

Timofieieva, Liliia

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Proportionality in Countering Corruption in Ukraine in the Context of War

LILIIA TIMOFIEIEVA 

RESEARCH



ABSTRACT

Corruption adversely affects all spheres of life, posing a significant threat as an enabler of other crimes. These include terrorism, organized crime, human trafficking, and illegal migration, all of which undermine the European integration process and pose risks not only to Ukraine but also to global security.

On 23 June 2022, the European Council issued an opinion on Ukraine's candidate status. Retaining this status and implementing the Association Agreement require substantial changes to Ukrainian legislation, particularly in criminal law. Key requirements include the actual implementation of the rule of law (of which the principle of proportionality is a core component), enhanced anti-corruption measures that target high-level corruption, greater government transparency, and adherence to anti-money laundering standards as set by the Financial Action Task Force on Money Laundering (FATF). Further, an anti-oligarchic law must be introduced to curb the excessive influence of oligarchs in Ukraine's economic, political and social spheres. Progress in these areas will be monitored and assessed by the European Commission. Addressing corruption gaps is critical, but such efforts must adhere to criminal law principles, with proportionality being of particular importance.

This study focuses on the principle of proportionality in countering corruption during the post-war period, using Odesa as a case study. As a port city with significant transport links to Moldova and Poland, Odesa faces unique challenges. Simplified procedures for shipping humanitarian aid and ammunition, such as bulletproof vests, have created opportunities for criminals to exploit the system, escalating corruption risks.

Recent empirical contributions by Ukrainian scholars highlight several aspects of corruption. Driomin (2018) views corruption as a social institution. Dudorov (2022) explored criminal offenses related to public services, abuse of influence, and illicit enrichment. Kolomoys and Kushnir (2019) examined lifestyle monitoring as an anti-corruption tool, while Melnychuk (2023) studied organized crime in Ukraine during its transition period. Mykhailenko (2017) introduced the proportionality test as a tool for combating corruption, and Khavroniuk (2020) critiqued laws on illicit enrichment (Article 368-2 of the Criminal Code in the previous version) and unjust judgments (Article 375 of the Criminal Code) for violating legal certainty. Tuliakov (2023) discussed the principles of equality, proportionality, and fairness in corruption-related justice, arguing for a distinct regime for such offenses. Despite these advances, countering corruption in alignment with the principle of proportionality remains a critical issue, particularly in light of Ukraine's EU candidacy.

CORRESPONDING AUTHOR:

Liliia Timofieieva

Criminal Law Department,
National University "Odesa
Law Academy", Ukraine

L.ju.t@ukr.net

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The article aims to contribute to strengthening Ukraine's criminal legislation to ensure the proportionality of responses to corruption-related offenses. To achieve this, the study sets the following objectives:

1. To define the concept of proportionality in countering corruption in the Ukrainian context.
2. To monitor the dynamics of corruption offenses and organized crime involving corruption components under martial law.
3. To develop methods to combat corruption that align with the principle of proportionality.
4. To propose amendments to the Ukrainian Criminal Code to address legislative shortcomings related to corruption.
5. To anticipate the evolution of corruption in the post-war period while emphasizing the principle of proportionality.

METHODOLOGY

The methodological basis of the article is built upon both general and special methods. Specifically, the dogmatic method clarifies the provisions regarding proportionate countermeasures at both national and international levels. This approach is complemented by an exploration of international legal instruments aimed at combating corruption. The analysis of national and international legislation in this domain is facilitated through the dialectical method.

The study further employs dialectical, dogmatic, and system-functional methods to analyze doctrinal contributions from Ukrainian scholars. These methods enable a comprehensive evaluation of existing research on countering corruption and the proportionality of such interventions. The article synthesizes insights from studies conducted during and prior to the full-scale war that began in 2022.

To deepen the examination of doctrinal provisions, methods of deduction, analysis, and generalization are applied. Statistical data from Ukraine's Ministry of Internal Affairs is analyzed and summarized to identify trends in corruption-related offenses between 2022 and 2023, including those involving organized groups.

Using the statistical method, the author evaluates official statistics of corruption offenses for 2021, 2022, and 2023. Data from the Unified State Register—of individuals who committed corruption-related offenses between January 1, 2022, and December 31, 2023—is also analyzed. A content analysis method is employed to search for verdicts containing keywords such as 'corruption-related offenses' within the Unified State Register of Court Decisions in the Odesa region for the same period.

In 2023, the Unified State Register recorded 1,929 entries for criminal offenses, 861 for administrative offenses, 284 for disciplinary offenses, and one case without a specific category. In 2022, the Register documented 1,179 criminal offenses, 1,529 administrative offenses, and 113 disciplinary offenses ([Unified State Register, 2024](#)).

Further, reports from Ukraine's Ministry of Internal Affairs were examined to determine trends in corruption offenses across 2021, 2022 and 2023. This analysis included an assessment of case closures, the nature of penalties imposed, grounds for closing criminal proceedings, the number of completed criminal proceedings, as well as the material damage, compensation, and seizure of assets in relation to corruption-related offenses. The analysis of the Prosecutor General's Office report 'On the Results of Countering Organized Criminal Groups and Organizations' for 2021, 2022, and 2023, allowed for a review of the number of criminal offenses committed by organized groups and criminal organizations, including those with corruption ties, criminal proceedings in which the investigation was completed, as well as to determine the percentage of their increase.

Additionally, a content analysis of 49 verdicts from the Unified State Register of Court Decisions in 2022 in the Odesa region identified patterns in public service-related offenses. In 2023, this number increased to 94. Broader searches for 'corruption-related criminal offenses' revealed 160 verdicts in 2022 and 184 verdicts in 2023.

The article incorporates findings from the I. Kucheriv Democratic Initiative Foundation's survey '[Democracy, Security and Social Situation: Public Opinion in Odesa Region in 2023](#)', which highlighted public distrust in authorities and identified corruption as a major concern (see Table 1, Appendix, Survey. [I. Kucheriv "Democratic Initiative" Foundation, 2023](#)). Field research conducted by the Global Initiative Against Transnational Organized Crime (GI-TOC), also informed this study. Its report, 'Port in a storm Organized crime in Odesa since the Russian invasion' ([2023](#)), details the nexus between organized crime and corruption in Odesa, based on perspectives of law enforcement officials, journalists, and members of the 'underworld'.

The study further benefits from the author's observations during 15 years of living in Odesa, including their work as a lawyer since 2019. These observations span pre-war and martial law periods and provide firsthand insights into law enforcement, judicial performance, and corruption-related practices.

PROPORTIONALITY IN COUNTERING CORRUPTION

Corruption is a dangerous phenomenon, not only because of its direct effects but also because it facilitates other crimes, such as those contained in Article 83 of the Lisbon Treaty. Cross-border offenses are frequently intertwined with corruption, making it a critical issue for national and international security.

In his doctoral thesis and other scholarly works, Driomin ([2018](#)) identifies corruption and organized crime as social institutions. According to Driomin, these practices are so embedded in social structures that they are inseparable from broader societal interactions. While these findings predate the full-scale war, they remain fundamental to understanding the structural integration of corruption into daily life.

The speed and scale of corruption-related offenses, compounded by a lack of public recognition of their severity, pose a dual threat to national and international security. The criminalization of corruption-related offenses is mandated by international legal instruments, such as the United Nations Convention against Transnational Organized Crime (UNTOC) of 2000 (Part 1 of Article 8) and UN Convention against Corruption (UNCAC) of 2003 (Article 18). Both conventions require ratifying states to take legislative measures to criminalize corruption-related acts. Ukraine ratified the UNTOC and its supplementary protocols with specific reservations, particularly concerning terminology and definitions of serious offenses.

The subsequent amendments of the Ukrainian Criminal Code reflect these international obligations. In addition, Article 369-2 on 'Abuse of Influence' of the Criminal Code resulted from the implementation of Article 18 of UNCAC and Article 12 of the Council of Europe Criminal Convention on Corruption.

Economic losses resulting from corruption and organized crime in the EU are significant. Such losses range from 218 to 282 billion euros annually ([Tuliakov, 2022](#)). It is estimated that corruption alone costs the EU economy 120 billion euros annually ([Orhanizovana ta ekonomichna zlochynnist', 2022](#)). Although equivalent estimates for Ukraine are not available, the economic impact of corruption in the country is likely substantial.

The ongoing war complicates anti-corruption efforts due to limited resources and security challenges. Corruption undermines military effectiveness and exacerbates public distrust in government institutions. Furthermore, disproportionate or ineffective responses to corruption magnify the problem, allowing it to become more pervasive. For instance, the influx of foreign aid and humanitarian assistance has created new opportunities for corruption, as existing corruption schemes adapt and new ones emerge to exploit these resources.

The economic context also plays a significant role in corruption and may function as an obstacle for promoting transparent and proportionate anti-corruption measures. In the first three months of the full-scale invasion, food prices rose dramatically, and inflation outpaced wage increases. In 2022, wages were not increased. While official statistics for 2023 report a nominal wage increase of thirteen percent, this translates to only six percent in real terms as a result of inflation. Utility prices have also skyrocketed, widening the disparity between wealthy and poor populations. The perception of government inefficiency and lack of transparency in the allocation of taxes, payments, and international aid further fuels distrust and normalizes organized crime as an alternative means of financial gain.

At the same time, a critical question arises: can fundamental rights be sacrificed in the fight against corruption and organized crime? Scholars, such as de Londras and Davies (2010), argue that state actions aimed at ensuring security must adhere to the principles of necessity and proportionality, achieving a balance between security needs and individual rights. Consequently, anti-corruption measures must avoid selective enforcement and demonstration cases, especially in the conditions of martial law. Instead, they should prioritize systematic and transparent strategies that uphold fundamental rights and the principles of proportionality.

The European Court of Human Rights (ECHR) frequently applies the proportionality test to assess potential violation of human rights. This test involves three elements:

1. Restrictions on rights must be provided for by national law.
2. Such restrictions must serve a legitimate aim.
3. Interference with rights must adhere to proportionality requirements.

Legislation targeting corruption, along with associated prosecutions and judicial practices, must undergo scrutiny through the proportionality test to ensure its relevance, necessity, and alignment with public and private interests. A proportionate response encompasses all subjects of criminal law, including offenders, victims, the state, and the society at large.

For the purpose of this study, proportionality in combating corruption is defined as follows:

1. Anti-corruption measures, including criminalization, must be enshrined in a law that is clear and predictable.
2. Such measures must align with legitimate goals, protecting state values and principles without infringing fundamental human rights.
3. The state's response (whether through punishment, other criminal law measures, or exemption from criminal liability) must correspond to the severity of the offense and take into consideration the offender's identity and the circumstances surrounding the offense. Responses must also respect fundamental human rights and internationally recognized principles.

In the subsequent sections, the proportionality and disproportionality of Ukraine's responses to corruption will be examined using the elements of the proportionality test outlined above. Special consideration will be given to the challenges of combating corruption during periods of martial law and the implications for Ukraine's European integration.

THE DYNAMICS OF CORRUPTION DURING A FULL-SCALE INVASION

The unique characteristics of Odesa, a multicultural port city, influence the nature of crimes, including corruption-related offenses. These specific features must be considered when designing effective anti-corruption interventions. As highlighted in the GI-TOC report, 'solving problems' through unofficial channels without drawing attention from the public or law enforcement is a common practice in Odesa's criminal underworld ([Global Initiative Against Transnational Organized Crime, 2023](#)). Based on observations during 15 years of living in Odesa, the city operates under a self-regulated crime model that relies on negotiation and mutual favors. These dynamics normalize corruption: it is no longer perceived as a crime but as a tool of 'doing business', which extends to illegal operations.

For example, the smuggling of conscripts along the border with Moldova (in proximity to the Tysa, Palanka, and other border crossings) has become a lucrative illegal business ([State Border Guard Service of Ukraine, 2023](#)). Cases include men who were transported in the backs of cars, claimed to accompany parents or wives with disabilities, or were falsely registered as humanitarian aid drivers in the 'Shlyakh' system of non-governmental organizations (NGOs) and volunteer organizations ([Ministry of Internal Affairs, 2023](#)).

High-profile cases, such as the misappropriation of millions of hryvnias from Ukrainian grain exports, illustrate the scale of corruption. Over 370 commercial entities were involved in fraudulent schemes to inflate costs and siphon profits through Odesa's ports ([Zubar, 2023](#)).

Similarly, the smuggling of tobacco and counterfeit goods continues to thrive. According to Forbes, Ukrainians consumed approximately 7 billion black-market cigarettes in 2022, costing the national budget UAH 19.1 billion in unpaid excise taxes (Kalashnik and Prasad, 2023). According to the Prosecutor General's Office, underground caches of counterfeit cigarettes worth UAH 89 million were uncovered in the suburbs of Odesa. During searches, law enforcement officers seized 742,208 packs of cigarettes, 990,300 loose cigarettes, 660 e-cigarettes, 75 kilograms of hookah tobacco, 328 liters of counterfeit alcohol, and equipment for cigarette production (Volkova, 2023).

While such practices pre-dated the full-scale invasion, wartime economic disparities have exacerbated corruption risks. Rising prices for basic goods and utilities during the war, combined with stagnating wages, push individuals toward corrupt practices. As pointed out by Kupatadze (2021), demand for cheaper goods, coupled with weak law enforcement capacity and porous borders, perpetuates the illicit tobacco trade and similar crimes. These trends are further fueled by a lack of political will and systemic corruption within law enforcement agencies, as evidenced by ongoing protection rackets and selective enforcement efforts. Furthermore, unequal enforcement and double standards exacerbate the problem, resulting in responses that are disproportionate to the actual damage caused. Such responses are particularly concerning during wartime when resources and public trust are stretched thin.

To address this issue, the chairman of the parliamentary financial committee, D. Hetmantsev, proposed holding regional National Police heads personally accountable for the continued operation of illegal cigarette outlets. Hetmantsev criticized the lack of progress in fighting the illegal cigarette market, stating:

'There are great reports about a bunch of seized cigarettes, opened cases, and "work" done. But the illegal kiosks are still there, the Telegram channels are working. It is clear that every Telegram channel and every kiosk has a name – the name of the law enforcement officer who turns a blind eye (intentionally or not) to the theft of excise from the budget.'

Hetmantsev noted that personal responsibility is a missing component in enforcement (Interfax, 2023). However, as of September 2024, no such accountability measures have been implemented. While several raids were carried out in Odesa, signaling enhanced enforcement, these efforts were temporary. Several outlets were closed, while others raised their prices for counterfeit cigarettes and continued operations. This ongoing activity indirectly confirms collusion between law enforcement and criminal networks.

Corruption and organized crime are closely linked, as evidenced by the persistent flow of counterfeit goods. While records indicate cases where individuals were held criminally responsible, many officials involved in such schemes retained their positions. This lack of accountability poses significant risks, including the misuse of budgetary funds, foreign investments, and humanitarian aid.

Corrupt practices also extend to humanitarian aid provided by foreign partners. In Odesa, aid has been resold, replaced with expired products, or funneled into organized crime schemes. Rather than serving those in need, these resources have been exploited for criminal profits. One contributing factor is inadequate legislation, particularly within customs regulations. Humanitarian aid is exempt from inspection by customs officers, creating opportunities for misuse. Studies by Melnychuk (2023) shed light on these issues, particularly regarding organized schemes involving humanitarian aid.

To address the problem of the smuggling of goods across the customs border under the guise of humanitarian aid, a draft resolution 'Some issues of humanitarian aid clearance and accounting under martial law' was introduced on August 29, 2023. According to Ukraine's Ministry of Social Policy, the resolution aims to digitize the process for importing and tracking humanitarian aid within an automated system. This reform will improve oversight, enabling authorities to monitor both the quantity of aid entering Ukraine and its intended recipients (Ministry of Social Policy of Ukraine, 2023).

Public trust in government institutions remains a critical factor in combating corruption. A 2023 survey conducted by the I. Kucheriv Democratic Initiative Foundation found that 81 percent of respondents trusted the Armed Forces of Ukraine and 66 percent trusted the President of Ukraine, while the numbers were significantly lower for territorial recruitment centers

(21 percent) and heads of regional military-civilian administrations (30 percent). Corruption scandals, especially those involving recruitment centers and regional administrations since 2022, have further eroded public confidence. For instance, in May 2023, the head of the Odesa Regional Territorial Recruitment Center faced accusations of illicit enrichment. This case underscores the pressing need for greater transparency and proportional accountability in handling corruption-related offenses.

Ukraine's Ministry of Internal Affairs' official report on anti-corruption efforts in 2023 reveals that 3,373 individuals committed corruption-related offenses—a 23.8 percent increase compared to 2022 (see Table 2, Appendix, [Ministry of Internal Affairs of Ukraine official portal](#)). The percentage of closed cases was 6.37 percent in 2023, slightly lower than the 6.58 percent in 2022. While this trend may indicate improved evidence analysis during investigations, it also underscores issues of transparency. High-profile cases, often accompanied by media coverage of seized money or assets, rarely include follow-up on criminal proceedings. This makes it difficult to assess the proportionality of responses to these offenses.

Comparing data from 2022 and 2023, corruption-related offenses increased overall, with most cases involving executives of legal entities or private individuals receiving unlawful benefits from those parties. No cases involving high-ranking civil servants or members of the Parliament were officially recorded in either year, though this absence likely reflects underreporting rather than the absence of offenses.

[Figure 1](#) visualizes these findings using statistical tools. It shows a slow but steady upward trend in corruption-related crimes. Additionally, future trends in corruption-related offenses were projected with approximation regression. The forecast predicts 3,198 cases in 2024, 3,268 in 2025, and 3,338 in 2026, with a statistical error margin of ± 423.76 , considering the limited availability of official data.

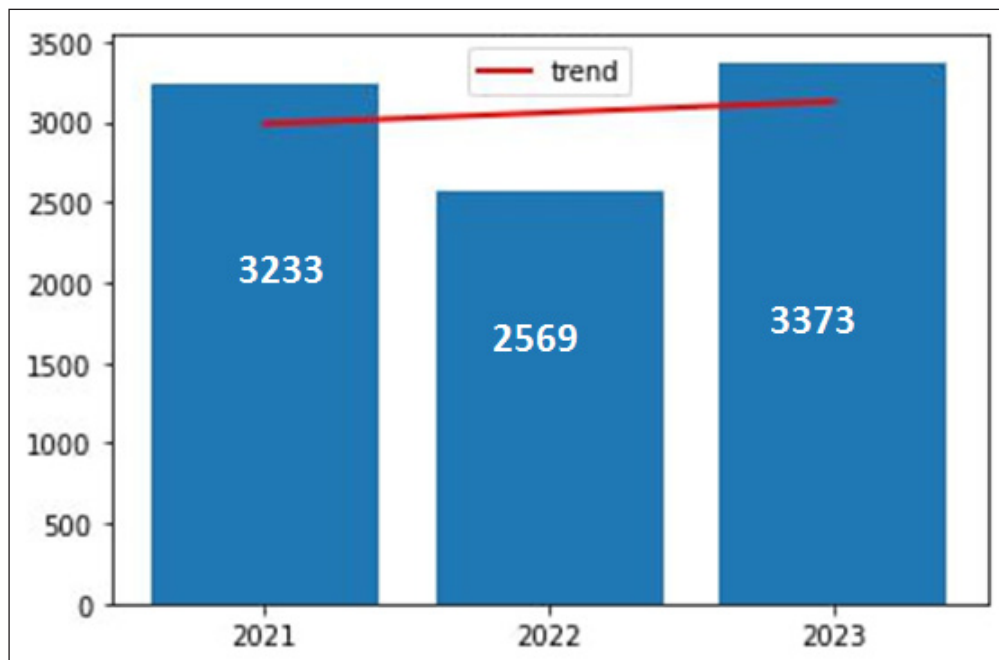


Figure 1 Trend of corruption related offenses, 2021–2023.

The most common penalty for corruption-related offenses is fines, which are often viewed negatively by the public. In 2023, deprivation of the right to hold certain positions was imposed as an additional punishment on 67 people, but not as a primary sanction (see Table 3, Appendix). Probation was granted to 15 offenders in 2023, compared to 17 in 2022 and 15 in 2021. The number of exonerations has increased from 31 in 2022 to 46 in 2023, following a downward trend from 72 in 2021.

Analyzing grounds for closing criminal proceedings reveals troubling trends (see Table 4, Appendix). In 2023, 215 cases were closed, 146 of which were due to the expiration of the statute of limitations. This pattern has steadily increased since 2021, when 90 cases were closed on similar grounds out of a total of 168 cases. Both objective factors (such as a large number of proceedings and challenges in obtaining evidence) and subjective reasons (such as corruption and inaction by law enforcement) contribute to this issue.

The Prosecutor General's Office reports an increase of 26.35 percent in completed investigations in 2023 compared to 2022 (see Table 5, Appendix, [Office of the Prosecutor General](#)). Offenses committed as part of an organized group or criminal organization saw an even sharper rise of 58.35 percent during this period. These statistics suggest progress in addressing organized crime, but the lack of accountability for high-ranking officials tempers these results.

Despite efforts to prosecute corruption, few cases involve high level officials (see Table 6, Appendix). Data from 2023 indicates a significant percentage of individuals were either exempted from criminal liability or had their cases dismissed. Frequently, initial evidence suggesting grounds for prosecution is later refuted. Greater transparency in tracking such cases through the Unified Register of Pre-trial Investigations could improve accountability.

Sociological surveys reveal high tolerance to corruption: for example, such perceived positive aspects of corruption as the ability to accelerate the provision of legal services are highlighted, exacerbating the perception of corruption as a victimless crime. However, from a victimology perspective, corruption-related offenses harm society at large. Every citizen is a victim of these crimes, yet mechanisms for compensating victims remain underdeveloped. For example, while the Civil Code of Ukraine (Article 1177) provides for victim compensation, no dedicated fund exists for this purpose. Establishing such a mechanism could incentivize preventive measures and ensure that recovered funds are used to address societal needs.

In 2023, the financial impact of corruption-related offenses increased significantly (see Table 7, Appendix). Material damage was 35.4 percent higher than in 2022, 45.8 percent higher than in 2023, and 65 percent higher than in 2021. Material damage caused by the crimes committed as part of an organized group or criminal organization (representing 8.2 percent of all corruption-related offenses) was 62.2 percent higher in 2023 than in 2022. In 2021, losses were 73 percent higher than in 2022 and by 28.7 percent higher than in 2023. Although compensation for these losses improved—rising 71.3 percent in 2023 compared to 2022—the lack of targeted use of recovered funds diminishes public trust. Allocating these funds toward reducing inflation or stabilizing utility prices or prices of essential goods would provide tangible benefits and demonstrate the proportionality of the government's response to corruption.

The absence of a compensation mechanism hampers efforts to address the broader societal impact of criminal offenses, including corruption. Implementing such a fund would not only provide justice to victims but also resolve the issue of allocating excess budget funds effectively. This would contribute toward resolving a paradoxical situation observed in 2023, when, despite frequent discussions about budget deficits, several Ukrainian cities, including Odesa, reported surplus funds in their local budgets. Public protests sought to redirect these funds to critical wartime needs. Yet, in 2024, the electricity tariff nearly doubled (from UAH 1.68 per 1 kWh to UAH 2.64 per 1 kWh, irrespective of consumption levels), placing additional financial strain on citizens. To address these disparities, local authorities should be obligated to allocate recovered funds transparently and responsibly, prioritizing essential needs such as stabilizing utility costs. Decentralization, alongside clear accountability measures, could play a critical role in ensuring these funds are used effectively, fostering a sense of responsibility among local governments and enhancing public trust in their administration.

CORRUPTION-RELATED CASES

As expressed in the note to Article 45 of the Criminal Code of Ukraine, corruption-related criminal offenses encompass crimes committed through abuse of office under Articles 191, 262, 308, 312, 313, 320, 357, and 410. Additionally, they include offenses outlined in Articles 210, 354, 364, 364-1, 365-2, and 368-369-2 of the Criminal Code of Ukraine.

Corruption-related offenses often serve as a backdrop to broader criminal activity, significantly influencing general and organized crime trends. For instance, a review of the Unified State Register of Court Decisions from February 22, 2022 to September 12, 2024, revealed 457 verdicts associated with corruption-related offenses in the Odesa region. Of these, 28 pertained to 'criminal offenses in the field of public service and professional activities related to the provision of public services'. Notably, 12 of these cases occurred before 2022 (including one case under Article 367, three sentences under Article 368, three sentences under Article 369,

and nine sentences under Article 369-2 of the Criminal Code of Ukraine, according to Law No. 263-IX of 31.10.2019). Among these cases, fines were the most frequently imposed penalty (in 15 cases), with imprisonment applied in only one case, underscoring the limited use of more severe sanctions.

The enforcement of martial law provisions has seen a significant number of cases linked to corruption schemes involving conscription evasion and mobilization violations. For instance, in March 2022 and throughout 2023, an inspector of enlistment records accepted illegal benefits, ranging from US \$2,000 to \$3,000, to influence decisions by military medical commissions regarding exemptions from military service. These actions resulted in fines under Article 369-2 of the Criminal Code of Ukraine ([the verdict by the Saratskyi District Court of Odesa Region of 20.03.2024, Case No. 513/398/24](#)). Similar fines were imposed in other cases (see [the verdict by the Prymorskyi District Court of Odesa of 10.11.2023, Case No. 522/20913/23](#)).

Corruption among military personnel is also widespread, highlighting a systemic vulnerability within the armed forces. In one case, one military officer offered to prolong a serviceman's leave in exchange for monetary compensation. The serviceman was sentenced under Part 1 of Article 368 of the Criminal Code of Ukraine to four months of arrest with detention in the guardhouse (sentence by the [Kominternivskyi District Court of Odesa Region of 06.02.2024, Case No. 504/63/24](#)).

Additional cases demonstrate the prevalence of illicit payments in the military. For instance, some offenses involved transferring personnel between units for a 'fee' (sentence by the [Sovorovskyi District Court of Odesa, Case No. 523/13361/24](#)). Another notable case involved a unit commander influencing the Security Service of Ukraine to bypass in-depth verification processes for a subordinate (sentence by the [Sovorovskyi District Court of Odesa of 22.04.2024, Case No. 523/6166/24](#)). In both instances, fines were imposed as penalties. However, given the hierarchical and closed nature of the military system, there is speculation that these offenses might have been coordinated with higher-ranking officials, suggesting a structured network for obtaining unlawful benefits.

This pattern of leniency is further reflected in cases where fines are imposed broadly for corruption offenses. For instance, in May 2024, the Kominternivskyi District Court of Odesa Oblast convicted the head of a village council in the Odesa region for soliciting a 10 percent kickback from a contractor working on project to repair a school shelter, worth UAH 985,943.86. The official's actions were categorized as under Article 369-2 of the Criminal Code of Ukraine, resulting in a plea agreement and a fine ([the verdict by the Kominternivskyi District Court of Odesa Region of 22.05.2024, Case No. 504/4953/23](#)). This incident underscores the challenges businesses face when operating in a legal yet heavily bureaucratic corruption-prone environment. Entrepreneurs often encounter demands for bribes at various stages, from tender procurement to permit approvals. Simplifying and standardizing these processes could alleviate corruption risks and bolster economic activity. Survey data, presented in Table 8 (Appendix), underscores the urgency of these measures. According to respondents in the Odesa region, corruption is the leading obstacle to business activity. State support for businesses should be tangible and targeted, addressing these systemic barriers to create a fair, competitive landscape.

Despite the wartime context, protection rackets targeting entrepreneurs remain pervasive. In some cases, more severe penalties than recommended by prosecution were imposed on individuals convicted for extorting monthly payments to allow uninterrupted trade and parking operations, citing the officials' betrayal of public trust and systematic corruption ([the verdict by the Malynovskyi District Court of Odesa of May 31, 2024, Case No. 521/4649/24](#)). Such examples highlight the judiciary's occasional acknowledgment of the societal damage caused by such offenses. However, imprisonment remains rare, and sentences, such as two years of incarceration for systematic offenses, appear disproportionately mild.

Cases involving misappropriation and embezzlement of funds through abuse of office further reveal systemic issues. In one case, an official from the Department of Labor and Social Policy was convicted for falsifying applications for social assistance between 2013 and 2017, leading to state budget losses of UAH 66,623.86. The Ivanivskyi District Court of Odesa Region sentenced the official to three years and five months imprisonment, later suspended with probation (Odesa Court of Appeal, 2022). Such outcomes demonstrate a failure to uphold the principle of inevitability of criminal liability, as the penalties imposed often fail to deter future offenses.

Massive corruption schemes have also been uncovered in other sectors. In October 2024, an investigation revealed that 61 prosecutors in the Khmelnytskyi region had falsified disability certifications to evade mobilization and claim disability pensions alongside their salaries. At the same time, internally displaced persons who failed to undergo the unauthorized identification procedures were left without pensions in April 2024 ([Ukrainian Helsinki Human Rights Union, 2024](#)). These practices extended to other regions and underscored systemic corruption within public institutions. On October 22, 2024, the President convened the National Security and Defense Council to address these issues, highlighting the severity of corruption in public administration.

The persistence of corruption-related offenses among public officials and law enforcement underscores the need for systemic reform. Transparency in decision-making and robust mechanisms for monitoring public funds are crucial. Additionally, civil servants' salaries must be proportional to their responsibilities to discourage corrupt practices. However, this approach has had limited success in high-paying roles, such as prosecutors and judges, suggesting that broader institutional changes are necessary.

Post-war reconstruction presents additional challenges, with heightened risks of corruption in the allocation of funds for rebuilding and compensating war damages. The process of receiving assistance is often formalized to an extent that even eligible individuals face significant barriers, including lengthy appeals against refusals. Simplifying bureaucratic procedures and ensuring accountability are essential to addressing these issues.

Digital innovation, such as the Diia application, offer solutions by reducing opportunities for corruption through the streamlined delivery of services. For instance, obtaining a certificate of no criminal record (which is often required as part of the recruitment screening process in the public sector), previously subject to delays and additional fees, can be accomplished digitally in minutes, demonstrating the potential for technology to prevent petty corruption.

However, top-level corruption remains the most dangerous and challenging area to address due to its ties organized crime. A notable case involves a deputy of the Odesa Regional Council and his wife, who misappropriated over UAH 24 million from municipal infrastructure projects between 2017 and 2021. The scheme involved collusion with a construction company director and village council heads to inflate project costs and siphon funds. Despite evidence presented by the Security Service of Ukraine, such cases often face hurdles in prosecution due to a lack of evidence or procedural shortcomings ([Ukrinform, 2023](#)). The defendants have not as yet been convicted—a fact that points to the systemic challenges in holding high-ranking officials accountable, reinforcing the need for comprehensive reforms to enhance transparency and ensure proportional responses to corruption offenses.

COUNTERING CORRUPTION IN TERMS OF PROPORTIONALITY

The Criminal Code of Ukraine includes numerous provisions aimed at countering corrupt practices, which have undergone significant revisions to harmonize them with relevant international and European standards. Despite these efforts, these provisions remain flawed and are often controversial.

The 2014 Law of Ukraine 'On Prevention of Corruption' introduced mechanisms to address corruption-related offenses, including encompassing restrictions on the use of official powers, acceptance of gifts, concurrent employment, and the prevention and resolution of conflicts of interest. However, the law's implementation reveals gaps that undermine its effectiveness in combating systemic corruption.

Certain criminal law provisions, such as restrictions on the application of incentives (for example, exemption from criminal liability or from serving a sentence with probation) to individuals convicted of corruption, aim to address the significant harm caused by these offenses. These restrictions apply to provisions under Articles 45, 46, 47, 48, 69, 74, 75, 79, 87, 89, 91 of the Criminal Code. However, while these measures aim to reflect the gravity of the offense, they inadvertently contravene fundamental legal principles such as equality before the law, legality, and proportionality (in the context of fair mitigation and balancing of interests) ([Timofieieva, 2020](#)). While corruption should be recognized as a serious societal threat, it is essential to adopt consistent approaches to the application of coercive, restrictive, and incentive measures to offenders.

Another contentious issue lies in the prosecution of illicit enrichment. Initially addressed under Article 368-2 of the Criminal Code, this provision was declared unconstitutional by the Constitutional Court of Ukraine in 2019 for violating the principles of presumption of innocence and legal certainty. Under this framework, individuals suspected of illicit enrichment were required to prove the legality of their income. Although the updated Article 368-5 of the Criminal Code¹ aimed to address these shortcomings, challenges persist, including ambiguities in quantifying illicit income.

EU Directive 2016/343 emphasizes the need to strengthen certain aspects of the presumption of innocence. As outlined in paragraph 22 of the Directive's preamble, limitations on the presumption of innocence are permissible within reasonable bounds. These limitations must uphold the rights of the defense and adhere to the principle of proportionality to the legitimate aim pursued. The European Court of Human Rights (ECHR) further clarified this in the case of *Yallog v. Germany* (11 July, 2006). In this case, the Court stated that public interest alone does not justify measures that erode the very essence of the right to defense, such as the right not to incriminate oneself (privilege against self-incrimination) (paragraph 97).

There is no agreement on the issue among scholars. Tuliakov argues that prosecuting individuals for corruption-related offenses requires a distinct special regime of criminal law regulation, which includes appropriate restrictions tailored to such cases (Tuliakov 2023). Conversely, Mykhailenko applied a proportionality test to this provision, concluding that it is inherently simpler for a suspect to substantiate the legality of their income than for the prosecution to prove illegality. He further contends that imposing criminal liability when an individual fails to prove the legality of their income constitutes a proportionate legal measure (Mykhailenko 2017).

However, alternative perspectives emphasize the need for the consistent application of universal principles of criminal law. These include proportionality, differentiation, individualization of criminal liability, legality, equality before the law, and the inevitability of criminal liability. Such principles are argued to be essential for ensuring fairness and uniformity across all criminal offenses, including corruption and organized crime.

Despite legislative provisions aimed at limiting incentive measures for corruption-related offenses, procedural practices such as plea bargains remain permissible, including in cases where the offense was committed as part of an organized group. Under Article 469(4) of the Criminal Procedural Code of Ukraine, plea agreements can be applied to almost all categories of criminal offenses, whether they are first-time or repeated. The primary limitation is that the offense must not involve a specific victim, and the offender must not have been the organizer. As such, these provisions and their application effectively neutralize the intended restrictions on incentives for corruption-related offenses, revealing inconsistencies in enforcement and a disproportionate legal response.

Additionally, the fight against corruption and organized crime is impeded by selective justice, legal formalism, and discriminatory provisions in existing laws. These undermine the uniformity required to combat such offenses effectively. Consistent adherence to universally recognized principles, such as proportionality and fundamental human rights, is paramount. Without a unified approach, interventions to counter corruption and organized crime risk being fragmented and ineffective.

COUNTERING CORRUPTION IN THE POST-WAR PERIOD

The National Council for the Recovery of Ukraine from the War, established under the President of Ukraine, has presented a comprehensive plan for the country's restoration. The primary objectives of the plan are: 1) ensuring the resilience of the domestic economy during wartime; 2) preparing for rapid recovery during the immediate post-war period; and 3) laying the foundation for Ukraine's long-term modernization and growth. Achieving these goals requires substantial investment, exceeding US \$75 billion, excluding military aid (Natsional'na rada z vidnovlennya Ukrayiny vid naslidkiv viyny, 2022).

According to the analysis by the Global Initiative Against Transnational Organized Crime (GI-TOC), the war allowed the state to gain a stronger grip on organized crime. However, during

¹ According to Law No. 263-IX of 31.10.2019.

post-war instability, criminal networks could become more structured and more integrated with the state. Some criminal actors may further shift toward legalizing their activities, as seen in Ukraine during the early 2000s ([Global Initiative Against Transnational Organized Crime, 2023](#)).

However, forecasts are merely speculative, and both the trajectory of organized crime and the timeline for the war's end remain uncertain. Current evidence indicates that organized crime has become less profitable in Ukraine due to both market disruption and widespread emigration.

The renowned historian Yuval Noah Harari has addressed the societal consequences of increasing military expenditures, arguing that the allocation of resources to defense often comes at the expense of social services such as education and healthcare. These financial shifts disproportionately affect the most vulnerable populations ([Harari, 2024](#)). Higher military spending further leads to the decline of trade and prevents progress in other crucial areas, such as combating global warming, as these priorities become overshadowed by war needs.

Despite the challenges, Ukraine's anti-corruption infrastructure remains relatively advanced. The establishment of specialized anti-corruption agencies, such as the National Anti-Corruption Bureau of Ukraine (NABU), the Specialized Anti-Corruption Prosecutor's Office (SAPO), the National Agency on Corruption Prevention (NACP), the State Bureau of Investigation (SBI), and the High Anti-Corruption Court of Ukraine (HACC) represent significant achievements. However, these bodies face ongoing criticism, as the public questions their ability to deliver on their mandates.

EUROPEAN AND INTERNATIONAL PRACTICES IN COUNTERING CORRUPTION

The transnational nature of organized crime and corruption necessitates international cooperation. Many scholars advocate for the establishment of an international anti-corruption court. In particular, Edward Lucas argues that such an institution is crucial to address highly complex corruption schemes that often involve anonymous shell companies across multiple countries ([Lucas, 2022](#)). National authorities frequently lack the tools needed to effectively combat corruption, especially when it intersects with organized crime involving advanced digital technologies and cryptocurrencies. An international anti-corruption court could significantly strengthen efforts to tackle corruption and organized crime during the post-war recovery period.

The European Union has introduced several directives aimed at addressing serious crimes, including terrorism, which could be adapted for combating corruption. In May 2023, the European Commission proposed an anti-corruption package that included a proposal for a directive that would replace the Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) [2017/1371](#). The new directive sought to align EU legislation by classifying corruption as a particularly severe crime with cross-border dimensions, under Articles 83 and 82 of the Treaty on the Functioning of the European Union (Proposal for a Directive on combating corruption, 2023/0135(COD)).

As Ukraine aspires to join the EU, its post-war legal systems will likely seek further harmonization with EU standards, particularly in countering corruption. The EU Anti-Corruption Initiative (EUACI) ([EUACI 2023](#)) supports this alignment by enhancing the capacities of civil society organizations (CSOs) and investigative journalists in fighting corruption. The program pursues the following objectives: ensuring that post-war reconstruction and humanitarian aid provision are guided by the principles of integrity, transparency, and accountability; supporting EU integration through legislative reforms that address corruption; and strengthening mechanisms for asset sanctions enforcement against Russia. These measures highlight the critical role of anti-corruption strategies in mitigating corruption schemes that facilitate war crime, including illegal arms sales to Russia.

The EU's priorities for combating serious and organized crime between 2022 and 2025, as outlined by the European Multidisciplinary Platform Against Criminal Threats (EMPACT), include identifying and dismantling high-risk criminal networks—in particular, those networks that

utilize corruption, violence, firearms and money laundering through underground financial systems ([‘Fight against organized crime: Council sets out 10 priorities for the next 4 years’ Council of the EU, 2021](#)). Such priorities would also benefit Ukraine, especially in regions like Odesa, where corruption and organized crime persist and are closely interlinked.

Comprehensive monitoring of corruption offenses during 2021–2023 underscores the importance of focusing on government corruption. Without systemic changes in attitudes toward corruption and a holistic approach to countering it, the post-war period may witness persisting protection of criminal enterprises. To avoid this scenario, preventive measures must include robust monitoring, analysis, and public awareness campaigns to foster zero tolerance for corruption.

Civil society plays an increasingly important role in countering corruption and organized crime, and will likely have an even larger role to play in the post-war period. However, CSOs have also been implicated in criminal activities, such as smuggling and the misuse of humanitarian aid. Despite these challenges, examples of successful civic interventions, such as challenging public tenders in Odesa and other regions in 2023, demonstrate the potential of CSOs to drive meaningful change. Enhanced monitoring of platforms like Telegram and Viber, which are frequently used for confidential communication in the Ukrainian context, could provide valuable information about criminal activities and could facilitate the development of effective responses and preventive measures.

The reactivation of Ukraine’s e-declaration system, following the President’s veto on the draft law No. 9534 (upheld by the Verkhovna Rada on 20 September, 2023), marks a significant step forward ([Hryshanova, 2023](#)). The current legislation mandates financial and criminal liability for failing to submit asset declarations or providing false information within them. However, without a functioning e-declaration registry, tracking and verifying asset declarations is challenging, creating a loophole that high-level officials can exploit.

An analysis of statistics from 2022 and 2023 indicates a lack of significant progress in countering high-level corruption. Although there have been numerous media reports of detentions and accusations related to illicit enrichment, influence peddling, and other corruption-related criminal offenses, such claims are rarely accompanied by a corresponding entry in the Unified Register of Pre-trial Investigations. This omission makes it difficult to follow the progression of these cases or to assess their outcomes, contributing to public skepticism about the effectiveness of anti-corruption measures.

A possible solution lies in granting anti-corruption NGOs access to the Unified Register of Pre-trial Investigations, provided they adhere to strict rules on confidentiality, data protection, and personal accountability. Such access would enable organizations like the Centre of Policy and Legal Reform to analyze and monitor cases more effectively. The Centre already has a dedicated anti-corruption department in charge of monitoring relevant cases. Similarly, other NGOs, such as the Anti-Corruption Center, Women Against Corruption, and the Anti-Corruption Research and Education Centre (ACREC) are important players in gathering and analyzing corruption data. Granting them access to pre-trial records could enhance transparency and help to identify systemic gaps in the fight against corruption.

Odesa’s unique negotiation culture could also be leveraged as a resource in countering corruption. The region has a history of employing mediation, restorative, and dialogic practices to resolve conflicts and build trust between the government and the public. These methods could serve to compensate victims and foster transparency in governmental processes. For instance, mediation practices could be applied to the management of city budgets and awarding public tenders, ensuring fairness and minimizing opportunities for corruption.

In the post-war period, mediation and restorative approaches could also help rebuild trust in public institutions. Beyond addressing corruption, these practices could serve as tools for reconciliation, particularly in cases involving the mismanagement of resources, unfair public procurement processes, or the misuse of budget funds. Encouraging the use of dialogic practices during these processes would help in the identification of victims of corruption and in the transparent and inclusive implementation of corrective measures.

Proportionality is a cornerstone of effective anti-corruption interventions. The principle requires that laws criminalizing corruption-related offenses be clear, predictable, and aligned with legitimate objectives, such as safeguarding critical state values and principles, while upholding fundamental human rights. The state's response—whether through punishment, criminal law measures applied to individuals or entities, or exemption from liability—must be proportionate to the severity of the offenses and take into consideration the offender's profile and the circumstances of the crime.

Current approaches often fall short. Disproportionate responses, including overly lenient fines, premature closure of cases, and inconsistent application of legal principles, undermine the fight against corruption. Transparency in these processes remains limited, with mechanisms for compensating victims—understood broadly to include society—largely absent.

Statistical trends based on data from the Ministry of Internal Affairs, court practice, and reports of corruption-related offenses in Odesa, reveal a troubling persistence of corruption in Ukraine. Reports for 2023 indicate a 23.8 percent increase in corruption-related offenses compared to 2022, with 3,373 offenses recorded. However, the latent nature of these crimes and the lack of comprehensive statistics, particularly for 2024, hinder accurate assessments. Predictive models forecast a gradual increase in corruption offenses through 2026, reflecting deeply entrenched practices that have been exacerbated by systemic inefficiencies. Emergent areas of concern include corruption in the military and mobilization evasion, which now exist alongside long-standing practices such as extortion and protection racketeering. Political motivations, non-systemic legislative changes, and disproportionate criminalization measures exacerbate these issues. The post-war period is expected to bring further politically driven changes and challenges in combating corruption.

To address these challenges, targeted reforms are needed both within and beyond the legal framework. Recovered funds from corruption should be allocated toward societal benefits, such as mitigating inflation and stabilizing the prices of essential goods and utilities. Such measures could directly benefit citizens and reinforce public trust in anti-corruption efforts. Equally important is the role of CSOs in exposing corruption. While some CSOs have been implicated in criminal activities, the sector has an important role in monitoring public tenders and in raising awareness about corruption risks. Regulated access to the Unified Register of Pre-trial Investigations could enhance the CSOs' ability to support anti-corruption investigations. Public access to such data, governed by strict confidentiality rules, could help bridge gaps in official statistics and provide a more complete picture of corruption trends.

Legal reforms must also be prioritized. Current restrictions on exempting individuals involved in corruption-related offenses from liability should be reconsidered. Allowing leniency for lower-level participants could facilitate the exposure of high-level corruption and the dismantling of corrupt networks.

The post-war period will present both challenges and opportunities for countering corruption. Corruption, often intertwined with organized crime, is likely to persist, adapting to new circumstances, such as reconstruction efforts. Countering top-level corruption and organized crime will require political will, especially as Ukraine's EU accession hinges on tangible progress in this area. Addressing high-level corruption must go hand in hand with fostering a cultural shift toward zero tolerance for corruption. Transparent governance, a fair taxation system, and robust protections for whistleblowers are critical to achieving these goals.

Ultimately, a comprehensive approach is necessary to ensure success. This includes proportionate punishment for offenders, systematic monitoring of corruption trends, and targeted use of recovered funds for social benefit. By coupling legal reforms with civil society involvement and public accountability, Ukraine can lay the groundwork for a more transparent, equitable, and resilient future as it rebuilds in the aftermath of war.

ADDITIONAL FILE

The additional file for this article can be found as follows:

- **Appendix.** Tables 1 to 8. DOI: <https://doi.org/10.31389/jied.234.s1>

AUTHOR AFFILIATIONS

Liliia Timofieieva  orcid.org/0000-0002-6968-6587

Criminal Law Department, National University "Odessa Law Academy", Ukraine

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Timofieieva
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