

Business criminal investigation: Foreign experience and legal regulation in Ukraine

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Abstract. The research relevance is determined by the need to reveal effective methods and strategies for investigating business-related criminal offences to ensure an effective fight against corruption and legal security in the economy. The study's objectives are to identify optimal strategies and tools, as well as to develop recommendations for improving legal regulation in Ukraine. The hermeneutic method, comparative legal method, and case study method were used in the study. The analysis of the Criminal Code of Ukraine, in terms of crimes in economic activity, revealed the main difficulties that exist in the investigation of economic crimes in Ukraine, such as gaps in criminal legislation and insufficient level of efficiency of investigations due to corruption of law enforcement agencies and business representatives. An analysis of the experience of investigating criminal offences in business activities in Germany, the USA, the UK, and the Republic of Lithuania has made it possible to conclude that there are similarities and differences in the legal acts on the investigation of criminal offences in the business sphere, the structure of specialised bodies and the powers of persons involved in the investigation of such offences. This analysis helped to identify the specifics of foreign approaches to certain aspects of investigations, such as anti-corruption bodies and financial monitoring. The effectiveness of investigation systems in other countries is significantly different, as they have more systematic legislation, and a clear structure of law enforcement agencies and special agencies dealing exclusively with economic crimes, which in turn increases the percentage of solving the relevant crimes. The author suggests possible ways to improve the legislation and practice of investigating relevant crimes. The research on this topic brings new approaches and practical conclusions to science, contributing to the improvement of investigation strategies strengthening the legal framework for combating economic crime and increasing the effectiveness of law enforcement measures in the context of the business sector

Keywords: business activities; corruption offences; tax and fee evasion; monopoly; money circulation; investigative search operations

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Introduction

The economy is the main sphere of human activity, as the basic principles of the economic system enshrined in the Constitution of Ukraine (1996) are developed through the definition of economic rights. The Basic Law of Ukraine includes a limited list of such rights, in particular, highlighting the importance of the right to entrepreneurial activity that is legal. The research necessity is expressed in the importance of studying and determining the optimal methods and strategies for investigating criminal offences committed in the field of business activity to effectively combat corruption and guarantee legal stability in the economy. The research problem includes several complex aspects and issues, such as ineffective investigation, corruption risks, and the need to improve legislation. The study of criminal offences in the field of entrepreneurship may face the problems of ineffective investigation methods and strategies, which leads to a low level of detection of such offences. It is worth noting that the business sector often faces corruption challenges, and ineffective investigation increases the risks of corruption and impunity. In addition, the study identifies problems and gaps in the legislation related to the investigation of criminal offences in the field of business and identifies the need for its improvement.

V. Sysoieva (2020) noted that the market economic system of Ukraine has its peculiarities, which are due to the remnants of administrative command management in the modern economy and the lack of relevant experience in state regulation of economic processes. The differences between market conditions and political and legal regulation of business create gaps that facilitate criminal behaviour in economic activities and complicate the national fight against crime. This problem has arisen as a result of an unfavourable market-oriented economic system. In addition, the very process of transformation, which is typical for Ukraine's transitional economy, included mechanisms for the formation of the shadow sector, which led to the widespread spread of this phenomenon. However, the author does not provide any proposals and/or strategies for combating crime in the economic sphere.

S. Cherniavskiy (2023) notes that significant levels of criminalisation and corruption in economic relations pose a serious threat to the national interests and security of the country. The relevant risks have an impact on the nature of crimes committed in business activities, changing the structure, structure, and style of crime. This issue is primarily relevant in the context of long-term law enforcement reforms, decriminalisation of business sectors, large-scale military invasion, and the expansion of the territories under the temporary control of the Russian army. The situation is complicated by the outdated scientific and advanced methods of investigating crimes in the field of economic activity, insufficient interaction between law enforcement agencies, the backwardness of the legislative framework and sectoral (intersectoral) regulations, including limited access. It is worth noting that the author does not provide methods for combating crime in the business sector.

S. Trach (2019) determined that the most effective way to investigate criminal offences in business activities is to cooperate with all bodies conducting pre-trial investigations and groups providing expert opinions. The author substantiates that effective cooperation in the study of criminal acts in the course of business involves the necessary participation of security structures with the allocation of mandatory

material and financial resources. However, the author does not provide any examples of investigation of criminal offences in business activities in other countries.

O. Dudorov and R. Movchan (2020) devoted their research to the study of trends in the development of Ukrainian legislation in the field of liability for economic criminal offences since 2015. It is worth noting that the legislator continues to unreasonably favour special (temporary) criminal law restrictions and exaggerate the repressive effect of these restrictions, considering them as factors that worsen the business environment and impede the normal development of economic relations. However, scholars have not provided a comparative analysis of the application of the relevant legal provisions in the international space.

V.K. Zherdiev and T. Yatsyk (2023) analysed forensic information on criminal offences in the field of economic activity committed with forged documents. The study of the investigation practice of the National Police of Ukraine showed that the most common fact is the forgery of documents regarding the commission and concealment of criminal offences. The author's general conclusion is that the typical ways of concealing illegal economic activity are lack of mandatory documentation required by law for certain types of economic activity and keeping unofficial records. However, the author does not provide any strategies for eliminating legislative deficiencies to facilitate the successful investigation of criminal offences in economic activity.

The research aims to study the international experience in the field of investigation of criminal offences in the field of entrepreneurship to identify optimal strategies and tools and to develop recommendations for improving legal regulation in Ukraine. The study on the investigation of criminal offences in the field of entrepreneurial activity has the following objectives. The first objective of the study is to thoroughly analyse the current legislation of Ukraine aimed at investigating criminal offences in the field of entrepreneurship to identify gaps, shortcomings, and opportunities for further improvement. The second objective is to conduct a detailed review of international experience in the investigation of business-related criminal offences to identify best practices and successful strategies. The objective of the third task is to develop recommendations for the implementation of best practices, which is to develop specific steps to improve the system of investigation of criminal offences in the field of business in Ukraine based on the findings of international experience and analysis of Ukrainian legislation.

Materials and methods

The subject matter of the study is the investigation of criminal offences arising in the field of entrepreneurial activity. The following materials were used in the study: Ukrainian legislation relating to criminal aspects of business activity, namely: Criminal Code of Ukraine (2001), Criminal Procedure Code of Ukraine (2012), Law of Ukraine "On Licensing of Types of Economic Activity" (2015), Law of Ukraine No. 698-XII "About Entrepreneurship" (1991), Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine Regarding Ensuring the Activities of the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption" (2015), Law of Ukraine "Bureau of Economic Security of Ukraine" (2021), Law of Ukraine "On the National Agency of Ukraine for Identification, Search and

Management of Assets Obtained from Corruption and Other Crimes” (2015), Law of Ukraine No. 2447-VIII “On the Supreme Anti-Corruption Court” (2018), Law of Ukraine “On the State Bureau of Investigation” (2015), as well as the Order of the Prosecutor General’s “On Approval of the Regulation on the Specialized Anti-Corruption Prosecutor’s Office of the Office of the Prosecutor General” (2020). Statistical data on the number and nature of criminal offences in the field of entrepreneurship were also used.

The hermeneutic method, comparative legal analysis, and case study method were applied in the study. The hermeneutic method consisted of a thorough study of the texts of legislative acts, such as the Criminal Code of Ukraine (2001), in part of Section 7 “Criminal Offences in the Field of Economic Activity”, and other legal documents related to the investigation of criminal offences in the business sphere. This method was also used to interpret legal terms and concepts, which is a key element in disclosing the content of legislation and clarifying its application. In addition, the method was used to study the legislation and practices of other countries in the field of investigation of criminal offences in business activities.

Comparative legal analysis was used to compare in detail the legislation, court practice and human rights mechanisms related to the investigation of criminal offences in the business sector in Ukraine and other countries. This method was used to compare the articles of the criminal code and other laws regulating criminal liability for business-related offences in different countries and to study court decisions in similar cases to identify trends and approaches to case consideration. The effectiveness of human rights institutions and mechanisms in the field of entrepreneurship was also assessed. The comparative legal analysis was used to understand the differences and similarities between the legal systems of different countries, which served as the basis for recommendations for improving legal regulation and practices of investigating criminal offences in Ukraine.

The case study method was used in the study to examine specific situations related to criminal offences in the business sector. Real-life situations were selected to illustrate the diversity and complexity of criminal offences in the business sector in Ukraine and other countries. A thorough analysis of the circumstances of each case, including details of the offences, participants, circumstances of the offences, as well as the consequences, consideration of different approaches and strategies used in the investigation of each case, determined the results of the application of various legal and criminal enforcement measures in resolving each case. The case study method allowed for an in-depth study of specific scenarios and cases to understand their features and highlight key aspects that may be useful for formulating recommendations and improving the practice of investigating criminal offences in business activities.

Results and discussion

General characteristics of the investigation of business crime in Ukraine

Ukraine is at the stage of the European integration process, which includes the revision of national legislation relevant to the European community, the implementation of international law standards, and the improvement of state institutions (economic, legal, and political) to achieve European

standards. One of the key areas of European state formation is economic restructuring and development, considering modern approaches and trends (Witbooi *et al.*, 2020). Ensuring the fair functioning of the economy is recognised as the main goal of the state. The Basic Law states that public life in Ukraine is based on the principles of political, economic, and ideological diversity. In addition, the Constitution of Ukraine (1996) states that everyone has the right to engage in entrepreneurial activity that is not prohibited by law. These norms demonstrate the importance for the state of achieving effective economic regulation. The economy is a crucial area without which no country can exist.

In Ukraine, there is only one systematic regulatory act that defines criminal liability – the Criminal Code of Ukraine (2001). Chapter VII of the Special Part of the Criminal Code of Ukraine deals with “Crimes in the field of economic activity”, which includes business crimes. Law enforcement agencies use different terms to describe “crimes in the sphere of economic activity”, such as “economic”, “commercial” or “crimes in the sphere of entrepreneurship”, all of which aim to protect the national economy. Due to the various formulations and interpretations of this legal term in law enforcement documents, significant difficulties arise in classifying various offences in the field of economic activity. Therefore, the term “economic offences” refers to violations of the rules on the circulation of money, securities, and other documents, as well as violations of the taxation system, budgetary and currency control, and customs border crossing rules. It also includes the impact on the procedures for engaging in business and entrepreneurial activities, compliance with the principles of fair competition and antitrust laws, as well as participation in the privatisation process.

A. Repchonok and V. Romaniuk (2022) point out that for further research on the investigation of economic crimes, it is important to obtain a clear definition of the term “economic crimes”. The authors note various approaches to the interpretation of this concept in the literature. The authors cite the opinions of various scholars on the definition but conclude that there is no single approach to the definition and scope of criminal offences in the field of economy, which indicates the value of additional research in this area. It is worth agreeing with the authors, as the relevant study also noted the absence of a single definition that would be used by scholars, law enforcement agencies and courts.

The complexity of combating criminal offences in the field of economic activity is primarily determined by the high level of their concealment, which, according to statistical estimates, ranges from 70% to 90% (Office of the Prosecutor General..., n.d.). This high level of concealment makes it difficult to detect and investigate economic crimes and hinders the effective fight against crime in the economy. An urgent task in the fight against criminal behaviour in the economic sphere is to ensure that Ukraine’s legislation is in line with the current economic situation, which will guarantee the protection of the economic sector and consider the efforts of international partners in this regard. The subjects of economic crimes are individuals who are directly engaged in business activities and/or represent the interests of business entities or the state in the economic sphere. It is important to note that a company’s CEO not only acts as a representative of the company to other legal entities but is also responsible for violations that may lead to legal, including criminal, consequences.

During the proceedings, the entrepreneur is held legally liable for deliberately committing various crimes in the business sector. These crimes can be systematised into several categories: “Crimes with money, securities and other documents” (production, distribution and sale of counterfeit money or securities); “Crimes aimed at the taxation system” (intentional evasion of taxes/duties or one-off donations); “Crimes related to violation of the rules of movement across the customs border” (transportation of goods); “Crimes against the rights and legitimate interests of creditors” (fraud with financial resources); “Violations against the competitive system” (illegal use of trademarks or disclosure of secret information); “Crimes aimed at causing harm to consumers” (placing dangerous products on the market).

The practice of courts considering cases of economic crimes may sometimes be accompanied by mistakes resulting from the lack of a unified approach to defining and distinguishing these offences from administrative violations and other similar offences. To ensure fair and uniform application of the rules on liability for specific economic violations, the Plenum of the Supreme Court of Ukraine adopted a significant list of amendments, additions, and proposals for legal regulation of these issues. In its resolution, the Supreme Court of Ukraine (SCU) made the following significant changes (Resolution of the Plenum..., 2003). The first thing that the SCU draws the courts’ attention to is the description of criminal liability for offences listed in Articles 202-205 and Article 222 of the Criminal Code of Ukraine, which is an additional measure designed to ensure the effectiveness of state laws on the regulation of economic relations and

protection of constitutional rights of a person in the course of economic activity. It is also intended as a means of stabilising the national economy. The second thing that the court recognises is that when considering criminal cases, the courts must examine the specific use of the words “economic activity” and “entrepreneurial activity” following the articles of the Criminal Code of Ukraine and their derivatives. The decision on the presence or absence of elements of a crime is based on the precise interpretation of these terms in certain parts of the Criminal Code of Ukraine. Within the framework of carrying out and operating without obtaining a licence for the necessary economic activity, which necessarily depends on a permit, following the provisions of Law of Ukraine “On Licensing of Types of Economic Activity” (2015), and Law of Ukraine “On Entrepreneurship” (1991) assumes that this type of economic activity is carried out without obtaining a licence by individuals registered as participants in entrepreneurial activity, as well as legal entities.

Additional clarifications of the Supreme Court of Ukraine, which are important for the legal regulation of offences in the economic sphere, show that these crimes are very common and at the same time insufficiently studied. In general, this aspect requires more detailed research to ensure the effective work of the state in the field of business. The impact of military factors, especially after the Russian full-scale invasion on 24 February 2022, contributed to the increase in crime in general and in the area of economic activity in particular. Figure 1 shows the statistics of detected economic offences between 2014 and 2022, according to the Prosecutor General’s Office.

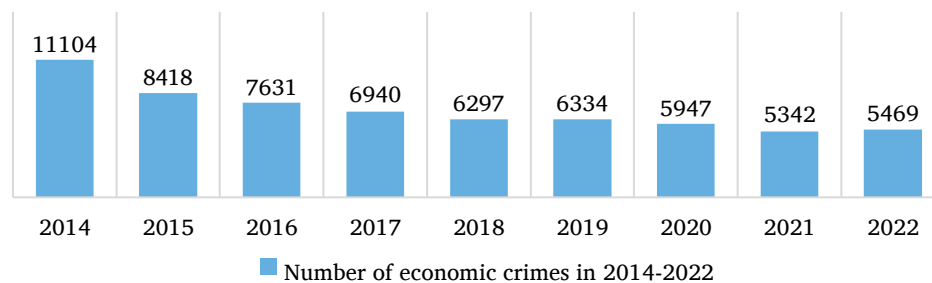


Figure 1. Statistics of detected criminal offences in the economic sphere

Source: Office of the Prosecutor General of Ukraine: Statistics (2023)

According to the analysis, the number of detected criminal offences in the field of economic activity decreased by half between 2014 and 2022. This can be viewed as the result of effective preventive and preventative activities of the law enforcement system. It is also possible to consider the possible influence of military factors that may change the behaviour of criminals towards abandoning economic crimes during the period of military conflict. However, it should be noted that this statistical trend began long before the outbreak of the war, which indicates that military factors are not the only reason for the decrease in the number of economic crimes. In general, it is possible to determine that not only military factors but also other criminogenic factors in their interaction have influenced the dynamics of crime in the field of economic activity, economy, and management of economic processes in general.

The downward trend in the volume of detected offences in the economic sector highlights the data on naturally

latent phenomena available in the statistics of criminal offences, which may not accurately reflect the real level of crime in this area. This may give rise to ideas about the need to develop indirect, indirect methods of determining the real level of naturally latent criminal offences in the economic sphere. In this context, it becomes clear that the number of criminal offences committed in the area under study is unknown, as it is obvious that it is much higher. However, the key challenge is how to increase the detection, prevention, and counteraction of these invisible, naturally latent criminal offences (Albanese, 2021). Since establishing the true level of investigation of economic crimes does not affect the effectiveness of crime detection, prevention and counteraction, all efforts should be directed at identifying and eliminating the root causes that led to the commission of the crime. It is also necessary to identify and eliminate the factors that lead to difficulties in detecting, preventing and counteracting efficiency in the economy in general and business activity in particular.

It is worth noting that many experts do not consider the difference between the detection of explicit criminal offences that can be detected on their own and the detection of indirect, naturally latent offences that do not tend to be self-detected (Di Pillo *et al.*, 2022). This is confirmed by the introduction of Article 41 of the Criminal Procedure Code of Ukraine (2012) in the course of the criminal procedure reform, which prohibits operatives from initiating the detection and collection of evidence of crimes without the instructions of the investigator. This applies to the detection of obvious thefts, robberies, murders. The fact that such crimes have been committed is obvious, as they are discovered through the statements of victims or as a result of the discovery of a corpse. These criminal offences are immediately registered and referred to the investigator, who issues directives to the operatives to establish traces of the crime and identify the perpetrator.

The situation with criminal offences in the business sphere is different, especially in cases of non-obvious, naturally latent criminal offences committed in conditions of secrecy and under the guise of apparently legitimate business activities (Kertész & Wachs, 2020). In such cases, the victimised business owner is unaware that financial and production employees are using hidden transactions under the guise of legitimate operations to misappropriate company funds and falsify official documents. In these circumstances, the owner does not make any statements or reports as it is unclear as to what is going on. Without systematic operational and investigative work, investigators, or prosecutors, who are required by Article 41 of the Criminal Procedure Code of Ukraine (2012) to issue an official document to employees engaged in operational activities, are unable to obtain the necessary data on the commission of latent criminal offences. It should be noted that an investigator may receive such information accidentally while investigating other cases under investigation. However, the systematic operational and investigative work to identify such criminal offences remains a challenge for operatives (Rusanov & Pudovochkin, 2021). According to the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine Regarding Ensuring the Activities of the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption" (2015), this situation was somewhat alleviated by removing penalties for violation of this requirement. However, these amendments did not solve the problem related to the restriction set out in Article 41(1) and (2) of the CPC of Ukraine. The analysis of the highlighted problematic

situation demonstrates that ignoring the difference between explicit criminal offences, which may sometimes be artificially latent, and implicit, non-manifest, naturally latent offences may lead to complications in the detection of criminal offences. The situation would be different if the statistics concerned overt, self-manifesting general criminal offences. The decrease in the number of detected obvious, self-manifesting general criminal offences indicates great achievements of the country's law enforcement agencies in the context of preventing and avoiding the recurrence of crime. This sometimes forces law enforcement to conceal cases of obvious general criminal offences, which leads to their classification as artificially concealed criminal offences.

However, economic violations, which by their nature are not obvious and self-manifesting, but latent, can usually be detected only through qualified operational and investigative activities (Calamunci & Drago, 2020). The sharp decline in the number of detected criminal offences indicates that the roots of these negative processes should be sought in aspects other than the usual causes. One of the circumstances that reduce the effectiveness of consideration, prevention, and avoidance of criminal offences in the field of business is the reform of criminal procedure legislation. The relevant changes cancelled the mechanisms for preliminary verification of information on the commission of a criminal offence and refusal to open criminal cases, which resulted in almost 3.5 million applications remaining unverified (Office of the Prosecutor General..., 2023). Another circumstance that harms the prevention, avoidance and recurrence of hidden crimes is the incomplete reform of law enforcement in Ukraine. Initially, the relevant changes led to the destabilisation of the prevention, avoidance, and recurrence of latent economic crimes. The next stage of the reform was the liquidation of two institutions that dealt with economic crimes, namely The Department for Combating Organised Crime (DCOC) and the State Service for Combating Economic Crime (DSBEZ), which, in turn, resulted in the absence of a specialised service that investigates, prevents, avoids, and combats economic crime in general, and in business activities in particular.

According to the statistics of the Prosecutor General's Office, the National Anti-Corruption Bureau of Ukraine (NABU) (Law of Ukraine No. 2447-VIII..., 2018), which was created to replace the disbanded services, recorded the results shown in Figure 2. Instead, in the year of the DSBEZ liquidation, this service detected more than 17 thousand criminal offences.

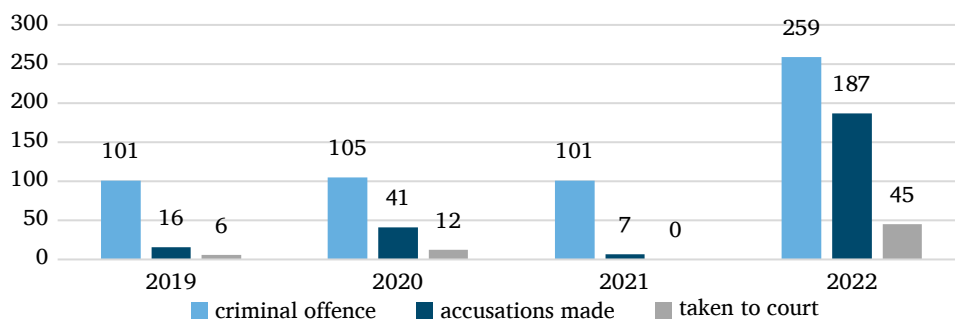


Figure 2 . NABU statistics on the detection of criminal offences

Source: Office of the Prosecutor General of Ukraine: Statistics (2023)

Several other factors complicate the process of detecting, preventing, and combating criminal offences in the field of economic activity. These include the unjustified decriminalisation of actions that do not lose their social danger, the gap between tax accounting and financial accounting, as well as the cumulative taxation system based on the principles of “property taxation” and “cost taxation” (Klimczak *et al.*, 2021). These aspects contribute to the transition of economic activity into the shadow economy, which can then be linked to corruption, the accumulation of illicit capital and the laundering of proceeds of crime. However, the main reason for this is the lack of effective tools to prevent and combat naturally occurring economic crimes and corruption, especially in the context of martial law and the penetration of crime into all spheres of society, including the economy and governance. This poses a real threat to the security, effective functioning, and development of the state.

International experience in investigating criminal offences in business activities

For a more detailed analysis, it is worth considering the German criminal law framework. In analysing the structure of the German Criminal Code, it is necessary to note the peculiarities of the disposition of the distribution of the entire volume of articles. Paragraphs (articles) of the German Criminal Code are divided into General and Special Parts (Brici, 2022). An important component of German criminal law is a unique approach to the calculation of punishment for criminal acts in the economic sphere. The article analyses the content and organisation of this legal act on economic crimes; these crimes are divided into different parts. Fraud includes sanctions for various types of fraud, such as investment fraud, insurance fraud, credit fraud, wage loss and embezzlement, and cheque and credit card fraud. Finance-related offences are fictitious bankruptcy, inadequate documentation, giving an undue advantage to a creditor and giving an undue advantage to a debtor. Counterfeiting includes liability for the production of counterfeit currency, sale of counterfeit money, making counterfeit payments, storage of bills and cheques and preparation for distribution. Illegal gambling activities are unauthorised organisation of gambling, participation in illegal gambling, unauthorised lottery, or raffle. Illegal transactions with collateral include obstructing the creditor’s intentions to collect collateral, unlawful return of a deposit, unauthorised use of collateral, and usury. Corruption offences cover non-competitive agreements in tenders, extortion, and corruption in business interactions, especially concerning large amounts of money and corruption in business interactions. These various offences are defined according to their characteristics and objects of offences in different sections of the German Criminal Code.

Analysing the data provided on sanctions for criminal offences in the field of the economic system under the German Criminal Code, it is worth noting that the legislator can set both minimum and maximum prison terms. Some articles provide for the possibility of confiscation, which is more related to the objects of the offence, the means of its commission or the proceeds of the offence. One of the differences between this legal document and the Ukrainian Criminal Code is the establishment of liability for corruption offences in the private sector. The Criminal Code of Ukraine provides for corruption offences only in Chapter XVII “Criminal offences in the field of official and professional

activities related to the provision of public services” (Nicholls *et al.*, 2021). As part of the European integration efforts, it is important to review the current provisions of the Criminal Code and include liability for corruption in the private sector. Another international example of investigating criminal offences in the economic sphere is the legislation of the United States of America (USA), whose criminal regulation considers money laundering to be a violation of the law, and many states take measures to counteract this socially dangerous phenomenon (Pereda, 2022). These measures include long prison sentences (10 years or more) and large fines.

Several federal and state agencies are responsible for investigating business crimes in the United States. The Federal Bureau of Investigation (FBI) investigates financial crime, corruption and other violations that may affect the US economy. They cooperate with other federal agencies and local law enforcement. The U.S. Department of Justice, Financial Crimes and Corruption Section of the U.S. Department of Justice coordinates the fight against corruption, white-collar crime and other economic violations. The Securities and Exchange Commission (SEC) is responsible for regulating financial markets and investigating violations of financial laws. Their actions are aimed at ensuring transparency and fairness in financial markets. A large number of other agencies, such as the Internal Revenue Service, the Federal Security Service (FSB), local police departments and prosecutors, may be involved in an investigation depending on the circumstances and scale of the crime. In addition, each state has its law enforcement agencies that can investigate business-related crimes at the local level. They may cooperate with federal agencies and other services (Bahoo *et al.*, 2020). Investigations of such crimes include financial fraud, tax evasion, large-scale deception, corruption, stock exchange violations, and other economic crimes. The experience gained from the analysis of the investigation of criminal offences in business activities can be used to improve national legislation, for example, to clarify the wording of Article 209 of the Criminal Code of Ukraine (2001), namely the legalisation of illegally obtained proceeds of crime. In particular, unlike the laws of certain US states, this article does not provide for a specific fine for this criminal offence, and the punishment is imprisonment for a term of three to six years or eight to fifteen years, which is less severe than the laws of certain US states.

Money laundering legislation in the UK includes a wider range of socially dangerous activities, such as drug trafficking, terrorism, theft, fraud, robbery, extortion, blackmail. The legislative approach in the UK considers a criminal offence not only the actions themselves but also the inaction of banking institutions that facilitates the legalisation of illegally obtained funds (Hall *et al.*, 2023). Individuals contributing to money laundering by concealing, retaining, or investing the proceeds of crime may be found guilty if they know or suspect that the funds were obtained as a result of serious or especially serious criminal offences. The UK has a comprehensive system of law enforcement and investigation of business crime. The National Crime Agency (NCA) is a federal agency that tackles organised crime and serious economic crime. The NCA investigates and prosecutes offences such as corruption, money laundering, financial fraud, and fraudulence. The Financial Serious Fraud Office (SFO) specialises in investigating serious financial

and corporate crime, including major fraud, bribery, money laundering and other corporate irregularities. Local police departments also play a role in investigating business crime. They can investigate fraud, theft, banking, and other economic crimes at the local level. In the UK, there are also bodies such as the Financial Conduct Authority (FCA) and the Bank of England's Prudential Regulation Authority (PRA), which are responsible for regulating financial markets and can investigate financial sector breaches. The National Cyber Crime Unit (NCCU) plays an important role in investigating cybercrime that may affect business activities (Ferrante *et al.*, 2020). Investigations may include examining financial transactions, conducting searches, cooperating with audit firms, using special technologies to detect financial irregularities, and cooperating with other international agencies in cases of cross-border crimes.

A similar approach, including the above provisions, is also enshrined in the legislation of the Republic of Lithuania. Following the provisions of special legislation, institutions related to the circulation of funds, such as pawnshops, notaries, insurance companies, and other institutions licensed to provide financial services, must provide the tax police with information about persons who may be suspected of money laundering, unlike Ukrainian legislation (Bajda, 2021). It should be noted that such an approach at the legislative level should be implemented in Ukraine, which will significantly increase the level of criminal legal protection of objects in the banking sector and contribute to the special criminological prevention of criminal offences in this segment of public relations. In general, the implementation of these bodies or a part of them into the criminal legislation of Ukraine in the field of business activity is an important step to ensure effective investigation and counteraction to economic crimes, which will ensure a comprehensive approach to the investigation of economic crimes in business activity. This implementation will result in increased efficiency of investigations, improved transparency and increased liability for corruption and other economic crimes.

O.E. Akinbowale *et al.* (2020) considered an innovative approach to combating economic crime based on the use of forensic accounting techniques. The focus is on the development of effective forensic accounting methods and the study of economic crime policy. The authors present two conceptual models that consider all the requirements for the successful implementation of forensic accounting and the integration of its methods into the control system for effective fraud prevention. One of the disadvantages of this approach is the lack of an appropriate framework, which may limit its successful implementation as a tool for combating fraud. The authors correctly emphasise the importance of effective forensic accounting and integration of these methods into the control system to prevent fraud, but the relevant study concluded that only a change in the investigation system can improve the situation with the investigation of business crimes.

Following E. Soltes (2019), The perception of the frequency of misconduct held by the public, academics and regulators is largely based on the analysis of law enforcement statistics, which relies on the detection and sanctioning of misconduct. However, many criminal offences remain out of the public eye. By analysing confidential company documents detailing misconduct in organisations, the author demonstrates that law enforcement statistics

significantly underestimate the number of serious white-collar crimes that occur in firms. By analysing the records of several large multinational companies, it is found that, on average, each firm registers more than two cases of internally justified violations every week. Ultimately, this analysis clearly illustrates the complexity of fighting corporate crime in large organisations. It is worth agreeing with the researcher's conclusions, as the relevant study also noted that criminal offences in business activities are mostly hidden, and therefore not reflected in official law enforcement statistics. P. Gottschalk and M.L. Benson (2020) noted that in the UK, business crime investigations are challenged by the complexity of the legal structure and the global nature of business operations. One of the key challenges in the field of investigations is the lack of coordination between different agencies, which can lead to data breakdown and complicate the effectiveness of actions. It is also important to bear in mind that complex international transactions and a large amount of documentation can cause delays in investigations and increase the cost of conducting them.

Another significant problem is the lack of a unified system for recording and analysing data related to business-related crime, which makes it difficult to study and understand the real extent of the problem. The lack of effective information exchange may also affect the ability of law enforcement agencies to investigate cases promptly and successfully. It is worth noting that, in comparison to the relevant research, in particular the situation in Ukraine, it can be said that both countries have their unique challenges. Ukraine, on the one hand, has its peculiarities in the day-to-day issues of fighting corruption and economic crime. On the other hand, in the UK, where business is global, there are issues related to the international aspects of investigations. Thus, the global nature of modern business underscores the importance of international information exchange and cooperation between law enforcement agencies of different countries. Joint efforts will contribute to more effective detection and investigation of criminal cases.

Conclusions

Summarising the aforesaid, it is possible to conclude that the different terminology used by law enforcement and judicial authorities is interconnected as a whole and its parts. Crimes in the field of entrepreneurship reveal a complex multi-level structure, as they cover a wide range of economic relations arising in the process of social production. The study emphasises the importance of implementing comprehensive strategies and systemic solutions for the investigation of criminal offences in the business sector. An effective mechanism should combine the work of law enforcement agencies, legislation, and modern technologies. The use of innovative technologies and analytical tools can significantly facilitate and speed up the investigation process. It is important to improve and implement modern methods of law enforcement. Ensuring transparency in the management and operations of enterprises will help prevent criminal offences. Measures aimed at holding business structures and their executives accountable can serve as a means of preventing offences. In addition, it is necessary to address the existing gaps in the regulation of criminal law and its harmonisation with commercial law, namely, to develop theoretical and legislative explanations to effectively address a range of problems related to the institution of business crime. This

will contribute to the creation of favourable conditions for the proper protection of business entities in the field of entrepreneurship through criminal law and will help ensure economic stability in the country.

Countering criminal offences in the business sector is a continuous process. The system of investigation and counteraction must constantly adapt to new challenges and changes in the economic environment. In general, effective investigation of business-related criminal offences requires the government, law enforcement agencies and the business community to work together to create a transparent and responsible economic system. The experience of other countries indicates the importance of having a clear and comprehensive legal mechanism for investigating criminal offences in the field of business. Ukraine needs to actively improve its legislation, considering best practices from other countries. In light of European integration, economic globalisation, and transnational aspects of business, it is important to ensure effective information exchange and cooperation between countries in the investigation of criminal cases. Foreign experience shows that the use of modern technologies and analytical tools can

significantly facilitate the investigation of criminal offences in the business sector.

For further research, it is advisable to consider more countries and their approaches to the legal regulation of investigations of criminal offences in the business sector. Compare the effectiveness of different models and identify the most effective practices. It is also recommended to explore various methods and strategies used in other countries to effectively investigate criminal offences in the business environment. In addition, it is necessary to consider the use of modern technologies, such as data analytics, and artificial intelligence, to improve the effectiveness of investigations. These aspects can help to generalise and broaden the understanding of the problem, as well as contribute to the development of effective strategies for investigating criminal offences in the business environment in the Ukrainian context.

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Conflict of interest

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Розслідування кримінальних правопорушень у сфері підприємницької діяльності: зарубіжний досвід та правове регулювання в Україні

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Анотація. Актуальність дослідження полягає в необхідності розкрити ефективні методи та стратегії розслідування кримінальних правопорушень у сфері підприємницької діяльності для ефективної боротьби з корупцією та правової безпеки в економіці. Мета дослідження – визначити оптимальні стратегії та інструменти, а також розробити рекомендації щодо вдосконалення правового регулювання в Україні. Використано герменевтичний та порівняльно-правовий методи, а також кейс-стаді. Виявлено основні труднощі, які існують у розслідуванні економічних злочинів в Україні, як-от прогалини в кримінальному законодавстві та недостатній рівень ефективності розслідувань, через корупцію правоохоронних органів та представників бізнесу. Аналіз досвіду розслідування кримінальних правопорушень у підприємницькій діяльності в Німеччині, США, Великобританії та Литовській Республіці надав змогу зробити висновок про схожості та відмінності нормативно-правових актів щодо розслідування кримінальних правопорушень у підприємницькій сфері, структурі спеціалізованих органів та повноважень осіб, які займаються розслідуванням таких злочинів. Розглянуто особливості зарубіжних підходів до деяких аспектів розслідувань, зокрема діяльність антикорупційних органів та фінансовий моніторинг. Ефективність систем розслідувань в інших країнах значно відрізняється, оскільки мають більш систематизоване законодавство, чітку структуру правоохоронних органів та спеціальних агенцій, які займаються виключно економічними злочинами, що у свою чергу збільшує відсоток розкриття відповідних злочинів. Запропоновано можливі шляхи вдосконалення законодавства та практики розслідування відповідних злочинів. Дослідження цієї теми привносить у науку нові підходи та практичні висновки, сприяє вдосконаленню стратегій розслідування та зміцненню правового фундаменту для боротьби з економічною злочинністю та підвищення ефективності правоохоронних заходів у підприємницькій сфері

Ключові слова: господарська діяльність; корупційна злочинність; ухилення від сплати податків та зборів; монополія; грошовий обіг; слідчі розшукові дії