platform.

Overall, research shows that corruption in Lithuania is increasingly under control but remains a problem in some areas. Additionally, the ongoing war in Ukraine poses challenges for strategic national security sectors. The existing corruption risks call for vigilance and monitoring of the situation inside the country, assessment of the activities of existing companies and potential investors, and additional measures to strengthen both the anti-corruption environment in Lithuania and mutual cooperation with foreign countries in the field of international business operations.³⁰

28 Leščinskaitė Aistė, 'Viešųjų pirkimų pokyčiai karo ir nepaprastosios padėties akivaizdoje' (*Teise Pro*, 12 April 2022) <<https://www.teise.pro/index.php/2022/04/12/viesuju-pirkimu-pokyciai-karo-ir-nepaprastosios-padeties-akivaizdoje/>> accessed 20 September 2024.

29 Special Investigation Service of the Republic of Lithuania, *Report on the Activities of the Special Investigation Service of the Republic of Lithuania, 2021* (STT 2022) <https://stt.lt/data/public/uploads/2022/06/stt-veiklos-ataskaita-2021_210x297-mm_en_web.pdf> accessed 20 September 2024.

30 Special Investigation Service of the Republic of Lithuania, *Annual Report, 2022* (STT 2023) <https://www.stt.lt/data/public/uploads/2023/06/stt_ataskaita_2022_en_web.pdf> accessed 20 September 2024.

3.3. Interview results – Factors contributing to corruption

Identifying relevant measures aimed at combating and preventing corruption requires recognising and analysing the factors that contribute to its spread. Interviewing 13 anti-corruption experts in Ukraine revealed the factors that contributed the most to corruption during martial law. The mentioned factors included inadequate control and supervision (53.8%), increased need for funding (23.1%), lack of transparency and openness (53.8%), vulnerability and citizens' moral hazards (38.5%), and aggravation of social problems and mistrust in authorities (61.5%). The total votes exceeded 100% because the respondents were given the opportunity to select multiple answers.

Inadequate control and supervision. Anti-corruption reform efforts in Ukraine intensified in 2014, leading to the implementation of numerous measures to combat and prevent corrupt practices. The success of these measures can be seen in the reports of international anti-corruption organisations, including Transparency International Ukraine. According to the Corruption Perceptions Index, Ukraine received 32 points in 2021,³¹ one point lower than its record high of 33 in 2020. However, the Russian Federation's military aggression against Ukraine interrupted most state activities in certain territories, including those aimed at combatting corruption. Here, we discuss temporarily occupied Ukrainian territories.

In the initial months of Russia's 2022 invasion of Ukraine, local governments and law enforcement agencies in temporarily occupied territories or areas of active hostility were nearly paralysed. In a country's struggle for existence, all resources naturally concentrate on defence. As Drago Kos, the Chair of the OECD Working Group on Bribery, notes, it is very difficult to expect a country under invasion to actively fight corruption. However, if parts of the country and the government continue to function in some way, then measures aimed at combating corruption should not be ignored.³² Ukrainian defenders successfully drove Russian troops out of Kyiv, almost entirely from the Kharkiv region and later partially from the Kherson region. Restoration of essential structures is currently underway.

Simultaneously, anti-corruption institutions in the liberated territories are being restored. All anti-corruption institutions are beginning to perform not only their main functions but also additional ones aimed at accelerating Ukraine's victory. For example, in the first months of full-scale aggression, the National Agency for the Prevention of Corruption set up a Humanitarian Aid Centre, which delivered more than 250 tonnes of humanitarian aid. Some NACP staff even joined the Ukrainian Armed Forces. Together with the Ministry of Foreign Affairs of Ukraine and with the support of the National Security and Defence Council of Ukraine, a single sanctions website, "War and Sanctions", was developed, where sanction data is publicly accessible.

31 'Corruption Perceptions Index 2021' (*Transparency International Ukraine*, 25 January 2022) <<https://ti-ukraine.org/en/research/corruption-perceptions-index-2021/>> accessed 1 June 2024.

32 Kos (n 10).

Additionally, the National Agency on Corruption Prevention (NACP) compiled a list of sponsors of the war against Ukraine and launched a large-scale educational project called "Ukraine NOW. A Vision of the Future," engaging opinion leaders to reflect on lessons and potential missteps for Ukraine.³³ To further bolster the institutional capacity of the National Anti-Corruption Bureau of Ukraine, legislation was passed to provide an additional 300 employees in the central and territorial departments of the NABU.³⁴ The number of prosecutors in the Specialised Anti-Corruption Prosecutor's Office³⁵ and the High Anti-Corruption Court of Ukraine increased accordingly.³⁶

These changes are intended to implement the following: first, the tasks assigned to Ukraine by the European Commission as a requirement for the start of negotiations on Ukraine's accession to the EU; and second, to increase the efficiency of the work of specially authorised anti-corruption bodies in the current circumstances.

Sociological surveys from 2022 reveal that Lithuanians perceive national institutions as more corrupt than those operating at the regional or local level. In the context of some public sector institutions, the legislature continues to face the highest risk of corruption, though this risk has decreased since 2021.³⁷ The defence sector also requires particular scrutiny, as monitoring existing anti-corruption measures is critical for addressing potential risks that may arise in the future.

Increased need for funding. Russia's invasion of Ukraine in 2022 has significantly heightened Ukraine's need for financial support to preserve its statehood. Under such circumstances, the state budget is unable to cover all needs. The key funding area is the defence sector. Despite three consecutive years of defence growth, Ukraine's current defence funding meets less than a tenth of the military's requests to the Cabinet of Ministers of Ukraine. Ukraine is currently at the limit in its ability to finance the Defence Forces. The nation is operating at its financial limits, dedicating all internal resources – including tax revenue, dividends of state-owned companies, and funds from internal borrowing – to defence, yet this remains insufficient. To bridge the gap, the government urgently needs to increase its defence budget by USD 12 billion.³⁸

33 National Agency on Corruption Prevention, *Annual Report 2022* (NACP 2023) <<https://nazk.gov.ua/wp-content/uploads/zvit-2022/NACP-annual-report.pdf>> accessed 20 September 2024.

34 Law of Ukraine no 3502-IX of 8 December 2023 'On Amendments to Article 5 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" to increase the institutional capacity of the National Anti-Corruption Bureau of Ukraine' [2024] Official Gazette of Ukraine 6/252.

35 Law of Ukraine no 3409-IX of 8 December 2023 'On Amendments to the Criminal Procedure Code of Ukraine and Other Legislative Acts of Ukraine to Strengthen the Independence of the Specialised Anti-Corruption Prosecutor's Office' [2024] Official Gazette of Ukraine 6/255.

36 'High Council of Justice Increases the Number of Judges of the High Anti-Corruption Court' (*High Council of Justice*, 26 September 2023) <<https://hcj.gov.ua/news/vrp-zbilshyla-chyselfnist-suddiv-vyshchogo-antikorupciynogo-sudu>> accessed 20 September 2024.

37 Special Investigation Service of the Republic of Lithuania (n 30).

38 Yaroslav Vynokurov, 'Half a Trillion for the War: When Are the Authorities Going to Raise Taxes and Is There an Alternative?' (*Ekonomichna Pravda*, 3 July 2024) <<https://www.epravda.com.ua/publications/2024/07/3/716119/>> accessed 20 September 2024.

Further budgetary assistance is crucial to ensure social welfare expenditures, humanitarian aid, and support for internally displaced persons, businesses, etc. According to Ukraine's Minister of Finance, the monthly need for external financing will reach approximately USD 3 billion by 2024.³⁹ Thus, Ukraine must receive timely international financial support to ensure its survival and defence capabilities. Between 29 June 2023 and 24 February 2022, Ukraine received almost EUR 170 billion from international partners,⁴⁰ encompassing military, financial, and humanitarian aid provided by foreign governments and international financial organisations.⁴¹

Unfortunately, such significant financial resources can incentivise corruption, especially among those with the authority to manage public funds. Some concerns about the security of financial support to Ukraine have been expressed by representatives of partner countries, as well as experts and scholars.⁴² The Chair of the OECD Working Group on Bribery, Drago Kos, emphasises that Ukraine is currently receiving significant amounts of military, humanitarian, and financial support from abroad. In this regard, the Government of Ukraine should focus on establishing a credible system for the effective management of foreign aid to ensure that it is distributed and delivered to the populations and armed forces that need it most. In addition, the main focus should be on the military effort.⁴³ Simultaneously, the heads of Ukraine's anti-corruption institutions and international experts noted the positive results of the fight against corruption over the past ten years.⁴⁴

39 Ministry of Finance of Ukraine, 'International Cooperation is Important for Winning the War: Sergii Marchenko at Meeting of G7 Financial Bloc' (*Government Portal*, 28 February 2024) <<https://www.kmu.gov.ua/en/news/mizhnarodna-spivpratsia-vazhlyva-dlia-peremohy-u-viini-serhii-marchenko-pid-chas-zustrichi-finbloku-g7>> accessed 20 September 2024.

40 '170 billion in international aid to Ukraine' (*Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine*, 29 June 2023) <<https://minre.gov.ua/en/2023/06/29/170-billion-in-international-aid-to-ukraine/>> accessed 20 September 2024.

41 Pietro Bompreszi, Ivan Kharitonov and Christoph Trebesch, 'Ukraine Support Tracker: Methodological Update & New Results on Aid "Allocation"' (*IfW Kiel Institute for the World Economy*, June 2024) <<https://www.ifw-kiel.de/topics/war-against-ukraine/ukraine-support-tracker/>> accessed 20 September 2024.

42 Oksana Muzychenko, 'The West is Not Satisfied with Ukraine's Anti-Corruption Efforts: Does this Threaten Aid - The Washington Post' (*TSN*, 20 June 2024) <<https://tsn.ua/ukrayina/na-zahodni-nezadovoleni-antikorupciynimi-zusillyami-ukrayini-chi-zagrozhuje-ce-dopomozi-the-washington-post-2604501.html>> accessed 20 September 2024; Nahal Toosi, 'Leaked US Strategy on Ukraine Sees Corruption as the Real Threat' (*Politico*, 2 October 2023) <<https://www.politico.com/news/2023/10/02/biden-admin-ukraine-strategy-corruption-00119237>> accessed 20 September 2024; 'Ukraine Claims to be Winning its War on Corruption. The West Says: Do More' (*Washington Post*, 19 June 2024) <<https://www.washingtonpost.com/world/2024/06/19/ukraine-corruption-us-accountability-war/>> accessed 20 September 2024.

43 Kos (n 10).

44 CPI-2023 (n 11); Novikov (n 20); 'Progress in the Fight Against Corruption and Judicial Reform in Ukraine' (*Basel Institute on Governance*, June 2024) <<https://baselgovernance.org/publications/progress-ukraines-anti-corruption-and-judicial-reform-efforts-update-ukraine-recovery>> accessed 20 September 2024.

Thus, there are substantial grounds for the successful implementation of an anti-corruption strategy in Ukraine.

Lithuania received no significant financial assistance during its state of emergency. However, given martial law in Ukraine, the activities of companies and potential investors should continue to be monitored. As the Special Investigation Service of the Republic of Lithuania (STT) notes, the risks remain relevant but manageable and are associated with investments involving Belarus, Russian citizens, and companies (acting directly or indirectly through intermediaries) and their desire to establish themselves in strategic, national security-critical sectors (including energy, communications, and information technology), which would give these companies, often associated with undemocratic regimes, the opportunity to not only gain access to information about the critical infrastructure of the Republic of Lithuania⁴⁵ but also delay the implementation of important projects.

Lack of transparency and openness. The Open Data Maturity Report 2021 ranked⁴⁶ Ukraine 6th among European countries in terms of open data development. However, owing to the Russian invasion of Ukraine on 24 February 2022, the State Enterprise National Information Systems temporarily suspended the operation of Unified and State Registers, which are under the jurisdiction of the Ministry of Justice of Ukraine. This suspension halted real estate transactions, the establishment and registration of legal entities, individual entrepreneurs, and civil associations, as well as notarial acts, public procurement processes, and verification of participants in public procurement. Such restrictions were introduced because of the high probability of unauthorised interference with the registers by the aggressor state during martial law, posing a potential threat to the security of citizens, businesses, and the state.⁴⁷

Unfortunately, the lack of transparency and openness of data on the activities of government and local self-government bodies may lead to increased corruption risks because society and the media have fewer opportunities to monitor their actions.

Moreover, on 7 March 2022, Law No. 2115-IX came into force, postponing the deadline for submitting all reporting documents to three months after the end of martial law. On the same day, the NACP officially clarified that the provisions of this law also apply to *electronic declarations*. A few months later, the Verkhovna Rada supplemented the final provisions of the Law on Prevention of Corruption with a new paragraph (2-7), which allowed e-declarations due during martial law to be submitted within 90 days of the date of termination or cancellation of martial law. In other words, there was a technical possibility of filing a declaration in the register, but there was no obligation to do so under martial law.

45 Special Investigation Service of the Republic of Lithuania (n 30).

46 Daphne van Hesteren and others, *Open Data Maturity Report 2021* (EU Publ Office 2021) 5, doi:10.2830/394148.

47 Aliona Hryshko, 'Registers and War: Striking a Balance between Transparency and Security' (*Vox Ukraine*, 12 September 2022) <<https://voxukraine.org/vidkryti-dani-i-vijna-poshuk-balansu-mizh-prozoristy-ta-bezpekoyu>> accessed 20 September 2024.

The absence of mandatory submission of e-declarations by declaring entities has raised significant concerns among Ukrainian society and the international community, as it could potentially allow dishonest officials to conceal their illegally gained income and avoid monitoring by the anti-corruption authorities and society. Moreover, the International Monetary Fund (IMF) highlighted on the 31 March 2023 memorandum that failing to reinstate e-declarations for public officials not engaged in hostilities could jeopardise Ukraine's IMF credit support. Additionally, Ukraine's EU candidate status hinges on the fulfilment of seven criteria, one of which is the prevention and combating of corruption.⁴⁸

Finally, on 12 October 2023, the Law of Ukraine "On Amendments to Certain Laws of Ukraine on Determining the Procedure for Submitting Declarations of Persons Authorised to Perform the Functions of the State or Local Self-Government under Martial Law" dated 20 September 2023 No. 3384-IX came into force, restoring the mandatory electronic declaration during martial law.⁴⁹ The law now requires declarants who did not submit a declaration of a person authorised to perform state or local government functions in 2022-2023 to submit relevant declarations no later than 31 January 2024. Simultaneously, prisoners of war and citizens in temporarily occupied territories do not have to file declarations until martial law is lifted or the territories are liberated. The declarations are to be submitted no later than 90 days after the liberation of the territory or the return to the territory controlled by Ukraine. Declarants who, as a result of injuries, contusions, and diseases related to the performance of military service duties, are undergoing inpatient treatment (including abroad) or are on leave for treatment and/or rehabilitation must submit declarations no later than 90 days after the end of treatment or leave.⁵⁰

Civil society organisations and the media have repeatedly stated that there is a line between security issues and the accountability of state and local government bodies.⁵¹ After all, the war and COVID-19 have created opportunities for politicians, officials, and judges to hide data and block public control over their work. Only in certain clearly defined cases can restrictions on access to information be justified in times of war.⁵² Over time, and with the success of the Armed Forces of Ukraine on the frontline, access to registers and databases can be gradually restored, first to civil servants and then to the public, starting in the summer of 2022.

48 Anatolii Pashynskiy, 'Why Ukraine Needs to Restore e-Declaration' (*Ekonomichna Pravda*, 24 July 2023) <<https://www.epravda.com.ua/columns/2023/07/24/702512/>> accessed 20 September 2024.

49 Law of Ukraine no 3384-IX (n 17).

50 'E-Declaration of Income During Martial Law and Anti-Corruption Mechanisms Restored' (*Liga Zakon*, 12 October 2023) <https://buh.ligazakon.net/news/222758_vdnovleno-e-deklaruvannya-dokhodv-pd-chas-vonnogo-stanu-ta-dyu-antikoruptysynikh-mekhanizmiv> accessed 20 September 2024.

51 Oleksandr Salizhenko, 'War and Open Data: Where Is the Line Between Danger and Accountability?' (*LB.ua*, 27 October 2022) <https://lb.ua/blog/oleksandr_salizhenko/533930_viyna_i_vidkriti_dani_de_mezha_mizh.html> accessed 20 September 2024.

52 'The Public Demands to Open Registers and Renew Access to Public Information – A Statement' (*BRDO*, 6 March 2022) <<https://brdo.com.ua/news/gromadskist-vymagaye-vidkryty-reyestry-ta-ponovyty-dostup-do-publichnoyi-informatsiyi-zayava/>> accessed 20 September 2024.

The issues of transparency and data openness are relevant for all countries, even those that have achieved significant success in fighting corruption. In Lithuania, for example, in 2022, fewer businesses complained that corrupt practices had prevented their company from winning a public tender than in the last three years.⁵³ This has been made possible by the strong control of public procurement procedures.

Closed state registries and a lack of access to socially important data lead to corruption, a lack of accountability and responsibility, and, most importantly, a loss of trust in key state institutions.

Vulnerability and citizens' moral hazards. The situation of emergency and marital law causes significant stress and anxiety in the country's population by necessitating major changes in one's way of life and the need to adapt to new living, working, and everyday conditions. These changes were particularly acute for the IDPs fleeing temporarily occupied territories, areas of active hostility, and areas with a high degree of insecurity. The entire population of the country is also experiencing tension, uncertainty, and numerous difficulties. These circumstances have led to a state of vulnerability in the population, including corruption. Unfortunately, these cases are common when social benefits, medical services, or other vital resources are provided.

A 2022 survey of the Ukrainian population identified the areas where respondents most often encountered corruption. These areas include humanitarian aid, education, public and municipal healthcare, and administrative services.⁵⁴ The moral and psychological state of the country's population plays an essential role in vulnerability to corruption. Sociological research by the National Institute for Strategic Studies found that 71% of Ukrainians felt stressed or nervous. Among the reasons, the first was the Russian invasion in 2022, and the second was financial hardship. Key war-related stressors included concern for relatives' safety and the loss of work or income⁵⁵. Thus, these problems during a state of emergency and martial law may encourage some individuals to resort to bribery and engage in other corrupt practices to secure essential resources for themselves and their loved ones.

Living under a state of emergency is generally less traumatic than living under martial law. A state of emergency is usually declared to strengthen control in problem territories and introduce certain restrictions and prohibitions. If the event leading to the declaration has no fatalities, the overall stress on the population remains low. While circumstances leading to the declaration are important, the psychological state of the population remains largely unchanged, which can help maintain social stability.

53 Special Investigation Service of the Republic of Lithuania (n 30).

54 National Agency on Corruption Prevention, *Corruption in Ukraine 2022: Understanding, Perception, Prevalence: Report on the Results of the Survey* (NACP 2023) <<https://nazk.gov.ua/wp-content/uploads/2023/04/1f23b766-e031-4c3f-81a4-0167b4f93116.pdf>> accessed 20 September 2024.

55 'Support for Mental Health in Times of War' (*National Institute for Strategic Studies*, 27 June 2023) <<https://niss.gov.ua/en/node/4977>> accessed 20 September 2024.

Today, Lithuania has high anti-corruption potential. Every year, positive changes are recorded, and the public is becoming increasingly aware of the importance of its contribution to the creation of an anti-corruption environment.⁵⁶ According to Lithuanian research, the number of reports from citizens about possible facts of corruption is increasing every year. This, in turn, indicates an increase in public confidence in the police, STT, and media. However, there are some limitations in this area. Many people fear reporting corruption because they believe it will be difficult to prove and/or pointless to report because those responsible for corruption will not be punished.⁵⁷ Therefore, the decision not to report is mainly made due to a lack of trust in justice and a belief in prevailing impunity.

3.4. Preventative measures

Based on the results of the author's anonymous survey of experts, an analysis of the factors that contributed to the spread of corruption in Ukraine during martial law and in Lithuania during the state of emergency allowed us to identify measures to counteract and prevent corruption during this period. Anti-corruption experts identified the following areas for preventing and combating corruption during martial law in Ukraine: strengthening the independence of anti-corruption bodies (92.3%), increasing the transparency of government activities (53.8%), disseminating anti-corruption education (46.2%), cooperating internationally to combat corruption (38.5%), and strengthening public control (38.5%). The total percentage sum was higher than 100% because the respondents were given the opportunity to select multiple answers.

The institutional capacity and independence of anti-corruption bodies are the keys to successfully combating corrupt practices. Therefore, anti-corruption institutions must possess the necessary powers, access to data and registers, and a certain degree of sanction for offenders to perform their duties effectively.

Thus, based on the 2023 Corruption Perceptions Index results, TI Ukraine provides recommendations that could help improve anti-corruption activities in 2024. These recommendations cover three areas of work: increasing the effectiveness of the fight against grand corruption, effective use of the assets of corrupt officials and Russia's associates for the needs of the state, and launching the reform of the Accounting Chamber and State Audit Service of Ukraine.⁵⁸ Today, it is important to increase the capacity and conduct an objective competitive selection of employees of the National Anti-Corruption

56 'Map of Corruption in Lithuania 2022/2023: Public Anti-Corruption Stance Is Strengthening, though the Willingness to Report Cases of Corruption Remains a Challenge' (*Special Investigation Service of the Republic of Lithuania*, 3 July 2023) <https://www.stt.lt/en/news/7481/_2023/map-of-corruption-in-lithuania-2022-2023-public-anti-corruption-stance-is-strengthening-though-the-willingness-to-report-cases-of-corruption-remains-a-challenge:3609> accessed 20 September 2024.

57 Special Investigation Service of the Republic of Lithuania (n 30).

58 'Corruption Perceptions Index - 2023' (*Transparency International Ukraine*, 30 January 2024) <<https://ti-ukraine.org/research/index-spryjnyattya-korupsiyi-2023/>> accessed 20 September 2024.

Bureau of Ukraine, prosecutors of the Specialised Anti-Corruption Prosecutor's Office, and judges of the High Anti-Corruption Court.

The Special Investigation Service of the Republic of Lithuania (STT) assesses investors and parties for transactions to help protect the state's interests in strategically important sectors of the economy related to national security. Thus, by 2023, 842 assessments had been conducted on individuals and legal entities seeking to invest or enter into transactions in the financial and credit sectors, transport, energy, and military industries. There is a tendency for some individuals or organisations to manipulate hard-to-reach data to conceal ties with hostile states. In 2023, the STT analysed data contained in state registers and information systems, comparing this data with other information available to them, to identify possible threats and risks of corruption and threats in areas of national security, energy, transport, healthcare, agriculture, and political activity.⁵⁹

Although Lithuania has made significant progress in anti-corruption efforts, there is still more work to be done. In particular, experts from the Organisation for Economic Co-operation and Development (OECD) provided the following recommendations to Lithuania as part of the technical support project: Effective Implementation of the National Anti-Corruption Strategy.⁶⁰ These include developing anti-corruption activities in municipalities, providing law enforcement agencies wider access to data registers, and implementing more effective sanctions for corruption offences and corruption in the private sector.

Transparency and openness of public authorities and local self-governing bodies. During a state of emergency and martial law, the likelihood of corrupt decision-making practices and resource use increases, which also applies to public procurement. Therefore, it is necessary to focus on these issues. The disclosure of this information does not harm national interests or security.

On 2 February 2024, the Government of Ukraine approved the Public Procurement System Reform Strategy for 2024-2026 and approved the operational plan for its implementation in 2024-2025. However, according to TI Ukraine experts, the strategy currently does not address a number of important problems in the sector, such as insufficient transparency in the formation of the expected value and value of direct contracts and insufficient transparency in the execution of contracts.⁶¹

59 National Agency on Corruption Prevention, *Report on the Activities of the National Agency on Corruption Prevention for 2023* (NACP 2024) <<https://drive.google.com/file/d/1gOEkdFh5Y3L2R48wc2s0hgDbN6qUhVXT/view>> accessed 20 September 2024.

60 'OECD Experts Prepare Recommendations for Lithuania to Develop and Improve Measures to Prevent Corruption' (*Special Investigation Service of the Republic of Lithuania*, 4 April 2023) <<https://stt.lt/naujienos/7464/ebpo-ekspertai-parengė-rekomendacijas-lietuvių-pletojant-ir-tobulinant-korupcijos-prevencijos-priemones:3563>> accessed 20 September 2024; OECD, *Review of Lithuania's National Agenda on the Prevention of Corruption: Strengthening Public Sector Integrity Strategies* (OECD Public Governance Reviews 2023) doi:10.1787/e6fed26-en.

61 'Public Procurement 2023: Functioning of the Field and Changes to It' (*Transparency International Ukraine*, 16 May 2024) <<https://ti-ukraine.org/en/research/public-procurement-2023-functioning-of-the-field-and-changes-to-it/>> accessed 20 September 2024.

Lithuania also supports the view that the introduction of sufficient controls and the prevention of corruption in public procurement procedures reduces the risks of state vulnerability, as public procurement often becomes one of the areas through which opaque financial interest groups, some of which are linked to business or third-country governments, can carry out state capture, thus weakening the state of national security.⁶² Thus, the indicators showing an increase in the transparency of public procurement procedures in Lithuania indicate that the risks in this sector are well managed from the perspective of national security.

Anti-corruption education and awareness among various groups of the population contribute to the formation of anti-corruption attitudes, reduced tolerance of corruption, and decreased likelihood of corrupt practices. Therefore, countries need to pay significant attention to this area.

Anti-corruption education in Ukraine has always been integral to modern anti-corruption policies. This is reflected in key anti-corruption legal acts. Since 2014, many measures have been taken to raise public awareness of anti-corruption practices.⁶³ Even under martial law, the implementation of the Anti-Corruption Strategy in Ukraine for 2021-2025 continues, including relevant exercises. In 2023, the National Agency for the Prevention of Corruption developed nine training courses. The “Good Government” training program was presented to civil servants, representatives of local authorities, police officers, judges, and deputies. In addition, a community of educators was formed, united by the value of integrity, and committed to implementing this value in the educational process on a daily basis. Currently, the community comprises twelve hubs and more than 280 schools.⁶⁴

The Republic of Lithuania also actively conducts various activities aimed at raising citizens' awareness about the need to prevent and combat corruption. One such initiative is the “Transparency Academy” project, launched under the direction of the President of the Republic of Lithuania in cooperation with STT. The project involved 21 organisations and 19 mentors and organised 11 events to share best practices in transparency with approximately 3,000 participants.⁶⁵ Also, in 2023, STT, in cooperation with the Young Doctors Association (JGA), launched the social campaign “To Give or Not to Give”.⁶⁶ This campaign aimed to encourage dialogue between doctors

62 Special Investigation Service of the Republic of Lithuania (n 30).

63 Kateryna Kulyk, ‘The Current Situation and Prospects of Education in the Field of Preventing and Combating Corruption in Ukraine’ (2023) in Valentyna Smachylo and Oleksandr Nestorenko (eds), *Modern Approaches to Ensuring Sustainable Development* (University of Technology in Katowice Press 2023) 584.

64 National Agency on Corruption Prevention (n 59).

65 Special Investigation Service of the Republic of Lithuania (n 30).

66 Special Investigation Service of the Republic of Lithuania, *Annual Report, 2023* (STT 2024) <https://www.stt.lt/data/public/uploads/2024/04/stt_veiklos_ataskaita_2023.pdf> accessed 20 September 2024.

and patients, drawing attention to the importance of transparency in the healthcare sector and the negative emotions caused by bribes.

It is important to note that only a few projects have been implemented by anti-corruption institutions to raise public awareness of anti-corruption issues. Continued focus on this area of corruption prevention is essential. Citizens, business representatives, non-governmental organisations, the media, and the academic community should all be involved in these initiatives. Only through joint efforts can we accelerate the process of building zero tolerance for corruption and create a sustainable anti-corruption society.

International cooperation played an important role in combating and preventing corruption during martial law or states of emergency in Ukraine and Lithuania. Countries should collaborate to share best practices and intelligence and strengthen the implementation of international legal instruments such as the United Nations Convention against Corruption to prevent and investigate corrupt practices. By exchanging best practices, information, and experiences, countries can develop standardised guidelines and procedures that promote transparency and accountability. This reduces opportunities for corrupt practices and increases the chances of detecting and preventing irregularities.

Ukraine's accession to the European Union in 2022 was a significant step towards its overall development and strengthening of its anti-corruption legislation, bringing it into compliance with European standards. Ukraine committed itself to implementing the recommendations of both the European Commission and all international anti-corruption organisations. For instance, the latest report submitted by Ukraine to GRECO shows that certain improvements have been made, having implemented 15 out of 31 recommendations satisfactorily despite martial law. These data were confirmed using GRECO software. Of the remaining recommendations, nine were partially implemented, and seven were not.⁶⁷ One of the important areas of cooperation between Ukraine and the Organisation for Economic Co-operation and Development's (OECD/OECD) Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is the implementation of recommendations received in the framework of regular monitoring of the Istanbul Anti-Corruption Action Plan. Over the past two years, Ukraine has been actively involved in developing an evaluation methodology for the new 5th round of monitoring.

Each year, Lithuania actively participates in the activities of international organisations, such as the OECD, GRECO, the European Union, and the UN. Thus, the Special Investigation Service of the Republic of Lithuania's director was elected President of the European Partners Against Corruption and the European Contact-point Network Against Corruption (EPAC/EACN). Lithuania also participates in the Organisation for Economic Co-operation and Development, the Council of Europe, the European Union, and the UN.

67 'Council of Europe Removes Ukraine from Black List of Countries That Prevent Combating Corruption' (*European Pravda*, 24 March 2023) <<https://www.eurointegration.com.ua/eng/news/2023/03/24/7158592/>> accessed 20 September 2024.

STT is the lead partner in EU TWINNING projects in Jordan and Azerbaijan. Baltic-American Freedom Foundation Project “Preventing, Detecting and Investigating Foreign Bribery” was won by Lithuania.⁶⁸

Special attention should be paid to *preventing corruption during Ukraine's reconstruction*. As of 31 December 2023, Ukraine's recovery and reconstruction needs are estimated to be almost USD 486 billion. Considering almost two years of the war, as of 31 December 2023, direct damage has reached almost USD 152 billion, with housing, transport, commerce and industry, agriculture, and energy being the sectors most affected.⁶⁹ The destruction of the Kakhovka hydroelectric dam and hydroelectric power station by Russian troops in June 2023 significantly harmed the environment and agriculture and exacerbated the challenges faced by people in securing access to housing, water, food, and healthcare.⁷⁰ In addition, the Russian Federation's military aggression against Ukraine led to the destruction of its natural resources, ecosystems, and infrastructure. As of January 2023, according to the Ministry of Environmental Protection and Natural Resources of Ukraine, 2278 reports of environmental crimes in Ukraine have been recorded, and the estimated cost of the minimum damage was UAH 441 billion.⁷¹ Thus, we see a real ecocide committed by the Russian military, for which they should be held criminally liable.

According to the 2023 TI Ukraine Research on Expectations of Future Reconstruction⁷² conducted by TI Ukraine and involving both citizens and businesses, 73% of Ukrainians and 80% of business representatives were most concerned about the return of corruption schemes to the reconstruction process. Another 63% of citizens and 73% of entrepreneurs fear a lack of control over this process and, as a result, the theft of public funds.⁷³ International partners are also concerned about fighting corruption in the post-war period,

68 Special Investigation Service of the Republic of Lithuania (n 29).

69 Anne Himmelfarb (ed), *Ukraine Rapid Damage and Needs Assessment (RDNA3), February 2022 – December 2023* (World Bank 2024) <<https://documents.worldbank.org/pt/publication/documents-reports/documentdetail/099021324115085807/p1801741bea12c012189ca16d95d8c2556a>> accessed 20 September 2024.

70 Kateryna Totska, 'How Much Money Does Ukraine Need for Recovery?' (*Investory News*, 15 February 2024) <<https://investory.news/skilki-koshtiv-potribno-ukraini-dlya-vidnovlennya/>> accessed 20 September 2024.

71 Sergiy O Kharytonov and others, 'Criminal Responsibility for Ecocide Resulting from the Military Aggression of Russia' (2024) 14(1) *European Journal of Environmental Sciences* 24, doi:10.14712/23361964.2024.3.

72 'How to Restore Ukraine: A Research of Citizens and Business Representatives' (*Transparency International Ukraine*, 14 June 2023) <<https://drive.google.com/file/d/1v30npi8x6bK1ghKIoIaSF9ZxyvNZxqQ/view>> accessed 20 September 2024.

73 Kateryna Ryzhenko, 'Four Pillars of Recovery: How to Prevent Corruption from “Devouring” Reconstruction?' (*Transparency International Ukraine*, 26 June 2023) <<https://ti-ukraine.org/en/blogs/four-pillars-of-recovery-how-to-prevent-corruption-from-devouring-reconstruction/>> accessed 20 September 2024.

which will affect their cooperation and funding. In this regard, considerable attention should be paid to preventing corruption.

Experts from the NACP, together with the Institute for Applied Humanitarian Research, modelled possible corruption risks that may arise in the future. The NACP has also proposed recommendations for implementing preventive measures and ensuring transparent reconstruction.

These corruption risks include corruption practices based on falsification of data entered into the Register of Damaged and Destroyed Property as a Result of Hostilities; corruption in the activities of the Compensation Review Commissions; corrupt practices at the stage of recording the facts of damage/destruction, inspecting the damage to the facility and drawing up a preliminary conclusion on the technical condition regarding the possibility/impossibility of operating (restoring) the facility; and possibilities of corrupt practices in the activities of the Fund for Elimination of the Consequences of Armed Aggression and the Fund for Restoration of Destroyed Property and Infrastructure,⁷⁴ etc.⁷⁵

Additionally, Transparency International Ukraine, together with the Basel Institute on Governance, prepared recommendations for strengthening anti-corruption measures to ensure the country's transparent recovery. These measures include increasing the institutional capacity of anti-corruption bodies, reforming the judiciary and Constitutional Court, asset recovery, and increasing transparency in public procurement.⁷⁶

In 2023, the population also expressed their opinions on the future housing development in Ukraine. The Info Sapiens research agency surveyed citizens and business representatives at the request of Transparency International Ukraine, with the support of the USAID Project "Support to Anti-Corruption Champion Organisations in Ukraine" (VzaemoDia). The majority of respondents identified several key priorities for reconstruction: decentralisation of funds, advanced reconstruction strategy, transparency and openness of reconstruction, involvement of citizens and businesses, and quality of work.⁷⁷

74 National Agency on Corruption Prevention, *Corruption Risks of Restoration of Real Estate Damaged/Destroyed As a Result of the Armed Aggression of the Russian Federation: Modelling and Proposals for Their Minimisation/Elimination* (NACP 2023) <<https://nazk.gov.ua/wp-content/uploads/2023/06/vidbudova.pdf>> accessed 20 September 2024.

75 'Eight Possible Corruption Risks During Reconstruction: Research and Recommendations of the NACP' (*National Agency on Corruption Prevention*, 19 June 2023) <<https://nazk.gov.ua/en/news/eight-possible-corruption-risks-during-reconstruction-research-and-recommendations-of-the-nacp/>> accessed 20 September 2024.

76 Basel Institute on Governance, 'Increasing Anti-Corruption Measures to Ensure Ukraine's Reconstruction' (*Transparency International Ukraine*, June 2023) <<https://drive.google.com/file/d/18qkCI-4b567SGk25Yy-E28u-59lZGwll/view>> accessed 20 September 2024.

77 How to Restore Ukraine (n 72).

4 CONCLUSIONS

The United Nations General Assembly Human Rights Committee recognises that fighting corruption is integral to national security.⁷⁸ In its 2020 Rule of Law Report,⁷⁹ the European Commission stressed that effective anti-corruption efforts are cornerstones of democracy and the rule of law. These values are particularly essential when a country is in a state of emergency or under martial law, as such circumstances can significantly impact both the lives of the population and the state as a whole. During this period, the risk of corrupt practices tends to rise due to factors such as inadequate control and supervision, an increased need for funding, lack of transparency and openness, vulnerability and citizens' moral hazards, aggravation of social problems, and mistrust in authorities.

Analysing these factors during martial law in Ukraine and the state of emergency in Lithuania produced recommendations for future corruption control and prevention measures. These measures include strengthening the independence of anti-corruption bodies, increasing the transparency of government activities, disseminating anti-corruption education, promoting international cooperation in combating corruption, and strengthening public control. It is also important to pay attention to the prevention of corruption during Ukraine's restoration by actively engaging international experts and business and civil society representatives throughout this process.

REFERENCES

1. Bereza O, 'Corruption in the Field of Public Administration as a Deterrent to Socio-Economic Reforms' (2014) 1 *Public Administration: Theory and Practice* 173.
2. Bompreszi P, Kharitonov I and Trebesch C, 'Ukraine Support Tracker: Methodological Update & New Results on Aid "Allocation"' (*IfW Kiel Institute for the World Economy*, June 2024) <<https://www.ifw-kiel.de/topics/war-against-ukraine/ukraine-support-tracker/>> accessed 20 September 2024.
3. Cifuentes-Faura J, 'Corruption in Ukraine During the Ukrainian-Russian War: A Decalogue of Policies to Combat It' (2024) 24(1) *Journal of Public Affairs* e2905, doi:10.1002/pa.2905.
4. Hesteren D and others, *Open Data Maturity Report 2021* (EU Publ Office 2021) 5, doi:10.2830/394148.

78 OHCHR, 'Study on Common Challenges Facing States in Their Efforts to Secure Democracy and the Rule of Law From a Human Rights Perspective: Report of the United Nations High Commissioner for Human Rights' (2012) <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.29_English.pdf> accessed 20 September 2024.

79 Directorate-General for Justice and Consumers, '2020 Rule of Law Report - Communication and Country Chapters' (*European Commission*, 30 September 2020) <https://ec.europa.eu/info/publications/2020-rule-law-report-communication-and-country-chapters_en> accessed 20 September 2024.

5. Himmelfarb A (ed), *Ukraine Rapid Damage and Needs Assessment (RDNA3), February 2022 – December 2023* (World Bank 2024).
6. Holovkin BM, Holina VV and Shostko OYu, (eds), *Criminology* (Pravo 2020).
7. Hryshko A, 'Registers and War: Striking a Balance between Transparency and Security' (*Vox Ukraine*, 12 September 2022) <<https://voxukraine.org/vidkryti-dani-i-vijna-poshuk-balansu-mizh-prozoristy-ta-bezpekoyu>> accessed 20 September 2024.
8. Kharytonov SO and others, 'Criminal Responsibility for Ecocide Resulting from the Military Aggression of Russia' (2024) 14(1) *European Journal of Environmental Sciences* 24, doi:10.14712/23361964.2024.3.
9. Kos D, 'War and Corruption in Ukraine' (2022) 2 *Eucrim* 152, doi:10.30709/eucrim-2022-007.
10. Kostenko O, 'Crisis-Type Corruption: Concept and Ways of Counteraction' (2008) 18 *Fight Against Organized Crime and Corruption (Theory and Practice)* 136.
11. Kulyk K, 'The Current Situation and Prospects of Education in the Field of Preventing and Combating Corruption in Ukraine' (2023) in Smachylo V and Nestorenko O (eds), *Modern Approaches to Ensuring Sustainable Development* (University of Technology in Katowice Press 2023) 584.
12. Lašas A, *Backstage Democracy: Political Corruption and Governance* (Palgrave Macmillan 2023) doi:10.1007/978-3-031-25531-1.
13. Michael B, Kennon E and Hansen JK, 'The Future of Anti-corruption Measures in Lithuania' (2006) 1(16) *Public Policy and Administration* 7.
14. Pashynskiy A, 'Why Ukraine Needs to Restore e-Declaration' (*Ekonomichna Pravda*, 24 July 2023) <<https://www.epravda.com.ua/columns/2023/07/24/702512/>> accessed 20 September 2024.
15. Ryzhenko K, 'Four Pillars of Recovery: How to Prevent Corruption from "Devouring" Reconstruction?' (*Transparency International Ukraine*, 26 June 2023) <<https://ti-ukraine.org/en/blogs/four-pillars-of-recovery-how-to-prevent-corruption-from-devouring-reconstruction/>> accessed 20 September 2024.
16. Salizhenko O, 'War and Open Data: Where is the Line between Danger and Accountability?' (*LB.ua*, 27 October 2022) <https://lb.ua/blog/oleksandr_salizhenko/533930_viyna_i_vidkriti_dani_de_mezha_mizh.html> accessed 20 September 2024.
17. Teichmann F, Falker MC and Sergi BS, 'Extractive Industries, Corruption and Potential Solutions: The Case of Ukraine' (2020) 69 *Resources Policy* 101844, doi.org/10.1016/j.resourpol.2020.101844.
18. Urbonas R, 'Corruption in Lithuania' (2009) 9(1) *Connections* 67.

19. Velykis D, 'A Diagnosis of Corruption in Lithuania' (2010) 10 ERCAS Working <<https://www.againstcorruption.eu/publications/lithuania/>> accessed 20 September 2024.
20. Vynokurov Ya, 'Half a Trillion for the War: When Are the Authorities Going to Raise Taxes and Is There an Alternative?' (*Ekonomichna Pravda*, 3 July 2024) <<https://www.epravda.com.ua/publications/2024/07/3/716119/>> accessed 20 September 2024.

AUTHOR INFORMATION

Kateryna Kulyk

Ph.D. (Law), Scientific Fellow at the Institute of Criminal Law and Procedure, Mykolas Romeris University Law School, Vilnius, Lithuania

kateryna_kulyk@mruni.eu

kulykkat@gmail.com

<https://orcid.org/0000-0003-2986-5836>

Corresponding author, responsible for the conceptualization, methodology, writing – original draft and data collection.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ЗДІЙСНЕННЯ КОНТРОЛЮ ТА ЗАПОБІЖНИХ ЗАХОДІВ ЩОДО КОРУПЦІЙНИХ ЗЛОЧИНІВ В УКРАЇНІ ТА ЛИТВІ ПІД ЧАС НАДЗВИЧАЙНОГО ТА ВОЄННОГО СТАНУ

Катерина Кулик

АНОТАЦІЯ

Вступ. Воєнний стан в Україні та надзвичайний стан у Литві призвели до змін у повсякденному житті багатьох жителів цих країн. Обставини, які зумовили необхідність запровадити ці спеціальні режими, також підвищили ризик протиправної діяльності, зокрема корупції, на цих територіях.

Методи. У цьому дослідженні було застосовано комплексний підхід, який охоплює ретельне вивчення українського та литовського антикорупційного законодавства, звіти про впровадження антикорупційних заходів під час надзвичайного стану в Литві та воєнного стану в Україні, а також контент-аналіз новинних ЗМІ. Дослідниця опитала 13 антикорупційних експертів в Україні та на основі їхніх відповідей і матеріалів попередніх досліджень визначила чинники, які сприяють поширенню корупції в Україні під час воєнного стану та в Литві під час надзвичайного стану. Результати опитування також були використані для того, щоб окреслити заходи контролю та запобігання корупції під час зазначених правових режимів у цих країнах.

Результати та висновки. Дослідження корупції в цьому контексті дозволяє зрозуміти чинники, які сприяють її поширенню. Антикорупційні експерти з України виокремили такі фактори як найбільші чинники, що сприяють корупції: неналежний контроль і нагляд (53,8%), підвищена потреба у фінансуванні (23,1%), відсутність прозорості та відкритості (53,8%), вразливість і моральні ризики громадян (38,5%), загострення соціальних проблем і недовіра до влади (61,5%). Аналіз цих даних дав змогу надати рекомендації щодо посилення контролю та запобігання корупційним правопорушенням в Україні та Литві. Ці заходи спрямовані на те, щоб посилити незалежність антикорупційних органів, підвищити прозорість діяльності уряду, поширювати антикорупційну освіту, сприяти міжнародній співпраці у боротьбі з корупцією та посилити громадський контроль.

Ключові слова: корупція, корупційні ризики, воєнний стан, надзвичайний стан, контроль за корупцією, запобігання корупції.