



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

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ABSTRACT

Nowadays, the priority for the world economy is to secure the maximum level of security for further development of “healthy” economic relations, which include a wide range of relations in the field of taxation, legalization of funds obtained illegally, and the interaction of international institutions in counteracting organized crime and corruption. Therefore, the purpose of the article is to identify the factors that have the greatest impact on the economic security of both the country and the world. The study proved that the following factors contribute to the deterioration of the state, its shadowing and the spread of organized crime: distinct priorities of the subjects of legislative initiative, the slowness of the state apparatus, the slow perception of advanced trends and technologies, a different attitude of the subjects of the international community to the aspects ensuring the economic security of the world economy. The article outlines the authors’ proposals to improve the mechanism of ensuring economic security at the level of the individual country and the world.



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

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1 INTRODUCTION

The choice of the research topic stems from the consideration that corruption, as a socially dangerous phenomenon, and offenses in the financial and economic sectors are nowadays the main problems in almost all spheres of public life where the interaction between private and public sectors, as well as business and government is taking place. The above-mentioned offenses undermine public institutions, reduce professionalism in the system of state power and private capital management, stimulate the shadow economy, promote organized crime penetration into the activities of state and private institutions, generate total distrust of the population to the government and its structures, reject social values such as equality, efficiency, free choice of business, transparency and honesty that leads people to disbelief in the possibility to achieve democracy and justice.

The importance of protecting public relations in the field of economics, finance and taxation is fundamental to ensuring the existence and development of the successful global economy. The diversity of offenses in these areas of public life, distinct priorities of the subjects of legislative initiative, the slowness of the state apparatus, the imperfection of the conceptual apparatus, the slow perception of advanced trends and technologies, a different attitude of the subjects of the international community to the problems of the economic security led to the development of various strategies and tactics that did not become the subject of unification of the relevant legislation at the interstate level. Consequently, it will cause the lack of a unified approach to their solution. That is why these issues are the subject of this study.

Issues of providing economic and financial security against socially dangerous encroachments (corruption offenses) and security in the area of taxation in post-Soviet and EU countries were studied by such scholars as O. Kryshevych, O. Terzi and O. Sarytska (2018); Zh. Semchuk, I. Zharovskaya and O. Merdova (2018), O. Kuzmenko,



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

O. Drozd and V. Chorna (2018), O. Tylchik, T. Pluhata and O. Kotukha (2018), M. Markov, O. Yemets and A. Forostyanyi (2018), etc. The authors considered various aspects of the subject under study, but a full-fledged comprehensive comparative study has not been conducted yet.

2 INFLUENCE OF CORRUPTION OFFENSES ON THE DESTABILIZATION OF PUBLIC RELATIONS IN THE FIELD OF ECONOMY

First of all, the issue of the corruption components influence (corruption links, corruption offenses) on the development of economic relations is to be considered. So, according to O. Krishevich, at the end of the twentieth century, the world community recognized that corruption is a crucial problem for each country and that it needs to be addressed. The result was the implementation of a range of international legal acts (mandatory and recommended) prepared and adopted by the United Nations, the Organization for Economic Cooperation and Development, the Organization of American States, the Council of Europe, the European Union and the African Union. International legal instruments differ in scope, but they all aim to establish common standards of combating corruption by introducing anti-corruption laws at the national level. According to the author, nowadays organized crime poses a significant threat not only to the national interests of a particular country, but also presents a direct threat to the international security, since the latter has become transnational (Kryshevych et al., 2018).

Corruption is one of the main factors of political and socio-economic instability in the world. The existence of such a socially dangerous phenomenon among the representatives of the government and the administration is a real threat to the stable socio-economic development of any state. This fact does not require additional evidence, since corruption affects the system of public administration, the principles of its implementation; generates mistrust of civil servants; promotes the reduction of the state power authority, since corruption can exist only among people of power. The systemic



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

character of corruption in a particular country is determined by the nature of legislation, which is usually marked by contradictory, multi-narrative interpretation of norms, conflicts between individual norms, gaps, etc.

The legal basis for the fight against corruption includes numerous international legal acts and the normative framework of an individual state. The international mechanism for the corruption prevention has a significant impact both on the development of international anti-corruption cooperation and on the further improvement of the national anti-corruption legislation of any state (Semchuk et al., 2018). Consequently, corruption as a socially dangerous phenomenon encroaches on the foundations of state governance in all spheres of life and at all levels. Over the past years, corruption crimes committed in the financial and economic spheres have become enormously large-scale.

The concept of "corruption", as one of the most important elements of organized crime, was formulated at the 34th session of the UN General Assembly on December 17, 1979. It is defined as "the performance by an official of any action (inaction) in the field of official authority for remuneration in any form in the interests of the person who gives such remuneration, both in violation of job descriptions and without their violation." The UN Convention against Corruption (2005) manifestations of corruption are divided into two groups:

- corruption in the public sector (bribery of national public officials, bribery of foreign state officials and officials of intergovernmental organizations, theft, misappropriation or other misuse of property by a public official; abuse of power for mercenary purposes; abuse of office; illegal enrichment);
- corruption in the private sector (burglary and theft of property).

Generalizing different views on the concept of corruption in the financial sector, it is possible to conclude that corruption as a social phenomenon is characterized by a certain structure and includes a set of unlawful settings and certain principles of the interaction of social activity subjects. Corruption has all the necessary features to be



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

recognized as a socio-economic phenomenon, because it affects the interests of society, different social groups and the individual. The main negative effects of corruption on the economy are the following:

1. The shadow economy is expanding. This leads to a reduction in tax revenues to the budget. As a result, the state loses financial levers of economic management; and social problems are exacerbated by default of the budget.
2. Competitive market mechanisms have been violated as the winner is often not the one who is competitive, but the one who was able to take advantage illegally. This leads to a decline in the market efficiency and discredits the very idea of the competitive market.
3. The emergence of effective private owners is slowing down, primarily because of violations during the privatization as well as artificial bankruptcies, usually associated with bribery of officials.
4. Budget funds are used inefficiently, in particular, when distributing government orders and privileges. This complicates further budget problems of the country.
5. Prices are rising due to the "corruption costs". As a result, consumers suffer.
6. Market agents show distrust in the ability of the authorities to establish, control and adhere to honest rules of a market game.
7. The investment climate is degrading, which does not lead to tackling the decline of production, but to the renewal of fixed assets.
8. Corruption applies to non-governmental organizations (firms, enterprises, public organizations). This leads to a decrease in the efficiency of their work, and, accordingly, reflects the ineffectiveness of the economy (Kuzmenko et al., 2018).

Leaders of organized crime groups pay special attention to the search and establishment of corruption ties with law enforcement agencies, judges, heads of local authorities and other officials whose competence includes the adoption of decisions important for organized crime. They are also interested in normative activities in the field of the economy. At the same time, this contributes to the increase in the number of corrupt



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

officials. It should also be borne in mind that corruption is characterized by a high level of latency (Kryshevych et al., 2018).

Therefore, it can be concluded that one of the main constituents of corruption as a socio-economic phenomenon is the unlawfulness of monetary relations regarding the distribution of the value of gross domestic product, the income from foreign economic activity and the national wealth. As a result, cash revenues and receipts obtained by criminal means (for example, by obtaining a bribe) are accumulated and further used to solve economic and criminal problems. The cluster of such monetary relations, based on their objective substance and content, can also be regarded as a criminal component of finance or as the sector of criminal finances (Khabibulina 2010), which can be called "corruption-criminal finances" or, more compactly, "corruption finance". Thus, the following social signs of corruption-criminal finances can be distinguished:

- objective and informal nature of the activities of the corruption relations participants;
- illegitimacy of the use of money resources belonging to the society and the state by the corruption relations participants;
- the use of all kinds of illegal means to achieve the objectives of the corruption relations participants.

The reasons for the existence of corruption-criminal finance, as well as corruption itself, are quite diverse. The most common ones are the following:

- large bureaucratic barriers for small business, which makes it faster and more efficient to "solve a bribe issue with an official";
- ethnic factors, which is explained by traditional principles and habitual way of behavior of the representatives of certain cultures and geographical regions;
- professional incompetence of the bureaucracy representatives;
- uncontrolled and essentially destructive turnover of personnel in executive bodies;
- criminalization of business, etc.



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

The legal factors are manifested through the imperfection of the legal system, the vagueness of lawmaking procedures, and, consequently, the low quality of laws. The contradictory and incomplete legal acts, which are filled with gaps, ambiguities, numerous volatile norms, allow officials to create necessary conditions for extortion and blackmail of the citizens in order to illegally receive money from them. Strengthening democratic institutions is impossible without reducing the negative effects of corruption and organized crime, which remains one of the greatest threats in all civilized countries.

3 SHADOW ECONOMY: ITS CONCEPT, TYPES, MECHANISMS AND IMPLICATIONS FOR THE EXISTENCE OF "HEALTHY" ECONOMIC RELATIONS

Another bright manifestation (consequence) of corruption is the emergence of a shadow economy, which is based on the economic activity of actors who seek to conceal their wealth, avoid paying taxes and hide the movement of their assets. The main causes of the shadow economy are the following: imperfect legislation, tax pressure, confusion in tax administration, lack of assistance in obtaining tax benefits, lobbying interests of business groups close to power, etc. Variety of approaches to determining the causes of economic shadowing such as sociological, legal, economic, psychological, political, etc can be singled out. As the object of scientific research, "shadow relations" in the economy have been actively formed since 1970 on the basis of K. Hart's study of the informal sector of the economy.

The shadow economy is manifested through the informal economy, the hidden economy and the criminal economy. These types of shadow economy should be considered in detail. The informal economy is diverse economic activities, which are currently not controlled by the state, are not the subject to taxation due to its mass scale, the lack of the citizens' awareness, aimed at the use of services provided at home (training, construction works, sales of products from internet markets, etc.). The hidden economy is an illegal economic activity that along with the generally accepted actions



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

uses various manipulations to generate additional income due to the imperfection of the legislation. The criminal economy is a different form of the illegal economic activity, which is prohibited by the state. It is characterized by obtaining illicit profits and non-payment of taxes (Kuzmenko et al., 2018).

At the same time, in 1979 American sociologist E. Feig estimated the scale of the shadow economy at the level of one third of the gross national product, and noted that the shadow economy is the economic activity where certain means (income, tangible assets) are not taken into account and do not fall into the gross national product, regardless of the cause. This is primarily due to the lack of regulation of individual economic relations (Tylchuk et al., 2018). The vast majority of authors emphasize that the main reason for the economy shadowing is a clear nature of the human economic behavior, aimed at satisfying its own economic interest and gaining benefits.

The analysis of the basic approaches to defining mechanisms of the shadow economy gives grounds to assert that the main components of this phenomenon, according to scientists, are such economic factors as the improvement of the tax reform of the national financial control system, the stimulation of investment processes, the creation of favorable conditions for the entrepreneurship development, the fight against corruption, etc. Regarding this issue, it is necessary to agree with S.O. Pavlenko's (2016) opinion that corrupted ties that are closely intertwined in the legislative, executive and judicial authorities lead to their dependence on criminal structures, which in turn ensures the adoption of decisions that violate current legislation or social norms.

4 SEPARATE METHODS OF COMBATING ORGANIZED CRIME IN THE FIELD OF ECONOMY

Organized crime is the most complex and dangerous antisocial phenomenon that does not have state borders and whose scope in today's conditions constitutes a real threat to the state and society. The following characteristic features of organized crime are



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

determined: invasion of the state economy and its transformation into the shadow economy; the spread of the control over the activities of banks and financial and credit systems, investment income, privatization processes by organized criminal groups and organizations; interference in the customs; adaptation and interference in the development of market relations; blocking effective reforms; the establishment of the control over profitable criminal activities (drug trafficking, prostitution, gambling, illegal arms trafficking, smuggling, illegal migration and human trafficking, etc.).

Corrupt communications are a consequence of the active work of organized crime. In the same respect, O. Onischuk (2011) notes that the effectiveness of measures to combat economic crime largely depends on the achievement of the uniformity of methods used within the framework of a consistent, unified European policy. This condition becomes more necessary in view of such a phenomenon as organized crime, which often acquires an international (transnational) character and which national systems may prove to be ineffective to tackle. In modern Europe, where the boundaries between countries disappear, the police with its powers are seen as a promising direction at the international level. The problem is how effective the police are in the fight against crime, which increasingly crosses state borders.

Leaders of organized crime groups pay particular attention to finding and connecting with corrupt officials who are empowered to carry out regulatory activities in the economic sphere, with competent judges, local authorities and other officials who play an important role in dealing with the issues that can affect the interests of organized crime (Markov et al., 2018). This contributes to the increase in the number of corrupt officials who hold a responsible position. One more strategic direction of organized crime prevention is the need to reduce the vulnerability of the lawful economy in order to prevent possible intrusion of organized criminal organizations into it. Organized crime seeks to penetrate the lawful economy for a number of reasons, as follows:

- a) legalizing and investing the profits of crime;
- b) acquiring respectability and social rehabilitation ("their" people are members of organized communities);



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

c) gaining control over the territory where the crime is committed.

It is worth mentioning eight most effective strategies for reducing the organized crime impact (from the perspective of experts) that have been introduced in different countries. These are the protection of witnesses; transition of the burden of proof of the subject's property legality to confiscation; the wiretap of communication facilities and surveillance on the object; crime analysis by studying its patterns and trends; international cooperation; criminalization of the participation in an organized criminal group; cooperation in the field of combating human trafficking; precautionary measures such as an administrative approach (Shostko, 2007).

In some states, financial intelligence units are integrated into the unified Egmond network, which aims to intensify the exchange of information on economic crimes and the creation of a single international database on such crimes. In this case, the main focus is on crimes in the field of money laundering. Nowadays the aforementioned problems have become dangerous and require immediate attention from the international community, because all these factors are of transnational nature and vary in degrees of social relations.

5 THE FINANCIAL CONTROL AS COUNTERACTION TO A SHADOW ECONOMY AND PREVENTION OF THE LAUNDERING OF ILLEGALLY RECEIVED INCOME: INTERNATIONAL EXPERIENCE

The counteraction to this socially dangerous act is called financial control, the implementation of which in different states unfortunately differs in methods and institutions responsible for its performance. One of the objects of protection by criminal, legal and administrative means from socially dangerous encroachments is the state financial security that acts as a structural element of the economic security. It is defined as the state of the financial system, which creates necessary financial conditions for stable social and economic development of the country; ensures its stability from financial turmoils; and creates conditions for maintaining the integrity and unity of the financial system. This is



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

one of the most important areas of human life, because it involves the interests of all social formations, from an individual to the entire state. Moreover, the financial sector is critical because it involves relationships related to material values, often including large volumes of funds that are financial resources in general.

Without precise control any state will not be able to function properly. Moreover, the violated financial relations lead to confusion in the country. Therefore, developed and adopted legal norms forming the mechanism of responsibility for their violation are of great importance for the protection of financial relations. In addition, in order to improve legal regulations of liability for offenses in the financial sector, the issue raised requires scientific substantiation and analysis of the European experience (Pryimachenko et al., 2018).

Consequently, financial security consists of the following elements: banking security; non-banking financial sector security; debt security; fiscal security; currency security; and money security. Thus, financial security is directly related to the protection of the system of national and financial interests of the country. At each historical stage of its development, financial security requires the use of special methods and tools, the application of specific mechanisms and the existence of the system of special state institutions. The state of national security in the financial sector depends on internal and external factors, the political situation in the state, the perfection of the legislative framework of the financial system functioning and the international obligations of the state. (Shopina et al., 2018).

The specificity of the legal regulation of liability for offenses in the financial sector depends on the sectoral distribution of such illegal actions, which are based on the degree of their social danger and severity specified in the law. In this context, offenses in the financial sector are classified into administrative offenses and criminal ones, that is, crimes. The law attributes violations in currency and tax spheres (but not only), and various manipulations in the stock market to administrative offenses. The list of criminal acts in the financial sphere is defined in the provisions of the criminal codes of the states.

However, reducing the shadow economy scale is an integral part of the system reforming strategy and the key to promoting a system of the citizens' decent development



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

guarantees. The achievement of high standards of social protection, recognition of the balancing national interests priority, free economic development is possible only if each member of the society is aware of its role in preventing illegal activities in the sphere of the economy and other areas that serve as components of national security of any democratic country. While resolving this problem, it is difficult to overestimate the role of the state in determining relevant approaches to assessing the results of such activities and justifying the choice of certain modern methods of influencing social relations in the economic sphere to ensure their functioning within the legislative framework. In this regard, it is clear that scientists from around the world establish and study the key indicators of the economic security level as the level of the economy shadowing, which should be calculated generally using accepted methods that take into account the peculiarities of the national economy formation and development.

Violations in the field of the shadow economy may have various features and can be qualified as civil, property, disciplinary, administrative or criminal offenses. Depending on the type of crime, the following measures are taken to prevent the commission of offenses. Apart from that, it is proposed to gradually apply the measures to stop the spread of shadow processes in the economy. The most common among them are measures related to the property liability for damage caused and administrative influence, including administrative liability. The most severe measure is the criminal liability related to bringing a guilty person to criminal responsibility (Berlach et al., 2018).

It is necessary to draw attention to the need to take into account that most of the program documents, reports from both domestic and international experts, and international monitoring organizations contain provisions that the shadow economy is at the heart of an integrated, organized multilevel system that includes money laundering. Moreover, the whole shadow infrastructure envisages its functioning (legislative, judicial, political, ideological, cultural, ethical values and codes of conduct) and actively involves shadow processes at the national and international levels.

So, studying the experience of foreign countries, it is possible to state that much attention is paid to countering the legalization (laundering) of illegally obtained income.



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

The crime proceeds legalization is a vivid example of a financial crime. This is a financial transaction or transaction related to the receipt of funds or other assets from some socially dangerous unlawful act preceding the profits legalization (laundering). Measures taken at the level of national legal systems in this area should be agreed with the European Union, accepted and be as rigid as other measures applied internationally. In this area, the national systems actors of counteraction to the shadow economy are guided, in particular, by the FATF recommendations and other instruments of different international institutions, which combat money laundering and terrorist financing.

An example of another approach to ensuring the impact on shadow processes related to tackling income received illegally, but not criminally, is the perception of proposals and the adoption of appropriate laws on the "legalization" of such incomes and their entry into official circulation. This approach is not supported by all scholars and ordinary citizens, but is still initiated and implemented.

Consequently, it is worth mentioning offers from individual scholars and politicians in Ukraine regarding so-called "legalization of incomes". In particular, the draft Law "On Amendments to the Tax Code of Ukraine (regarding the legalization of property connected with the voluntary declaration of the property status and undeclared personal income)" has been drafted. It states that in connection with the economic necessity for the private capital return and filling of the budget of Ukraine, the legalization of property should be carried out by the voluntary declaration of the property status and undeclared personal income. Since the end of the XX century, another measure, similar to the legalization of incomes (zero declaration, tax, economic, financial amnesty, etc.) is periodically used in many countries (USA, Belgium, Germany, Italy, France, Sweden, Switzerland, Kazakhstan, Latvia, etc.). Firstly, it is implemented with a view to establish a certain type of relations between the state and taxpayers. Secondly, it is aimed at increasing budget revenues and the legal investments volume in the country's economy (Bill, 2017).

In Germany, for example, most of the legislation on financial liability for money laundering is concentrated in the Money Laundering Act (1993), which established a legal basis for the national system to counteract this group of offenses. In addition, it defined



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

the list of participants in the system of financial monitoring and outlined the obligations of the financial monitoring entities as well as sanctions for failure to comply with the requirements for a client's identification, information collection, storage and transmission to the controlling authorities.

At the same time, the French system of legal norms and provisions governing the liability for offenses in the financial sector is quite voluminous. Articles on criminal liability for tax evasion are contained in the Tax Code of 1950 (Articles 1727-1756). However, the French Criminal Code (1992) distinguishes the following tax crimes: failure to fill in the income declaration or delay in its filing (Article 1728); submission of the intentionally false declaration (Article 1729); untimely payment of taxes (Articles 7130-7130 B); violation of the invoicing rules (Article 1737); declaration or payment of taxes in electronic form (Article 1738) and other misdemeanors. Violations of these legal norms are punishable by fines or an increase in the total amount of tax (Golovko, 2002).

In Spain, there is also liability for tax evasion, which is recognized as a criminal offense. Responsibility for it is enshrined in Article 305 of the Criminal Code. According to the Code, punishable actions are those that lead to non-payment of taxes that should be paid to the State Treasury, the autonomy, the local treasury, etc. (Criminal Code of Spain, 2007).

The legislation analysis of various European countries reveals that legal liability for offenses in the financial sphere comes under the law on criminal liability. In other words, financial offenses, regardless of the degree of their social danger and the severity of the punishment prescribed for it, are regulated by criminal law. Furthermore, some scholars put forward that the shadow economy and associated economic activities, types and methods of tax evasion are in fact forms and ways of concealing the "shadow" activity.

Having studied American and European laws, it is possible to come to the conclusion that the prevention and combating economic crimes programs of the interaction of law enforcement agencies with state and private security institutions and detective agencies are in great demand. A characteristic feature of American business is the tendency towards a non-conflict solution to problems in the field of economic security.



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

Thus, the US security system is characterized by confidentiality. When it comes to economic crimes, it is advisable to resort to non-state actors, that is private detectives. Private detectives in agencies often investigate the following types of crimes: theft of goods and documents; counterfeiting of credit cards and payment documents; bribery, financial fraud; computer crimes; theft from company employees, etc.

The main reasons for not addressing state law enforcement agencies to deal with these issues are a small degree of damage and very high costs. In the UK, the provision of economic security is characterized by the entrepreneurs' desire to minimize unwanted publicity of illegal activities, which reduces the level of illegal activity indicators and the crimes solving. In Germany, such entrepreneurial structures and institutions as banks, corporations, industry associations and private business companies, along with the use of independent and private detective and security agencies, actively resort to the national service. This allows to address their major economic problems by creating modern counterintelligence structures that serve as protection and security. Founded on the initiative and with the support of special services, detective and security agencies and services take on conducting operational and investigative activities. They maintain regular contacts and exchange relevant information with the police and counterintelligence and in some cases take joint measures to ensure economic security.

An important issue for business structures in France is the economic security provision in the field of information storage as well as the fight against computer crime. This is due to the fact that the maintenance of normal business activities and the interaction with commercial partners is carried out through computer networks. In a situation involving the use of computers and the Internet, the risk of unauthorized access to computer databases increases. Unlike today's sophisticated computers, individual hardware does not always have enough software to protect data from unauthorized access.

The functional responsibilities of economic security services include analysis of the risks of unauthorized access and the detection of vulnerable areas where the risk of illegal access to the computers of public and private companies is the highest, etc. In addition to



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

the security for unauthorized access to commercial information in the network or on personal computers, French computer security professionals offer a complete corporate program that should ensure the electronic data storage of all the files of the company or bank. Furthermore, in the Nordic countries, there is a tendency towards the creation of powerful systems of economic security in industrial and commercial companies and their close cooperation with law enforcement agencies in order to increase the business activities efficiency and prevent computer-related crimes as well as industrial espionage (Osmanov & Moiseev, 2015).

In this regard, the issue of international cooperation in the counteraction, investigation and fight against such organized crime as corruption, economic crimes and various financial offenses acquires special significance. As noted by Ortynskyi in his studies, economic crimes entail huge losses for the state, especially because of the possibility of destabilizing the foundations of its socio-economic system. Among the features that characterize the socio-economic destabilization, the author singles out the following: high latency of such violations; their dynamism; rapid adaptation to new conditions and business rules; sustained nature of organized groups in the form of criminal business under the cover of various market institutions; interregional and transnational criminal attachment; and the use of effective countermeasures against law enforcement authorities (Ortynskyi et al., 2018).

The significant role of banking institutions in economic security is emphasized by Zachosova and Babina, who indicate that political, social and financial crises are capable of causing significant damage to both the economy of an individual state and the global economy. In addition, in their research, scientists point out that destructive processes occurring on financial market should be timely determined by government regulators. Usually such a function is performed by the National (Central) banks of the country, the National Commissions, the National Securities and Stock Market Commissions, which carry out state regulations in the field of financial service markets. The scientists distinguish the following negative factors that affect the work of financial institutions (banks):



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

- a decrease in the level of active and passive transaction banking operations;
- fluctuations in exchange rates;
- fraud by clients and bank employees;
- the low quality of bank assets;
- the lack of proper diligence in clients' financial security;
- attempts to expand the lending volume;
- the leak of information on management, investment, financial decisions from insiders;
- the loss of consumers in competitions;
- attacks by intruders on branches of banks, especially in regional departments with a low level of physical protection;
- cyber attacks;
- corruption, false regulator actions, etc. (Zachosova & Babina, 2018).

6 FRAUD IN THE SPHERE OF FINANCE: SPECIALTIES, TYPES, METHODS OF COUNTERACTION

One of the manifestations of socially dangerous encroachments in the sphere of the economy that threaten directly financial security of the state, is also cases of financial fraud. Financial fraud is fundamentally different from previously known traditional ways of acquiring someone else's property. It determines the specifics of modern economic crime through a number of functions:

- 1) financial fraud is based on specific methods of appropriation, that is, on a complex of financial and other related crimes consisting of the main crimes (definition of the contents of the offender's methods in the assignment of property or the title to property); auxiliary (subordinate) crimes aimed at the organization, commission and concealment of crimes; and additional offenses committed at the same time. Besides, it takes into account factors related to criminal-legal qualifications, for example, crimes related to corruption by officials of public and private law;



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

- 2) financial fraud is realized in the rules of financial and legal relations in the field of formation, distribution, redistribution and use of financial resources of the state, economic entities and citizens;
- 3) financial fraud is carried out by persons forming a part of the system of relations within financial and economic activities, which allows the use of market institutions and financial instruments (fiscal relations, banking operations, lending, investments, insurance, etc.);
- 4) financial fraud involves a clear algorithm of structured and skillfully guided acts of criminal behavior (criminal schemes) regarding crimes preparation, execution and concealment that is characterized by the dynamic and rapid adaptation of criminals to changes in the economy, conditions and legislation;
- 5) the technical similarity of actions for the fraud preparation with a legitimate financial and economic activity in masking the signs of crime, which complicates its identification (Cherniavskiy, 2010).

In order to resolve this problem, it is necessary to establish international cooperation in the investigation of financial fraud cases, which involves a constant information exchange. It mainly concerns peculiarities of committing crimes (unintentional or planned); individuals and legal entities involved in the crime, as well as victims; the structure, activity spheres and ties of the organized criminal group; the subject of an offense that is of interest to the investigation; traces of crime, and material evidence that can help clarify the circumstances of a criminal offense. Such procedural information exchange within the framework of international legal assistance is carried out. In addition, the data obtained in such a way (documents in accordance with the procedural form) are used as proofs during the criminal proceedings by the competent authorities of the requesting state (Ortynskiy et al., 2018).

It is worth highlighting that the specific factors of the procedure for determining the fact of a crime during the pre-trial investigation are connected with the economic forensic characteristics of the type of the crime in question. Thus, these factors significantly affect the nature and the scope of the law enforcement agencies activity and their interaction during the pre-trial investigation, since they define specific tasks and methods of their



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

implementation. Nevertheless, it must be emphasized that forensic analysis of such processes directly concerns such important issues as strengthening the country's capacity as a democratic state and a tight combination of its economic interests, aimed at effective protection and the rule of law in all spheres of public life (Kaganovska et al., 2018). It should also be mentioned that the effectiveness of the public finance management system is realized through the state policy on achieving strategic development goals by ensuring compliance with the general budget discipline, strategic budget funds allocation and effective public services provision (Shopina et al., 2018).

7 TAXATION AS A BASIS FOR ENSURING THE FINANCIAL STABILITY OF ECONOMIC RELATIONS

Another aspect of maintaining financial security and financial discipline is the timely payment of taxes by taxpayers, which contributes to strengthening the state social policy, maintaining its credibility. It is necessary to highlight that the taxpayer, as is the case of the Spanish law, may be faced with a choice: to acknowledge the fact of tax evasion in due time and to compensate it without any legal consequences for him, or on the basis of competition, to prove that all business transactions are realized in compliance with the law. However, if the compliance with law is not proved, the taxpayer is to be punished by 600 percent of arrears. In this case, the payer's personal attitude to minimize tax and the awareness of the taxation conditions and procedure are not essential for the decision of the court.

A slightly different approach is demonstrated in the laws of the Federal Republic of Germany and the United States, where criminal liability is incurred only for intentional tax evasion. Non-payment of taxes by negligence, including due to the lack of payer's knowledge of the need for payment, excludes criminal liability. However, the application of such an approach is limited by the fact that the intention existence is not linked to its availability for the commission of specific actions, business operations and facilities that



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

can be established in case of detecting the fact of documents forgery or providing false information. Apart from that, first of all, by assessing the property value and the payer's ability to lead a lifestyle on the officially declared funds.

Accordingly, in these countries, one of the main means of proving the taxpayer's guilt is the use of indirect methods that only capture the fact of non-compliance of the property with declared profits. This is sufficient for the conclusion of the intention to evade taxes (Okányi et al., 2021). Thus, it is possible to summarize that the formal definition of tax evasion as intentional acts coincides with its definition in Germany and the United States. On the contrary, in Spain those criminal acts are considered to be criminal whose purpose is to harm the budget due to lack of funds. However, unlike Ukraine, where the prosecution is inclined to concrete actions, forcing the responsibility for tax evasion, in the US, the Federal Republic of Germany and Spain, it is determined by the inconsistency of the total property status of declared income and the transactions dubiousness.

In this case, in the tax legislation of the United States and other developed countries, the presumption of innocence in tax cases is not fulfilled. So the taxpayer is deprived of the opportunity to refuse to provide information that can be used against him during the trial. At the same time, although the US legislation criminalizes not only taxes non-payment but also actions aimed at attempting to evade taxation, the very procedure for collecting tax arrears also prompts the payer to cooperate. The main purpose of the tax authorities is precisely the filling of the budget and not the bringing person to responsibility (Minchenko et al., 2018).

The last but not the least, the economy globalization also plays a significant role in the problem under consideration. Thus, Shopina, in her research, argues that the economy globalization, which today has a very active influence on the society development and on economic security. Thus, global changes that accompany the world economic relations ranging from international communities to small companies and consumers are both positive and negative. In the context of exacerbation of socio-economic, political-legal, environmental, financial and other relations between the countries and in the framework of active integration processes implementation at the



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

international level, it is important to study and assess negative effects of the economic nature of globalization.

The economic consequences of globalization directly affect the global community, macroeconomic changes, microeconomic implications, economic development of countries and their associations, the environment, finance, migration processes, and the political environment. The underestimation of the globalization negative impact in the world community can lead to large-scale crises in the global economy, the financial sector, and the taxation. (Shopina et al., 2017). At the same time, it is worth noticing that the economy globalization does affect the resolution (settlement) of the problem under study, but it is not determinative and goes beyond the scope of this research, since it has its numerous internal and external factors.

8 CONCLUSIONS

To sum up, this article examined various factors and aspects that affect the public relations security in the field of economics, finance and taxation, both at the national and the international levels. Based on the foreign and domestic legislation analysis as well as considering the scientists' views on the issues under study, the following conclusions can be drawn.

Firstly, economic and financial security in the field of taxation is the key to the successful development of any state. The vector of such changes should be aimed at ensuring sustainable development, structural reforms implementation and, consequently, improvement of living standards.

Secondly, the effectiveness of state financial control should be ensured by the legality of its implementation and the coordination of supervisory institutions activities, aimed at overcoming the weakness of their legal and methodological basis. That is why, today every state should create a legal basis for the financial control of the society.



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

Thirdly, with regard to such a socially dangerous phenomenon as financial fraud, there is a dire need to improve the ways to deal with it, including the investigation methodology and the means of international cooperation. The urgent tasks of enhancing the international cooperation in financial fraud investigations are the use of new methods and means of investigation (procedural actions in the framework of international legal aid, the creation of joint investigation teams, etc.); and effective interaction of national law enforcement authorities with competent authorities of foreign states and international organizations. Therefore, international cooperation should include agreements that will contribute to the improvement of the national legislation in accordance with the requirements of the international law and harmonize it with the European laws.

Fourthly, the anti-corruption activities should be based on the fact that the formation of their strategy formation, the formulation of its goals and the determination of the forces and means to achieve them directly depends on the correct understanding of the essence of corruption. It is necessary to highlight that solving the problems of effective counteraction to corruption largely depends on how deeply its essence and social danger is understood. Fighting this negative phenomenon requires decisive and concerted actions by both national and international law enforcement agencies and organizations in order to unify the relevant legislation. At the same time, this close and fruitful cooperation will not interfere with the borders, but develop effective methods that would contribute to the problem solving.

Fifthly, more repressive measures on tax evasion actions are required, which will help to fill the budget. In the long run, the directions specification of the financial security state regulation in any civilized state will have an important theoretical and practical significance. There is a need for a more effective regulation of the activities of state financial control agencies, which would ensure the legality of relations in the field of public relations and their coordination. Besides, the international community should assist states in creating the legal framework for financial control of the society. Successful work in this direction is considered a growth in the number of services that would be provided by the



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

financial control authorities impersonally, that is, through a computer network. At the same time, the level of responsibility for violation of financial and tax discipline should increase.

Sixth, financial violations under consideration, such as taxes non-payment, the budget funds misuse, and crime proceeds legalization (laundering) are closely interconnected and determine each other. Therefore, the goals, tasks, and the interaction order of all financial actors in the field of public relations security should be united and coordinated.

Seventh, an effective system of combating and preventing organized crime in the financial system should include the application of foreign experience, which forms a complex of effective national levers of influence on the state counteraction to this crime. At the same time, the international community recognizes that organized crime in the financial system has become a global threat to economic security. Therefore, states are required to adopt concerted measures to combat this socially dangerous phenomenon at the national and international levels.

The analysis of international experience in the fight against organized crime in the financial system of the United States and Europe allowed to highlight a number of characteristic features of this counteraction: the constitutions and national laws as the legal basis for these actions; specialized legal acts defining the status, rights and responsibilities of employees of special agencies for combating organized crime in the financial system. Moreover, in foreign countries there is a clear division of competences between national and special authorities, which excludes duplication of powers. Taking this into account, it is necessary to emphasize that the positive international experience realization regarding combating organized crime in the financial system by the law enforcement authorities in the modern state-legal reality should become an impetus for strengthening the rule of law.

Although in all states the organized crime prevention is considered the prerogative of the law enforcement agencies, in Western European countries non-traditional ways of crime prevention are catching on. However, in Ukraine they have not spread yet due to the imperfect state of the civil society. Therefore, there is an urgent need to borrow the



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

foreign countries' experience in the organized crime prevention and the creation of specialized institutions at the level of law enforcement agencies. It must be stated that these institutions should be grouped into a single public body, which will not be purely punitive but will prevent and reduce the organized crime scale.

Finally, the legal regulation of liability for financial violations in the countries of the European Union and in Ukraine is notably different. For instance, unlike Ukraine, financial offenses in many EU countries are criminal acts that fall under the law of criminal liability. Therefore, they entail criminal penalties. Furthermore, in many EU countries, the liability rules for financial violations are scattered throughout a large number of legal rules, which often leads to legal conflicts. In addition, in some cases the legislation of the European Union states establishes legal liability for such a financial offense that in Ukraine is currently not recognized as a criminal / administrative one or entails imposing considerably less sanctions than in Europe, in accordance with their public danger degree.

Therefore, the analysis made it possible to conclude that the mechanism of legal regulation of liability for financial violations in Ukraine is improving more than in European countries. It is worth mentioning that in Ukraine there is a strict codification of financial violations. The differentiation of these offenses into administrative and criminal ones is also a positive factor, since it allows for more lenient state sanctions for those actions that do not pose a significant social danger. However, the international experience in legislative regulation of liability for financial violations should be analyzed and applied in order to identify outdated legal norms and gaps in the national system of responding to financial offenses and correct these negative aspects.

Consequently, given the importance of the issues under study, it is crucial to emphasize that the aspects considered have rather ramified nature and a complex structure. The provision of economic security at the state, intergovernmental and international levels requires considerable efforts, strong joint cooperation of interested parties in all areas of public relations and the involvement of experts from various fields.



WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

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WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

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WAYS AND MECHANISMS TO COMBAT ORGANIZED CRIME, CORRUPTION AND FINANCIAL FRAUD IN THE ECONOMIC AND FINANCIAL SPHERES: INTERNATIONAL EXPERIENCE

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