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Shadow economy is as a result of improper state administration  
(Following the example of the Ukrainian economy)

**Abstract.** It is summarized an economic and legal approaches to the problems of elimination of the shadow economy. It is shown that the shadow economy in Ukraine is the result of an improper state administration in lawmaking and counteraction of shadow economy. It is shown a close connection of the shadow economy to corruption in the state apparatus, as well as the obstacles legalizing of the assets of non-criminal origin. It is indicated a predominance of false targets in the strategy and tactics of a counteraction of the shadow economy.

**Keywords:** shadow economy, income, corruption, legalization, state administration, administrative pressure, state institutions, burdensome legal costs.

The shadow economy has become a part of everyday life practically all of states of the world [3, 9, 15, 19, 32, etc.]. The shadow economy has in any country, regardless of whether it dominates market economy, transitional or even administrative-command system, and there exists in this or that degree in any structure of form of ownership [4].

At the same time, a problem of the shadow economy is the most actual for the underdeveloped countries and post-socialist states [15]. In particular, as far as may judge an outside observer, information of the World Bank defining a share of the shadow economy in Azerbaijan at 63%, and the International Monetary Fund - 60% GDP [1] has caused a lively discussion in Azerbaijan [1, 2, 24, etc.]. On this occasion, officials of the State Statistics Committee of Azerbaijan reported that five years ago a share of the “shadow economy” in the country constituted 18-20%, in subsequent years it reduced to 10%, and it is now equal to 8% [24]. The independent experts estimate this share about 20-25% [2].

Referring to these figures, it should probably admit that they are not absolute and depend critically on the method of calculation of specified indicators.

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Therefore, speaking of rates of shadow economy, we can speak only about comparing of indicators on countries and periods subject to obtaining indicators on the same methods and the closest statistical databases. In this connection it is expedient to address on basic research [37], in which on a single methodological basis is calculated indicators of shadow economy in 71 countries in 2003-2006. The calculations are made on the basis of modified method of money demand [37, p. 33-35]; the results are shown in Table 1. These estimates are roughly corresponding to the data given in the work [9]: the scales of the shadow economy in countries with the most developed economies are in the range of 14-16% of GDP, and in countries with the emerging markets are in 32-35% of GDP (Schneider, Buehn and Montenegro, 2010). Unfortunately, there are no indicators for Azerbaijan among the data of Table 1, but some extrapolations allow drawing some estimates. Thus, the majority of experts, for example [9, 10, 26, 38, etc.] are inclined directly associate level of shadow economy and corruption. For example, a well-known Russian economist, Doctor of Economy E.T. Gaidar [10] said on this occasion: “Do not forget that an official is always potentially more criminogenic than a businessman. A businessman can get rich honestly if it only nobody interfere. An official can be enriched only dishonestly ... So bureaucratic apparatus carries the much greater charge of criminality than a business ...” Thus, in mutual relations of a businessman and an official an initially potential corruption risk objectively laid on the part of an official, if even in a particular situation an initiative comes from businessman. A businessman has to show such initiative because he knows that non-corrupt solution of business will cost significantly more. It is obvious, this is why supporting of corrupt power and control authorities have to implement from 67.4% to 79.2% of registered entrepreneurial structures [26]. Part of income which is transferred informally to representatives of corrupt structures can reach 50% [26]. According to experts, in Ukraine annually amount of bribes is about 280 billion hrn. (as of 30.09.2011 [36]). The direct factors of interrelation between the shadow economy and corruption are: necessity to pay bribes to officials is forcing entrepreneurs to deduce money in the shade; obtained in this way money being illegal income of officials, tend to be spent in the shadows (illegal way); corruption of controlling bodies makes it impossible an appropriate state control.

Along with this, the reasoning of majority of experts has qualitative in nature. Therefore, in our opinion in the below mentioned Table the first time is undertaken a quantitative analysis of the interaction of indicators of the shadow economy and corruption. Under this, as corruption's indicators is used data of the Transparency International [17]. Specified indicators for 2006 are shown in Table. 1. Under this,

the states are located on the ranks in descending order: the higher the level of corruption, the lower rank.

Table 1.

The indicators of mutual tie the shadow economy and corruption

Country	rank	%	Country	rank	%	Country	rank	%
New Zealand	9,6	14,0	Israel	5,9	24,8	Morocco	3,2	35,8
Iceland	9,6	15,0	Sypris	5,6	23,6	Moldova	3,2	41,5
Finland	9,6	18,4	Jordan	5,3	28,8	Sri-Lanka	3,1	33,6
Denmark	9,5	14,5	Hungary	5,2	27,3	Algeria	3,1	45,8
Sweden	9,2	19,0	Malaysia	5,0	34,2	Iran	2,9	37,7
Norway	8,8	14,8	Czech Republic	4,8	29,1	Bosnia	2,9	40,8
Australia	8,7	18,4	Lithuania	4,8	30,4	Georgia	2,8	39,1
The Netherlands	8,7	18,8	Latvia	4,7	30,4	Dominic. Repub.	2,8	39,1
United Kingdom	8,6	16,7	Slovakia	4,7	31,4	Bolivia	2,7	43,3
Luxembourg	8,6	18,0	Tunis	4,6	30,8	Guatemala	2,6	40,6
Austria	8,6	19,7	South Africa R	4,6	31,0	Zambia	2,6	40,7
Canada	8,5	23,1	Greece	4,4	28,7	Ukraine	2,6	42,1
Germany	8,0	25,1	Costa-Rica	4,1	30,7	Nicaragua	2,6	42,4
Ireland	7,4	17,9	Bulgaria	4,0	36,6	Kazakhstan	2,6	42,8
France	7,4	21,9	Salvador	4,0	38,6	Honduras	2,6	43,9
Belgium	7,3	20,0	Columbia	3,9	38,9	Belarus	2,6	51,0
Chile	7,3	24,0	Turkey	3,8	34,4	Nepal	2,5	37,3
USA	7,3	25,7	Poland	3,7	32,1	Philippines	2,5	38,0
Spain	6,8	27,7	Jamaica	3,7	43,8	Benin	2,5	39,3
Estonia	6,7	27,1	Thailand	3,6	34,2	Russia	2,4	43,6
Portugal	6,6	25,3	Croatia	3,4	34,8	Kyrgyzstan	2,3	44,8
Malta	6,4	19,3	India	3,3	33,4	Pakistan	2,1	38,8

Slovenia	6,4	26,6	Peru	3,3	34,2	Côte d'Ivoire	1,9	48,2
Uruguay	6,4	30,4	Egypt	3,3	35,4			

Analysis of the data in Table 1 testifies to presence a quantitative interrelation between the indicators of the shadow economy and corruption. Thus, the states with the rank of more than 7 are characterized by a level of the shadow economy at around of 20% and rarely up to 25%; with the rank of 5-7 are characterized by a level of the shadow economy of 30%; with the rank of 3-5 a level of the shadow economy stably exceeds 30% and it sometimes is reached of 40%; with a rank lower than 3 is usually consistently above 40%. In particular, Russia, Ukraine, Kazakhstan are in this category. Dependence between the level of corruption and the shadow economy is shown in Fig. 1, and shows that with the decrease of a rank (the increase of corruption) a level of the shadow economy grows.

Concerning the indicators for Ukraine, it is necessary to note additionally the following. In the Message of 27.02.2004, of the President of Ukraine “On the internal and external situation of Ukraine in 2003” [30] is given a dynamics of annually changes in a level of the shadow economy in Ukraine (Fig. 2).

Fig. 1 Interrelation of a level of corruption and the shadow economy

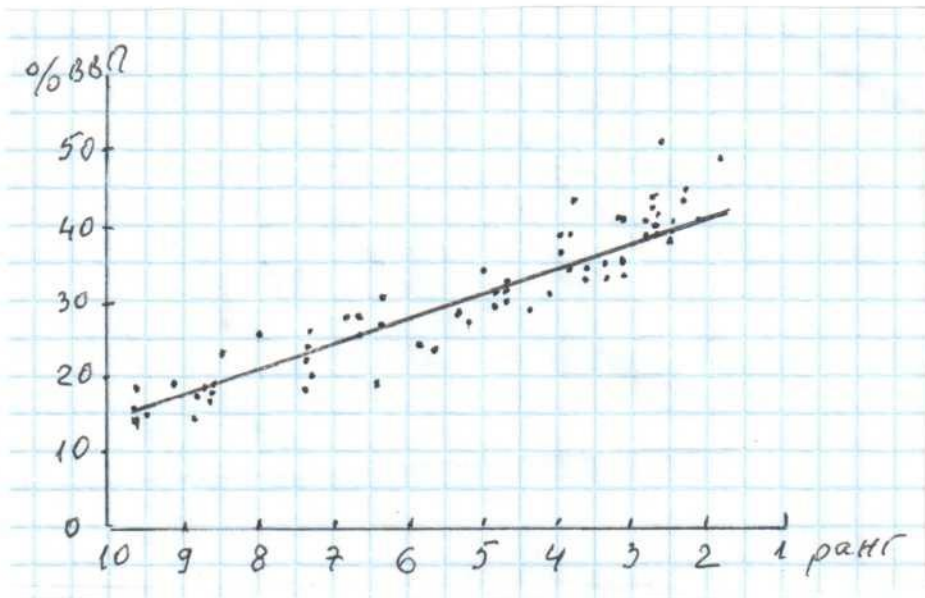
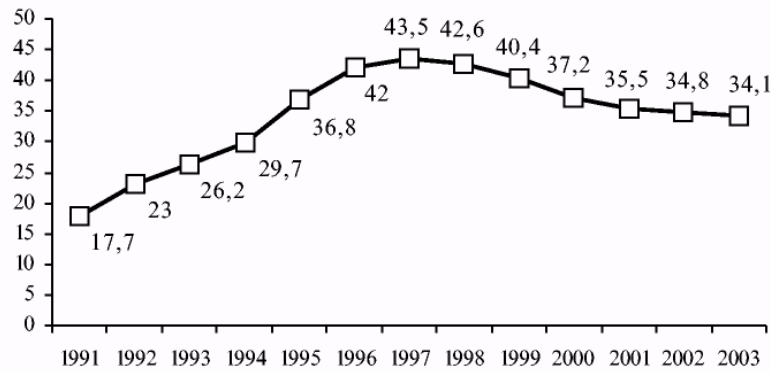


Fig. 2 Level of the shadow economy. % to total GDP

Рівень тіньової економіки, % до загального ВВП



Therefore, these data can be considered as an official position of the Ukrainian authorities. Further, in the above-mentioned work [37], in 2003 on proposed method the authors came a level of the shadow of economy of 36.4% of GDP, which roughly corresponds to data presented in the Message of the President of Ukraine ([30], Fig. 2). Under that, during 2003-2006 a level of the shadow economy in Ukraine had increased: 2005 - 39.7%, 2006 - 42.1%. This growth is also confirmed by the analytical note [40] of the National Institute for Strategic Research under the President of Ukraine. Thus, a level of the shadow economy in Ukraine makes 42-43% of GDP with a slight reduction in 2001-2003 up to 36-36%, which is actually recognized by the Ukrainian authorities.

If it to return now to the indicators of Azerbaijan, it should be noted that the rank of a level of corruption, according to Transparency International [17], makes by year: 2006 - 2.2, 2007 - 2.4, 2008 - 2.1, 2009 - 1, 9, and 2010 - 2.4. According to Fig. 1, a level of the shadow economy of Ukraine and / or Russia corresponds to these ranks and it is within 40-43%. In any case, this level can not be located next to the countries, where the rank of corruption does not fall below 4. Taking into account that in world practice a level of the shadow economy over 40% of GDP is estimated by experts to be critical, because under such conditions the levers of the economy control loses effectiveness [40], and there is a need for close attention to this phenomenon. Below it is supposed to do an analysis on the example of Ukraine's economy, based mainly of works of the Ukrainian researchers (bearing in mind and global trends). The study of these works testifies the possibility of a conditional allocation of two approaches to the study of shadow economy: economic and legal. The first approach is based on inevitability of a one degree or another of the shadow economic activity and the objective nature of the shadow economic relations as a result of deficiencies in economic regulation and attempts to develop methods to address the conditions conducive to the shadow economy. The second approach focuses mainly on a pressure on the subjects of the shadow

economic activities and an attempt to eliminate or reduce it by force. For example, in work [8] in order to combat the shadow economy related to tax evasion, it is proposed separately to establish criminal responsibility for: 1) founders (owners) of a business entity; 2) directors, chief accountants of enterprises, institutions, organizations, and their deputies, as well as private entrepreneur; 3) other officers, and persons who are not officers, but granted the authority to record keeping and reporting, and 4) people who are not entrepreneurs. It is difficult to say who else is not got under a punitive mood of an author [8]. In another work, [12], it is considered that the courts, the public prosecutor's office, internal affairs bodies, tax police, security services, other government agencies and community organizations are the subjects of legal “anti-shadow” education of the entrepreneurs. It is true that if here take into account that the level of public confidence to these state institutions is low enough (the police - 17.4%, the prosecution - 17%, the courts - 14.3% [35]), then there are serious doubts regarding the “educational” effect.

One of the few exceptions from works of the legal trend is the work of V.M. Popovich [14], in which proposed an integrative economic and criminological approach to elimination of the shadow economy, though as noted in particular in the work [29], with an emphasis in a power struggle with the shadow economy to its complete destruction. However, in practice, this an emphasis has not led to success at least in Ukraine. In this context, the provisions which set out in the work [11] are the leitmotif of a position of economists: “The economic history has no examples when violent methods proved effective in combating the informal economy. Each of the existing forms of informal economic activity disappeared after its legalization or elimination of the demand for a particular scarce commodity”. Consequently, there is a need for a different approach to the analysis of the essence of the shadow economy, and only subject to the conclusions of this analysis to solve the issues of overcoming it.

Anyway, one way or another, the shadow economy is caused with derogation the subjects of the shadow activity from the rules which established by the state. Thus, according to work [21], the shadow economy is a complex socio-economic phenomenon, represented by a set of uncontrolled and unregulated as illegal so and legal, but mostly amoral economic relations which is arising between the subjects of economic activities to generate more profits by hiding income and avoiding taxes. In work [33], the “gray” shadow economy is defined as (semi legal) economic activity (mostly of the small businesses) which authorized by law and is not counted by the official statistics. This sector of the shadow economy offer mostly ordinary goods and services (as in the “white” economy), but the manufacturers are trying to evade any official records in order not to bear the costs

associated with obtaining licenses, paying taxes, etc. In such conditions, it is advisable, in particular, to consider the relationship between the shadow economy and a quality of legal regulation.

As noted in work [5], the 68% of population observe the law when it suits them, 16% - to follow the laws for ideological reasons, and 16% - never comply it. When most of the population (68%) is in conflict with what is dictated against their interests, begins to develop social instability, which can lead to all sorts of conflicts. [5] Thus, the art of lawmaking is approaching of legislation to the ideal of the full satisfaction of interests of the most part (68%).

To understand the consequences of opposite regulation should be compared a quality of legislation and level of the shadow economy. The well-known Russian expert in the field of business security V. Yaroslavsky [41] notes: "... the Russian law is not friendly to small and medium businesses. Here is U.S. law is friendly. Beginner businessman gets credits and tax incentives. It has a legal protection and respect of the society since beginning of its activity ...". It is not surprising that in Russia, as well as in Ukraine, a level of shadow economy is much higher than in the U.S. (see Table 1.).

The Decree of the President of Ukraine from 05.03.2002 # 216/2002 "On measures to elimination of the shadow economy of Ukraine for 2002-2004" [31] is recognized that the main causes of spread of informal economic activities in Ukraine are an instability of tax legislation, a high tax pressure and irregularity of the tax burden on businesses, a low level of the tax discipline; an excessive regulation of entrepreneurial activity, corruption in the public administration and local government bodies, lack of legal protection of subjects from abuses of the government officials and local authorities; an insufficiently transparent procedure of privatization of the state property. These theses are confirmed by the scientific research. Thus, in work [21] is noted that the most important factors of the shadow economy in the transformational societies are first, a discrepancy of the current legislation to the realities of economic life, and secondly, an excessive regulation of entrepreneurial activity by the state and local authorities as a result of intervention in economic activity as well as the lack of coordination of its actions. This situation leads to search by the subjects of economic activities of paths of tax evasion and other mandatory payments. In work [22] a study of reasons of existence of the shadow economy allowed to reveal the main of them: high tax burden, its uneven distribution, the discrimination of some taxpayers at the expense of others, wastefulness of managers of budgetary funds, discrepancy of manufactured public goods with the consumers' demand.

In work [9] is asserted that a negative role on a spread of the shadow economy may more play imperfect state institutions than high taxes. The authors believe that more efficient institutions are led to a much more narrow shadow economy. A weak state institutions and the lack of rule of law (but not actually high taxes) are led to increasing of the shadow economy.

Hernando de Soto [34], studying the activity of small manufacturing firms, found that the law-abidance costs an average of 347.7% post-tax profit (that is, if there were no costs of abiding of the law, a profit in small business would have increased in 4,5 times ). Characteristically, that taxes consume only 21.7% of the cost of law-abidance. The main source of etatist pressures on business is bureaucratic procedures and not taxes.

The Ukrainian businessmen also assert about a poor level of state administration. Thus, according to the surveys [7], 77% of companies are facing systematic proposals of tax bodies to pay taxes in advance, including for VAT refund, 50% are unreasonable requests for information, and 42% suffer from burdensome inspections. In 2011, 17% of the companies had more than 7 inspections.

In some research the beginning of formation of the shadow potential in economy of the post-Soviet countries dated of the Soviet era [13, 18]. In Ukraine, the shadow capital of Soviet times partially had been legalized in the privatization process. But due to fundamental flaws in the early 90's of 20<sup>th</sup> century the shadow economy had got its own “Ukrainian” sources. Among the most significant shortcomings of the then regulation should be allocated, in particular such negative factors:

a) The absurd accrual at the wage fund - accruals to the pension fund in some periods was 61%, it had existed accruals to fund on the implementation of measures to eliminate the consequences of the Chernobyl disaster (by periods - 19%, 12%, 10%);

b) It was imposed severe restrictions on wage growth - and this despite the fact that the inflation rate had reached in 1992, 1993, 1994 respectively 2000.5% 10155%, 401.1% per annum [25];

c) Besides of common tax (VAT, income tax) it had been introduced and even taxes on the proceeds from the sale of products in general - contributions to the State Innovation Fund of 1% of revenue, deductions for road works - 1.2%;

d) setting a size limit of product profitability at around 30% (at the above inflation thousand percent, and upon keeping of this level of receipt of products were no longer enough funds to buy raw materials, that is, working capital had depleted).



These measures opened an era of concealment of the real revenues and profitability in Ukraine;

e) providing to various government agencies, especially the tax bodies, the right to unilaterally bill payment requirements, which led to the illegal withdrawal of funds of enterprises, its withdrawal at the worst possible moment and the blocking of accounts (so called the “card file”). As a result, practically stopped cashless payments and prospered of cash payments and barter;

f) Unlimited powers of law enforcement bodies, unsettlement of an order of the appointment and conduct of inspections. As a result, subjects of entrepreneurial activity were afraid legalize.

Thus, it is the public authorities, in particular the executive bodies (lobbying more and more new laws regarding duties, taxes, empowerment), persistently had created the conditions for a growth of the shadow economy, what, in particular, illustrated in Fig. 2. At the same time, reducing of a level of the shadow economy after 1997, had not happened by itself, and was associated with certain measures aimed at improvement of the entrepreneurial climate: pension fund contributions were reduced to 32%, repealed payments to the Fund implementation of the activities to eliminate the consequences the Chernobyl disaster, the State Innovation Fund and on the roadwork, introduced a simplified system of taxation, canceled “card file” of banks, repealed most of the restrictions on wage increases, and to withdraw funds from bank accounts without the consent of the enterprise, were regulated inspections, imposed a ban on the implementation of unscheduled inspections without court approval and to withdrawal funds from bank accounts without the consent of the enterprise, accepted an order in regarding the disclosure of bank secrecy only with the permission of the court, etc.

However in 2003, as noted above, in Ukraine ceased a decline of the level of the shadow economy and began the second wave of it growth. This growth an author connects with a campaign to combat the laundering "dirty" money, which began under the pressure of international organizations without proper preparation [6], since preventing a legalization of money of criminal activity, such “fight” at the same time prevents a legalization of money and non-criminal origin, and, therefore, impedes a legalization of the economy. Sociological studies conducted in this period [20], show that as of 31.03.2004 a legalization of shadow capital in Ukraine had considered it necessary, almost two-thirds (61.4%) of citizens, i.e. the legalization (amnesty) of the shadow capital and income had had the understanding and support of the Ukrainian public. This did not happen. As a result, Ukraine switched to struggle with nearly half of the economy, which could not be successful. This issue is obviously required further study, but taking into

consideration of the deployment of a similar struggle in Azerbaijan, we should be considering with these regularities.

At the same time, when we are planning measures on elimination of the shadow economy, we should know exactly where this economy is concentrated. On this matter an opinion of economists about the realities of Ukraine is almost unanimous; the main potential of the shadow economy is contained in the sphere of large scale production and highly well off part of population. Thus, according to work [39], if a level of shadow economy at the end of 2009 (the average in Ukraine) amounted to 35.0%, while the figure for industry 52.2%, agriculture - 45.4%, construction - 32, 8%, transport - 28.2%, and a sphere of services that are usually associated with small and medium businesses was only 29.5%. In work [28] notes that a limitation of shadow activity in export of the mining and chemical industry and imports of the energy industry will allow to double increase an investment potential of Ukraine. Obtained by the author results indicate about determining role of offshore technologies in implementing of diversified schemes of outflow of capital and tax evasion [28]. It is obvious that these technologies are practically not available to small and medium businesses. The above mentioned data obviously confirms rightness of the experts in Azerbaijan, which are indicated that the shadow economy in the country finds its reflection, first of all, in raw material of fuel and energy industry, financial, credit and tax policies, customs sphere and the sphere of privatization of state property [1], and also they point to the outflow of money in offshore zones [16]. In work [27] is noted that in Ukraine, 20% of the rich have more than 70% informal income. Thus, informal income significantly increases inequalities in society.

Consequently, the fight against the shadow economy by means of administrative pressure on micro subjects is improper aim, both in terms of efficiency and “location” of the shadow funds, and from the point of view of the interests of the survival of the poor population. In fact, this pressure looks like an imitation of the fight with the least protected people.

Thus, the outlined leads to the following conclusions. The shadow economy is generated by improper governance in this sphere and the improper performance by the subjects of authorities of their duties, and in many cases are as unlawful excess of their powers. Turnovers of the shadow money is concentrated mainly in large-scale industry and representatives of the well off part of population, however, in Ukraine the object of a struggle with the shadow economy are usually micro subjects, what may indicate a falsity of the selected targets, or its intentional distortion. In a large part the shadow economy is determined by corruption, and the latter is a power source of the shadow economy. Imprudent fight against

legalization of so-called “dirty” money impedes a capital legalization of non-criminal origin.

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