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CRIMINAL LEGAL AND ADMINISTRATIVE METHODS OF ENSURING THE ECONOMIC SECURITY OF THE STATE IN THE CONTEXT OF GLOBALIZATION AND MODERNIZATION OF THE ECONOMY

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ABSTRACT

Ensuring the well-being of its citizens is the main and most important task of each state, and therefore effective economic management, minimizing the effects of possible crises, overcoming recessions and restoring economic growth for many centuries has been the subject of a study of the most famous economists in the world. At the same time, the use of their recommendations without taking into account the processes of globalization and monopolization of markets, increasing the influence of the state on economic processes in the context of modernizing the economy to meet European standards, without taking into account the specifics and characteristics of the existing economic relations, leads to decisions that negatively affect the economy and impede it dynamic development. The study is based on a comparative analysis method and a comparative legal method, as well as methods for understanding economic and legal phenomena that influence the development of various processes in the sphere of social relations that we are interested in. We also used a statistical method of research. Search and identification of appropriate methods and methods that can ensure the economic security of the country in the context of globalization and modernization of the economy of Ukraine, which implies the improvement of administrative, civil and criminal legal methods, including by adjusting domestic legislation to the requirements of international acts and European standards. The development of specific proposals for the improvement of the legislative framework, which is designed to ensure the stability of the sphere of social relations that we are interested in.

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INTRODUCTION

In modern To begin with, we note that it was precisely the significant mistakes in defining and implementing the strategic direction of development, choosing and applying measures to manage the economy, protecting it from illegal actions, delaying response to dynamically changing relations, including the emergence of new financial instruments, led to a significant slowdown development of the economy of Ukraine in comparison with the economies of neighboring countries.

According to a number of authors (Boreiko and Mitchuk, 2018), Ukraine, which has significant scientific, economic, natural and labor potential, according to the State Statistics Committee of Ukraine, for the last twenty-six years, from the position when in 1990 it was ahead of its neighbors Bulgaria and Romania gross

domestic product (GDP) per capita, respectively, by 7.6 and 4.4% and less than Poland by 0.9%; already in 2016, it was 1.23, 1.45 and 1.51 times behind, respectively. At the same time, when compared with the Baltic countries that were part of the Soviet Union, which, as of 1990, GDP per capita (Lithuania, Latvia, Estonia) lagged behind Ukraine by 49.5, 51.4 and 18, 8%, already in 2016, the gap widened 1.6–1.8 times against Ukraine.

Other authors (Pluhatyr *et al.*, 2018), comparing the growth rates of GDP in Ukraine and neighboring countries (Poland, Romania, Turkey) for 2011–2014, indicate that in our country this figure is two times lower. To catch up with neighbors by 2030, Ukraine, according to expert estimates, must demonstrate GDP growth at an average of 7% per year during the entire period. At the same time, over the years of independence, the economy has changed its structure in favor of primary industries, the primary production of intermediate products and the processing of materials. These industries, metallurgy, agriculture (including the grain trade) with a high level of liquidity in foreign markets absorbed most of the investment, which led to the formation of a "resource curse" for Ukraine.

The reorientation of the Ukrainian economy from high-tech, knowledge-based industries to raw materials is the result of ill-considered policies, mistakes made and mistakes that resulted from developing the economic development strategy, Ukraine did not take into account the experience of other countries faced with similar problems. Thus, the authors (Boreiko and Mitchuk, 2018) note that "the situation in Ukraine at the end of the last century was typical for economically developed countries during the Great Depression of the 20–30s of the twentieth century, as well as for Western Europe and Japan post-war period.

At that time, the business tax burden in these countries was much lower. So, in 1937, the ratio of tax revenues of economically developed countries of Europe to national GDP averaged 16.5%, and in some countries significantly less: Switzerland - 6.0, Sweden - 8.5, Norway - 10.9%. In 1965, the tax burden on enterprises in the world increased significantly: the average tax burden in the industrialized countries of Europe was 28.6%, and on other continents - 23.2%. However, in that year in Japan, which had just renewed its economy, this figure was 18.3%, and in the United States, which is spending huge funds on the militarization of the country, this figure was 25.0%" (Sadekov and Pokintelitsa, 2009).

The aforementioned authors came to the conclusion that it was the correct policy of the state, which, by reducing the tax burden, allowed its own business to adapt to new conditions, to modernize, and only after that a phased increase in the tax burden was implemented to ensure a high level of social security, allowed economies to develop effectively. Being in the midst of the formation of a single global space in the sphere of politics, economics, science, culture and production, the further socio-economic development of Ukraine is directly related to the timely search and application of adequate management methods to overcome the problems encountered and achieve sustainable prosperity and security (Yefimova *et al.*, 2018). In these conditions, the activities of the state to strengthen the fundamentals of economic security should include:

- economic reforms with significant institutional changes;
- the creation of an effective regulatory framework;
- building a current system of economic management.

Analyzing the causes of problems in the economy of Ukraine, its inability to adequately respond to dynamically changing conditions, researchers often identify the following factors:

- an increase in the tax burden on taxpayers;
- lack of conditions for the implementation of economic initiatives and free competition;
- lack of effective measures to liberalize the economy;
- failure to ensure proper legal protection of economic relations;
- officials ignoring public authorities of changes in the rules of economic development in the twentieth century related to globalization and the monopolization of the world economy;
- loss of state control over the real economic processes in the country, which led to the disappearance of a significant part of the national economy, deep stratification of household incomes and active outflow of the population to other countries;
- insufficient funding of basic research and implementation of innovative projects on the part of Ukraine and national enterprises;
- discrepancy between the actions of the National Bank of Ukraine and the Government of Ukraine to the current needs of the national economy (Boreiko and

Mitchuk, 2018).

There are also negative trends in the financial sector, where the level of economic security of financial institutions has deteriorated significantly over recent years. Financial institutions in Ukraine are faced with a large number of both traditional threats to economic security and their newest forms, countermeasures to which have not yet been developed (Zachosova and Babina, 2018). Considering the legal factors that adversely affect the development of the economy, and consequently represent a threat to its security, it should be noted that they are directly related to the problems of tax administration, corruption risks and economic crimes (Dei *et al.,* 2019a).

Traditionally, among the factors affecting economic security are:

- perfection of regulatory legislation;
- overcoming monopoly in the economy;
- legal discipline and diligence;
- The state of the fight against corruption and crime in the economy;
- control over the movement of funds.

At the same time, such a division is very conditional, since it is the imperfection of legislation that prevents the overcoming of monopolism in the economy, reduces legal discipline and diligence, is one of the causes of corruption, economic crime and inefficient use of funds, the possibility of their legalization or use for criminal purposes.

It is the high level of corruption in state bodies in the implementation of tax administration, decision-making permits, licensing, implementation of administrative powers to conduct audits of business entities, leads to the imposition and use of corrupt practices by enterprises and organizations of the private sector. As a result, a corrupt business receives benefits that allow it to minimize its costs by applying tax evasion and other payments, and business projects that are not related to corruption schemes for obtaining benefits, become uncompetitive. As a result, this leads to inadequate protection of the rights of participants in economic relations, an increase in the tax burden, the government's loss of real control over economic processes, shady business, stratification of household income, the outflow of the working population and the loss of innovation due to insufficient funding of basic research.

At the same time, the forms and methods of counteracting these negative factors are called different. Moreover, if some authors identify the following priority measures to overcome problems in the economy:

- creation of a favorable legal and tax environment for attracting foreign and domestic investment, renewing entrepreneurial initiatives to update the product and fair distribution of newly created income between the state and the objects of management, as well as various segments of the population;
- strengthening the activities of law enforcement agencies to bring the national economy out of the shadows;
- limiting the withdrawal of domestic financial capital to offshore zones;
- anti-corruption;
- ensuring the structural transformation of expensive and unprofitable industries;
- development of small and medium-sized businesses and state support for start-ups;
- reducing the social burden on the payroll, introducing a moderately progressive scale of income tax and income tax;
- optimization of payments for the maintenance of officials;
- an increase in public spending on the financing of basic and applied science, the implementation of innovative projects;
- solving the problems of crediting producers and consumers (Boreiko and Mitchuk, 2018), (Melnyk *et al.*, 2021).

Others, in turn, emphasize the primary need for clear regulation of the activities of subjects of economic relations in administrative law and other industries, including criminal law, improvement of the regulatory framework of the procedure and grounds for bringing criminal liability for crimes in the economy money, financing of terrorism, corruption crimes and crimes related to corruption), etc. In defending this position, the authors point out that it is this approach that will allow the formation of an effective economic system (Tylchyk *et al.*, 2018).

A number of researchers focus on the primary need to improve the tax administration system, which is defined as (Sadekov and Pokintelitsa, 2009) a form of integrated systemic organization of tax regulation, control and tax collection, based on a combination of imperative power methods of tax authorities and stimulating taxpayers'

self-initiative in developing economy and ensuring the economic security of the state, improving tax legislation, differentiating AI provisions of the Tax Code, which regulates the administration of taxes and duties (mandatory payments), the divisions:

a) regulations governing the timely and full implementation of the payers of the tax debt;

b) provisions governing the grounds and procedure for exercising tax control;

c) the provisions governing the administrative appeal;

d) provisions governing tax violations and the application of financial and legal sanctions for violation of tax laws (Uvarova *et al.*, 2018) and the provision of tax authorities with modern information technologies (Andreiev *et al.*, 2018).

The draft Strategy for reforming the tax system of Ukraine notes that it is precisely the systemic miscalculations in the process of tax administration that have led to the emergence of such problems as: neglect of the constitutional duty to pay taxes, low level of tax culture; widespread use of tax minimization and tax evasion schemes; significant budget arrears in the reimbursement of value added tax, the presence of a significant number of tax incentives that violate the neutrality of the tax system, reduce the efficiency of the payment of basic taxes, etc. The purpose of the article is a theoretical analysis of criminal and legal and administrative methods of ensuring the economic security of the state.

Criminal law methods of combating crimes in the economic sphere

With regard to criminal law methods of countering crimes in the economic sphere, the assessment of the results of their investigations and, first of all, such a crime as tax evasion, is criticized by both scholars and practitioners. Nobody heard about "high-profile" sentences for tax evasion, legalization of funds obtained by criminal means, abuses in the financial sphere, on the securities market, in our country (Bogatyrova *et al.*, 2020). A sample of the Unified State Register of Court Decisions on the search criteria "sentence", "crimes in the sphere of economic activity", "tax evasion" for the period from 01/01/2017 to 12/31/2017 revealed 38 sentences in cases of this category, of which According to accounting data, as of August 2018, only 21 entered into legal force. These verdicts in 10 proceedings approved an agreement with the accused and they were sentenced to a fine of up to UAH 17 thousand, up to 255 thousand UAH., another 10 people were convicted as a result of consideration of the proceedings in the usual manner, they were fined in the same amount. Only 1 person was appointed by the court of first instance a fine in the amount exceeding 2 500 000 UAH. At the same time, in 6 proceedings, the accused are exempted from criminal liability for various reasons and 11 are justified (Register of judicial decisions of Ukraine, 2021).

Giving an assessment of the effectiveness of the use of criminal law instruments to influence economic relations in Ukraine in the field of taxation, the authors (Minchenko *et al.*, 2018) state that their use does not ensure adequate economic security of the country. The difficulty of eliminating the consequences of creating a fictitious business determines the need to focus on preventive measures in this area, the timely identification and termination of such actions, as well as the involvement of financial sector enterprises in identifying questionable financial transactions. Low efficiency of court practice of tax evasion and fictitious business does not perform regulatory, punitive and preventive functions.

According to these authors, in addition to developing effective methods for implementing economic policy in the country, the solution of problematic issues aimed at achieving stability of the economic situation depends on the timely development and adoption by the legislator of normative acts that can provide real opposition to economic crimes. Despite the fact that intentional tax evasion and obligatory payments, as well as fictitious entrepreneurship, as a means to achieve this goal, annually damage the state budget more than crimes of other categories, the criminalization of these acts in the form that exists at that time as a lever of influence on economic relations, it turned out to be extremely ineffective.

In most cases, fictitious entrepreneurship is the formation of enterprises, the sole purpose of which is not to carry out economic activity, but to conduct pseudo-operations, as a result of which enterprises of the real sector of the economy reduce their obligations to the budget by attributing debt to fictitious enterprises - “one-day”, which have neither fixed assets nor any other property for foreclosure in order to compensate for the damage caused to the budget, is the remaining tax evasion and the use of fictitious enterprises as a way

of evading taxes has become rampant, and the registration of fictitious enterprises, the formation of fake documents "to order", has already become a separate segment of the economy with a high level of organization and conspiracy.

Analysis of the criminal - legal regulation of tax evasion, these authors point out that the editorial board disposition Art. 212 of the Criminal Code of Ukraine (Verkhovna Rada of Ukraine, 2001), for example, has not changed since 2008, however, it was supplemented with parts 4 and 5, containing incentive rules for taxpayers, and the wording of Art. 205 of the Criminal Code of Ukraine, changed in 2011, in our opinion, only complicated the work of fiscal and other law enforcement agencies, directing their efforts to document circumstances that do not in themselves pose a great public danger. Significant economic effect from their investigation is not achieved. The recognition of the enterprise as a fictitious one is used by the fiscal authorities as a means of putting pressure on the enterprises of the real sector of the economy without achieving an economic effect for the country.

One of the reasons for the ineffectiveness of criminal responsibility for fictitious business as a lever of influence on economic relations is the imperfect formulation of its disposition, which focuses on identifying and fixing primarily the fact of the formation of such enterprises, and not their activities. Causing large material damage acts only as a qualifying sign of the corpus delicti of the offense (Verkhovna Rada of Ukraine, 2015). However, per se, the improvement of criminal law instruments to counteract economic crimes, without a detailed regulation of related legal relations, will not give the desired result.

Cryptocurrency as a tool of financial offenses

As an example, in the context of globalization and improvement of payment systems, in recent years, the issue of regulation by the state of working with cryptocurrencies, which are not only used in business, but are increasingly used to make payments for crimes committed in cyberspace, but also and how to “go into the shadows” of taxation, the financing of terrorism, the legalization of funds or payment for crimes committed. With this negative attitude to cryptocurrency on the part of financial regulators, there can be no justification for the inactivity of the state in terms of regulating its use and turnover (Rossikhin *et al.*, 2018).

According to the Coin Market Cap (2021), there are 699 types of cryptocurrency in the world today, their total market capitalization has increased by 53% since the beginning of 2017, from 17.7 to 27.144 billion dollars, while in January 2016 it was $ 6 billion. The cryptocurrency market has grown one and a half times since the beginning of 2017. Bitcoin, Ethereum, DASH, Monero and NEM were among the most popular cryptocurrencies in the world, with 91% of total capitalization. Since de facto cryptocurrency is used in economic circulation, the absence of established rules for handling it not only prevents the state from exercising its control functions, but also deprives the participants of cryptocurrency operations of mechanisms that allow them to compensate for monetary losses in court .

Insufficient discussion and lack of development of the essence of Bitcoin (and other cryptocurrencies) and its analogues is observed by the state authorities when adopting laws or other regulatory acts. The specific nature of cryptocurrency determines that the corresponding question is not a priority for the formulation and solution. But still, global trends and realities are now forcing them to change their attitude towards this problem. The most acute problem is the implementation of the cryptocurrency circulation mechanism in the legislation. Cryptocurrency is a special electronic means of payment, the rate of which is supported only by supply and demand.

The main motivational factor in creating a cryptocurrency was not so much the enrichment or fame of its founders as the maintenance of anonymity of the payment system and the creation of an alternative to the modern financial system, to which trust is gradually lost. The features of cryptocurrencies that distinguish them from ordinary currency are their decentralization, that is, the absence of a regulatory body that would regulate the cryptocurrency and the way it is emitted. Cryptocurrency emission has the name "mining" and is to use the power of computer systems to generate unique character sets that form the cryptocurrency.

Among the technologies and schemes in the field of cryptocurrency, an anonymous version is gaining popularity - a darknet. The term “darknet” refers to a collection of websites that are publicly visible, which have the hidden IP address of the server on which they are located. Such sites can be visited by all web users, but finding out who their author is is very difficult. At the

same time, such sites can not be reached using popular search engines. Almost all sites that are in the so-called darknet hide their identity using The Onion Router (hereinafter - TOR) encryption tool. TOR technology allows users to keep their anonymity online when visiting sites, blogging and posting.

With the help of technology TOR is the concealment of personal data and location. In the case when a website is under the management of the TOR network, the effect is the same as in the situation with the end user. In order to visit the website on the darknet, which uses the TOR encryption tool, the web user must also use TOR. Darkmarket black markets sell their goods and services to anonymous customers, who often pay for Bitcoin cryptocurrency.

According to the authors of the publication, several reasons contribute to the fact that Bitcoin's path to recognition on the territory of individual states serves as a deterrent:

- unwillingness of law-making bodies to enter into new and redo existing regulations on currency regulation and cryptocurrency in general;
- fear that the massive use of cryptocurrency will cast doubt on the liquidity of the national currency as a whole;
- in the future, the transition to settlements using cryptocurrency can severely hit the banking system, since banks have no influence on the cryptocurrency market;
- unwillingness to allow cryptocurrency to float freely, since the government controls most spheres of activity of business entities, and the cryptocurrency market operates decentralized and cannot be subordinated to any particular authority;
- the authorities refuse to recognize the cryptocurrency as the actual currency due to the fact that, in fact, their value is not supported by either the value of gold or the mass of commodities.

The greatest risk of popularizing cryptocurrencies for states is the ease of legalizing funds obtained by criminal means. The lack of connection between accounts in virtual currencies and real people, combined with the ability to have an unlimited number of accounts, currently predetermines a favorable digital environment for creating new sophisticated models aimed at hiding the illegal origin of funds. The problem of legal regulation of cryptocurrency circulation, generated by the modern globalized world, is complex. The socio-economic factors of the modern globalized world and conflicts of jurisdiction, as well as the application of the national law of different countries to relations that arise during the circulation of cryptocurrencies, have an impact on the origin of this problem.

At the same time, a significant public interest in the problem necessitates the search for an adequate mechanism of legal regulation, since the existing methods of self-regulation will not shake property rights and legitimate interests. In our opinion, the state influence on relations developing in the sphere of cryptocurrency circulation should occur in certain zones of influence, to which the following can be attributed:

- zone of regulation of cryptocurrency circulation on exchanges and its use in payment systems;
- area of responsibility for the preservation of cryptocurrency (primarily through the technical˘ protection of information;
- cryptocurrency zone of application for joint investment;
- zone of use of cryptocurrency in civil law relations.

In addition, effective intergovernmental mechanisms for interaction in the field of cryptocurrency turnover should be developed, primarily in the interests of combating crime and legal liability for the commission of offenses of an economic nature (in particular, financial fraud). Despite the diversity of opinions regarding cryptocurrency, it is necessary to recognize that their appearance on the world financial market is a phenomenon that, in theory and practice, can fundamentally change the world financial system. That is why governments are not in a hurry to give permission for the mass introduction of cryptocurrency in their territories, because an alternative to the existing financial system can change the effect of central authorities on the management of financial processes. Theoretically, a cryptocurrency can have a positive effect on business, since the absence of a commission during operations will allow enterprises to obtain available funds that will be used for production development, and generally reduce the expenditure portion of business entities (Dudin, 2018).

Impact of corruption crimes on the economy

It should also be noted that often economic crimes in the economic sphere "go shoulder to shoulder" with crimes in the service sphere, the main task of which is to give a

semblance of legality to the actions of business entities, providing illegal benefits, helping to minimize costs, expand the market, countering competitors, etc. At the same time, the phenomenon of corruption is its ability to exist in each country, regardless of historical development, level of economy, social development, and the existence of a legislative base that should counteract this. Its uniqueness lies in the ability to constantly evolve, transform into many new forms of manifestation, improve, adapt to the existing legal framework and coexist with the mandatory principles of a legal, democratic state (Semchuk *et al.*, 2018).

As rightly notes in the scientific literature, modern corruption is characterized by the presence of regular and long-term social actions, certain corruption manifestations, some of which are already known shadow schemes, economic crimes, financial frauds used by criminals to "launder" "dirty" money, as well as other, species-specific processes. The formation of corruption actions as regular and long-term processes and the transition to a market basis are indicated by the following factors:

- corruption of a number of social functions: simplification of administrative relations, acceleration and facilitation of management decisions, consolidation and restructuring of relations between social classes and groups, promotion of economic development by reducing bureaucratic barriers, certain regulation of the economy in the context of resource shortages, etc .;
- the presence of well-defined subjects of corruption relationships (a seller providing corruption services, a buyer using corruption services), distribution of social roles (consumer of corruption services (for example, a bribe giver); a corrupt official (a bribe taker); an intermediary);
- the presence of certain informal norms regulating corruption relations, known to the subjects of corruption activities;
- the established “etiquette” of corruption relations (certain behavior, for example, some symbolism in actions, gestures);
- established and known to interested parties, including with a certain participation of the media (media), the price list of services. For example, published “fees” of requisitions by various officials, the size of bribes for admission to higher educational institutions, the size of payments in the field of law enforcement, the cost of appointment to the position, etc.

The shadow economy at the same time is a breeding ground for corruption, contributes to the development of shadow economic activity. The entrepreneurs of the shadow sphere are forced to use the illegal services of officials at the level of the executive and at the level of the legislative power, rewarding them for services. Thus, the shadow economy feeds employees of corrupt officials, creating a demand for their services, which in conditions of objectively limited supply leads to an increase in the equilibrium price for this type of service. Thus, the attractiveness of this corrupt business increases and the number of corrupt officials grows. On the other hand, unscrupulous employees increase costs for enterprises of the legal sector, for example, putting them in conditions when they are forced to give bribes. Thus, they reduce the competitiveness of enterprises of the legal sector, encouraging them to leave the shadow sector.

Funds received as a result of corrupt activities (as well as funds received in the shadow economy) can be widely used to “political investing” to finance terrorist operations. Corrupt officials spend part of the funds illegally withdrawn from the treasury or received as bribes to pay for semi-criminal groups terrorizing the population. The structure of corruption network structures can be divided into three characteristic elements:

- a group of government officials, ensuring the adoption of decisions that are beneficial to the "customers";
- commercial or financial structures ("customers") that realize the benefits, benefits, income, turning them into money;
- protection groups of the activities of corruption network structures, which are carried out by officials from among the representatives of law enforcement, regulatory and judicial authorities.

From single disparate transactions, corrupt officials move to organized and coordinated actions, uniting into criminal communities that form corruption networks. In recent years, there has been a shift to a higher level of bribery, when corruption networks are the basis and the most powerful tool for illegal transactions. The activity of corruption networks is manifested in the formation of interconnections and interdependencies between officials along the vertical of management, as well as horizontally at various levels of government between different departments and structures. These interconnections and interdependencies are aimed at

systematically committing corrupt transactions, as a rule, for the purpose of personal enrichment, distribution of budget funds in favor of structures that are part of a corrupt network, increase profits, maximize them or gain competitive advantages in financial and credit and commercial structures that are corrupt. network. The leaders of corruption networks are often the most highly placed officials.

The negative impact of the threat of corruption on the economy is manifested in the fact that it causes:

- the expansion of the criminal sector of the shadow economy; corruption is one of the main mechanisms of its reproduction;
- the interaction of corrupt government with criminal business, organized crime, which, cooperating with corrupt groups of officials, is strengthened even more with access to political power and opportunities for the laundering of "dirty" money;
- violation of competitive market mechanisms, reduced efficiency of market mechanisms. Often the winner is not the one who is objectively competitive, but the one who was able to get benefits for bribes, as a result - the emergence of monopolies and unfair competition in the economy, respectively - a decrease in the efficiency of its functioning;
- slowing down the emergence of effective private owners, especially the middle level;
- inefficient use of budget funds, in particular in the distribution of government orders and loans, as a result - hindering the effective implementation of government programs;
- price increases due to the costs associated with “paid services of officials”. Corruption raises not only the cost of goods, the cost of investments and investment projects increases. Due to corruption, the total price of an investment project increases by 10–20% due to bribes, and sometimes even by 100%, when the problem of an inexpedient and unproductive investment project is solved;
- a fall in the confidence of economic entities in the state’s ability to control the situation, a decrease in the efficiency of government and business, incentives to invest, a decline in the investment attractiveness of the country as a whole. Corruption is one of the social and political factors of state risk, a high level of corruption reduces the country's competitiveness on the world stage;
- the generation of social inequality, “income stratification”, causing a very serious deterioration in the life of the population and social tension. Corruption contributes to an unfair redistribution of life benefits in favor of narrow oligarchic groups, which results in a sharp increase in property inequality among the population, the impoverishment of a significant part of society and an increase in social tension in the country;
- discrediting the law as the main institution for regulating the life of the state and society. The public consciousness forms the idea of the defenselessness of citizens in front of crime and in the face of power, and this is a direct threat to the rule of law, the democratic structure of the country, the rights and freedoms of citizens and, ultimately, strategic stability and national security.

In the political sphere, the negative consequences of corruption are manifested in undermining the country's prestige in the international arena, contributing to its political and economic isolation, etc.The results of the influence of corruption on the social sphere are expressed primarily in the existence of a sharp distinction between officially declared and actual, that is, real values. This leads to rooting double standards; universal criterion in society are money; the significance of a person is determined by the size of his personal well-being, regardless of how he acquired it; devaluation and scrapping of moral regulators of human behavior occurs (Valiulis, 2017).

Ways and methods of anti-corruption

Given the very modest results of countering corruption, there are currently a sufficient number of adherents to toughening responsibility for offenses related to it. Thus, a number of authors, analyzing the practice of applying the norms of administrative legislation for offenses related to corruption, indicate the need to bring it closer to world practice, namely to criminalize the submission of false income information, in order to prevent offenses in official and professional activities related to public service. toughen penalties for violations of the procedure for filling and submitting declarations by public officials, establishing legal regulation to coordination of the activities of various regulatory bodies, improvement of the legal and methodological framework of their activities (Kuzmenko *et al.*, 2018). Similar ideas are expressed for toughening criminal responsibility for corruption crimes, as well as crimes in the sphere of economic activity.

Authors Babikov and Oliinyk (Savchenko *et al.*, 2018), while studying the criminal law characteristics of a number of crimes related to corruption in the economy and comparing them with the methods of criminal law regulation of similar relations in the laws of other countries, concluded that the problems arising in law enforcement are primarily related to a different approach to defining the main legal categories that differ significantly from the European Union countries, a different approach to criminalization acts, the lack of proper specification of the elements of offenses. As an example, specifies the distinctive features in the implementation of the UN Convention against Corruption (UN General Assembly, 2003). The researchers state that comparing the requirements of the UN Convention and the wording of Article 368-3 of the Criminal Code of Ukraine (commercial bribery) the most significant differences are:

1. The Convention refers to the provision of an unlawful "advantage", while the Criminal Code uses the term "unlawful" benefit ";
2. In accordance with the disposition of the Criminal Code, a person in respect of which active bribery can be committed is only an official of a legal entity under private law, and the Convention provides that active bribery can be made by any person who directs the work of a private sector organization or works in is in relation to the general, and not the special subject;
3. The Convention stipulates that responsibility comes for committing an action or inaction in violation of its obligations, and the Criminal Code establishes the obligatory component namely the use of the powers granted.

There are also significant differences in determining the composition of liability for passive bribery:

1. In accordance with the Convention, the objective side of the crime can be in two forms: extortion or acceptance. The Criminal Code of Ukraine is defined as separate forms: accepting a proposal, accepting a promise, receiving a benefit, and extortion acts as an aggravating circumstance;
2. The Convention proposed to establish responsibility for the provision of an unlawful "advantage", but the Criminal Code establishes responsibility for the above actions with respect to an unlawful "benefit";
3. In the Criminal Code of Ukraine, only an official of a legal entity of private law can be the subject of a crime, and the Convention proposes to criminalize the actions of any person who runs the work of a private sector organization or works in any post, regardless of whether it is an official;
4. The Convention provides for the establishment of responsibility for the commission of actions or omissions in violation of their duties, but the Criminal Code of Ukraine has established that responsibility can occur only if the guilty person uses the powers granted to him.

Foreign experience of anti-corruption

At the same time, one of the most problematic issues in the differences between certain requirements of the convention and the results of its implementation in the Criminal Code of Ukraine is the different meanings of the concepts "benefits" and "advantages", which do not substantially coincide in scope. Such a broad interpretation of the concept of "undue advantage", which covers any property and non-property advantages, is inherent in the laws of Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, France, Germany, Hungary, Romania, Poland, Spain, Italy, Switzerland, Sweden .

Thus, the change of the word "advantage" to "benefit" led to a significant narrowing of the range of actions to which the prohibition applies, and then the scope of application of criminal law. In addition, edited by Art. 368-3 of the Criminal Code significantly narrowed the range of subjects to which the prohibition of bribery applies, with the exception of persons not endowed with organizational, administrative or administrative functions. When analyzing the approach to the implementation of the provisions of the UN Convention against Corruption (UN General Assembly, 2003), and the Criminal Convention against Corruption (Council of Europe, 1999), the European Union countries provide examples of criminalization of corruption acts in the private sector in Spain.

Thus, article 262 of the Spanish Criminal Code establishes responsibility for actions aimed at a gift received or promises to provide such a gift for certain actions to participate in tenders or auctions. That is, it is the actions that are intended to receive a gift or a promise to transfer it, which are criminalized. The fact of receipt (transfer) of the gift (benefit) or the statement of the promise and its acceptance, as provided for in Art. 368-3 of the Criminal Code of Ukraine, the offense is not covered. Under article 292 of the Spanish Criminal Code,

responsibility is incurred for making a decision with the aim of illegally obtaining property benefits for oneself or third parties. And again, responsibility comes precisely for making a decision, and not related to the act of making a proposal or a promise.

In addition, for officials, as well as for public servants, the Convention is implemented by a number of offenses that differ significantly from the provisions of domestic legislation. So, according to Art. 419, 420 of the Spanish Criminal Code, the objective side of the crime may be: harassment or receiving a gift, making an offer or promise. Separately, the legislator also highlighted the issue of the relationship of receiving remuneration and use of his official position. In particular, delimiting in articles 419, 420, 421, 425 of the Spanish Criminal Code the types of criminal offenses, depending on whether the actions of the guilty person were lawful, whether they committed them for remuneration or promise of such remuneration, affect the severity and the punishment (Sopilko, 2013).

Also noteworthy is the establishment by Article 426 of the Spanish Penal Code of responsibility for receiving a gift, including those not related to its activities or for committing acts not prohibited by law. The criminalized actions in the private sector of Article 428 of the Spanish Penal Code also affect other officials or public servants, whether by means of their official position or other position, whether they are personal or hierarchical. At the same time, the legislator did not establish that such actions should be associated with obtaining benefits, noting only that such influence should be associated with the adoption of a decision that may affect directly or indirectly economic gain. And getting the actual benefits only affects the size of the sanction. Similarly, with the definition of the key issue of decision making, which may affect the receipt of economic benefits, and not the immediate receipt of benefits, the responsibility is established for individuals for influencing public servants or officials. And in this case, the actual receipt of benefits only affects the severity of the sanction.

Therefore, we can conclude that the Spanish legislator has defined the key point that causes corruption risks to be the decision-making, the performance of actions in favor of certain individuals, and not the receipt of property benefit, which is focused on the attention of the domestic legislator. A striking example is also the provisions of Article 436 of the Criminal Code of Spain, which establishes liability for collusion with interested persons or in another way causing damage to a public facility. It is clear that in such cases the person acts with a specific purpose, but thanks to the formulation of the disposition in this form, the fact of receiving a benefit or other advantage is not subject to proof, which greatly simplifies the procedure for holding a person accountable for such actions. It is enough to establish the fact of the possibility or the commission of dishonest actions, and then the granting of an unlawful advantage.

Similarly, it is on the commission of actions, and not on the receipt of benefits that the responsibility under Art. 441, 442, 443 of the Criminal Code of Spain, establishing responsibility for illegally promoting activities, providing advice in prohibited cases, using secrets or information in order to gain economic benefit for themselves or third parties or to obtain non-proprietary benefits for making a report or communication to a superior person. In some countries, for example, Romania, the Netherlands, in the absence of a clear delineation of corruption offenses into subjects of private and public law, the notion of a subject "a public official" encompasses not only officials in the understanding of domestic legislation, but any official who performs any work in favor of any legal entity (Dei *et al.,* 2021b).

The Belgian Penal Code also includes leaders, managers of a company, organizations, and persons representing or managing a company by proxy, as well as employees of a legal entity or an individual, in respect of whom passive bribery can be committed. At the same time, along with measures of a criminal law nature, anti-corruption strategies, in countries where such a struggle is effective, other incentive measures are actively used. Along with the development of anti-corruption programs and the constant modernization of anti-corruption legislation, Singapore has made a lot of efforts to eliminate ambiguities in the laws, clearly regulating the actions of officials, a significant number of permits and licenses were canceled, procedures for government bodies were simplified, sanctions for refusing to participate in anti-corruption investigations.

In South Korea, emphasis is placed on the ability of any citizen to control the decision-making process by officials and to monitor the progress of their appeals via the Internet. The civil servants 'contracts include a clause on the right of the employer to dismiss an official without any explanation of reasons, in case of suspicion of corruption that arose when delaying the

consideration of the issue addressed by the entrepreneur. In the United States, considerable attention was paid to the protection of witnesses about corruption. It was in the United States that a federal law appeared for the first time in the world, containing witness protection regulations. It was the Organized Crime Control Act, passed in 1970. Many states in this country have their own witness protection programs, which usually provide less protection than the federal program. In 1982, the US Congress passed a federal law "On the Protection of Victims of Crime and Witnesses", the preamble of which states that the normal functioning of the criminal justice system is impossible without "cooperation" with victims and witnesses of crimes. Another federal law of the USA of 1984 "On control over crime" abolished the Title of the federal law of 1970, significantly expanding the circle of persons subject to state protection. Legislation of all states provides for the protection of some "special categories" of victims of crime.

In China, one significant factor in protecting businesses from the arbitrariness of the state is strictly adhered to the principle by the authorities of adequate responsibility for causing damage due to illegal actions of officials (Dei *et al.,* 2021a). If, for example, the actions of an official from the supervisory authority were illegal and caused damage to private business, the state compensates him for the full damage from these actions of his official, and then collects these expenses from the family of this official in the broad sense of the word, i.e. with all his relatives, and the families in China are very large. The state is doing the same with customs officials. At the same time, the state does not relieve from its officials the responsibility neither for fire safety, nor for sanitary control, nor for the control of goods transportation through customs, nor for the implementation of other controlling state functions.

In such a situation, it is often easier for the officials from regulatory bodies to ensure that the relevant requirements are met, which could not be persuaded to fulfill by private entrepreneurs. So, if he thinks that it is necessary to strengthen measures to combat possible fires, it is sometimes better for the official from the fire inspectorate to go buy the fire bucket himself, pour a box of sand, ask permission from the laobanya (business owner) to buy a shovel and ax. its organization fire stand. The fact is that if a fire breaks out in an organization that this official inspected, he will inevitably be found guilty in such a situation and will be severely punished. And such a businessman may have reasons to justify it.

In Hong Kong, to achieve this result, the city authorities have demonstrated the will, determination and consistency in the implementation of anti-corruption measures, and, moreover, in spite of individuals and positions. Hong Kong began to implement these anti-corruption measures in 1974, when 94% of the entire public sector was corrupted by corruption (Dei *et al.,* 2019b). One of the main measures was the abolition of the presumption of innocence for officials. Instead, the principle of "prove that you bought a property not for bribes" is applied. This principle has something in common with the principle of confiscation of property "in rem", which is used in some Western countries. In accordance with the laws of Hong Kong, defining the waiver of the presumption of innocence for officials, if an official is unable to prove that he legally received funds that are in his foreign accounts or for which his property and expensive property was acquired, he will be sentenced to prison imprisonment for up to 15 years in prison. The authorities began to consistently and clearly implement this legal provision. Immediately after the abolition of the presumption of innocence, several high-ranking officials of Hong Kong were behind bars (Moscow Bureau for Human Rights, 2012).

CONCLUSIONS

Thus, there are no universal methods for countering corruption and ensuring economic security. Therefore, considering the economic security of the state from various aspects: as a state of resistance to negative factors, protection of national interests, the ability of the economy to meet the needs of the state and society, as a state of development of the country's economy and its sustainable functioning, we believe that ensuring the economic security of the state is possible only if an integrated approach with the use of administrative legal, civil law and criminal law remedies. The impact of private and public law on the regulation of economic relations will be effective only when the specified branches of law are coordinated, coordinated with each other, set up to encourage individual initiative, risk and capital increase, ensure competitiveness and equality of all participants, guarantee and ensure protection of their rights and interests .

At the same time, the use of criminal law tools in the

system with measures of administrative and civil law impact will reduce the negative consequences of criminal law and increase the effectiveness of legal regulation of legal relations and ensure their adequate protection. It should also be borne in mind that the implementation of criminal law may become completely intolerable to society, and a reasonable reduction in the scope of legitimate violence may largely correspond to the interests of the country. Therefore, along with the expansion of criminal responsibility, detalization and criminalization of acts, the prevention of the commission of new crimes can also be achieved by decriminalizing individual crimes of minor gravity, attributing them to misconduct, establishing administrative prejudice on some of them as a prerequisite for criminal liability, establishing minor acts of property liability, simplifying the procedure for bringing to justice s misconduct.

It is the search for the optimal ratio of criminal, administrative, civil, property and disciplinary responsibility, exploring the possibility of replacing criminal law measures with other measures, as well as establishing conditions for reaching a compromise in determining the type of responsibility and punishment, excluding the lower limits of sanctions for wider use of alternative measures. penalties and fines, will ensure the implementation of the legal factors of economic security of the country. Thus, ensuring the economic security of the country in the context of globalization and modernization of the economy of Ukraine involves the improvement of administrative, civil and criminal law methods. A proper influence on legal factors affecting the economic security of a country is possible by adjusting domestic legislation to the requirements of international acts and European standards.

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