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Ways to implement risk management in the fight against organised crime

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■ **Abstract.** The aggravation of the state of operations under martial law poses a threat to a wide range of rights, interests of individuals and society. To prevent further deterioration of the crime situation, it is necessary to find progressive mechanisms to combat organised crime. The purpose of this study was to formulate scientifically sound proposals for the development of mechanisms for combating organised crime and counteracting the establishment of corrupt ties by criminals in institutions, organisations, and enterprises, especially those belonging to the national security system. According to the purpose and specifics of the subject under study, the historical approach, comparative legal, and systemic-structural methods were employed. The study outlined the content of the processes of organising the management of subsystems involved in ensuring national security. The need to ensure its effective implementation is evidenced by statistical data on the complication of the operational situation in certain regions, the general socio-political situation and threatening trends in the criminalisation of society. The state of stagnation does not correspond to the course of the most secure development of society, and therefore the main task of the state is to actively protect citizens from dangerous anti-social, criminal, and violent manifestations. It was substantiated that the success of counteracting these negative phenomena depends primarily on the unification of certain mechanisms at both the international and domestic levels, including standards. It was proved that legal forms of combating organised crime should be improved towards the betterment of standards in the risk management system, specifically, ensuring information security, and stimulating the protection of information flows. It was argued that the introduction of the term “compliance audit” into certain laws of Ukraine defining the basic principles of implementation of the state financial control, audit of financial statements, and organisation of audit activities will provide a positive effect in combating these negative phenomena. The findings of this study can serve as the basis for the preparation of forecast and programme

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documents by supreme audit institutions, anti-corruption bodies, and the business community to counteract manifestations of organised crime, identify and eliminate corrupt ties with criminals

■ **Keywords:** standard; implementation; counteraction; corruption; compliance audit

■ Introduction

Identifying ways to use global trends in law enforcement activities, the effectiveness of which directly affects the state of law enforcement, is one of the strategic scientific tasks today. Work in this area requires coordination not only among the bodies in charge of managing the security forces, but also among all central executive bodies whose activities are related to financial control. Only if they combine their efforts and resources will it be possible to implement promising scenarios for the development and use of the world's best science and technology in law enforcement. The investigation of scientific research and practical results of the work of the actors in the system of combating organised crime and corruption during the martial law and the related aggravation of the operational situation suggests that increased attention is being paid to the problems of introducing advanced technologies and practices.

An essential component of the risk management process in the fight against organised crime is an understanding of the nature of the negative phenomenon of corruption and the legal mechanisms for countering it. Thus, according to F. Odilla (2023), corruption poses a threat to future human development, economic progress, and public health. This is a complex phenomenon with various forms of manifestation. According to the scientist, one of the important tools for fighting corruption is the use of innovative technologies. According to B. Rider (2023), the analysis of a range of financial crimes that are systematically committed around the world confirms the need for national and international regulators to introduce new regulatory instruments aimed at preventing and hindering illegal actions of banks and their representatives. Such tools will help to promote best compliance practices in financial institutions. However, regulations on the structures and functions of such institutions are not mandatory and allow banks to make their own choices. The researcher also investigated the implementation of the compliance function as a mechanism for combating financial crimes, specifically bribery and corruption.

According to F. Chan *et al.* (2023), despite calls to tackle white-collar corruption and corporate crime, the role of corporations in the supply of bribes to foreign officials is still unclear. In their study, the researchers analyse the structure of the process of transnational corporate bribery from the perspective

of the theory of possibilities. A sample of individuals and organisations that were subject to enforcement actions by the United States Department of Justice's Fraud Section in 2011-2016 for violating the Foreign Corrupt Practices Act of 1977¹. Using a mixed-methods research approach, the researchers characterised the reasons for the prevalence and nature of the relevant negative phenomena, focused on the development of mechanisms for processing data on bribery and provided a description of the content of transnational corporate bribery, proved the importance of the corporate role in bribery of foreign states and overcoming bribery, and highlighted certain areas for improving the counteraction to this phenomenon. In terms of considering legal measures, in combination with theoretical, legal, and practical achievements in the fight against organised crime and corruption, the study of M. Kravtsova *et al.* (2017) is relevant, which argues that criminal justice researchers should import the theory of institutional corruption from political science to clearly outline a range of problems in the criminal justice system. S. Huntington (2002) argued that social and economic modernisation leads to a greater prevalence of corruption, creating new sources of enrichment and power whose relation to politics is not determined by the dominant traditional norms of society, and also involves the expansion of government powers and the increase in activities subject to state regulation. O. Huss *et al.* (2019) analyse different approaches to anti-corruption activities of civil society institutions and activists at the local level in Ukraine. Corruption was considered as a systemic problem, which is more effective than a narrow understanding of it by an individual.

From the standpoint of a historical approach to the problem, I. Kubbe & A. Engelbert (2018) investigated the factors influencing corruption in Europe. Considering corruption as a multifaceted social phenomenon, the authors propose to develop international and domestic models of combating corruption at the micro and macro levels. The cited study describes a range of factors that underlie the "democratic culture" in Europe, which by their nature prevent the growth of corruption. The creation of capable democratic institutions and the promotion of norms and values of citizens aimed at identifying and punishing corrupt officials are also positive. The promotion of democracy has been the best way to

¹ Foreign Corrupt Practices Act. (1977, December). Retrieved from <https://www.justice.gov/criminal/criminal-fraud/foreign-corrupt-practices-act>.

prevent the spread of corruption in Europe, while the dissemination of territorial and cultural knowledge among the population about the factors influencing corruption will contribute to the effective prevention of this negative phenomenon.

Therefore, the purpose of this study was to formulate scientifically based proposals for the development of mechanisms for combating organised crime and counteracting the establishment of corrupt ties by criminals in institutions, organisations, and enterprises, especially those included in the national security system.

■ Materials and Methods

It is relevant and appropriate for the investigation of the issues under study to generalise methodological approaches to the formation of legal forms of response to such a socially dangerous phenomenon as organised crime and its manifestation – corruption, which will allow for further effective response to threats and ensure sustainable development of certain social systems, and provide guarantees for their proper existence. The combined application of scientific cognition methods was used to fulfil the purpose of this study. The study employed a historical approach to examine the effectiveness of legal forms of combating organised crime and corruption and the specific features of the state's response to the threats posed by these negative phenomena, depending on many factors that occurred at certain stages of society's development. The historical and comparative method made it possible to understand the ontology of the emergence and development of legal relations, the patterns of their development and trends in these processes; to establish the interdependence between the phenomena that make up the scope of the study. This method was used to investigate the history of the emergence and development of a set of measures, the systematisation of which will ensure the ability to act according to the established rules, regulations, requirements, and internal standards referred to as “compliance”, which historically began in the United States. The method was used to establish the evolutionary changes and development of international and national audit legislation. The comparative legal method helped to compare the provisions of Ukrainian and international law. The use of this method allowed formulating a position on the introduction of compliance audits into the process of auditing financial

activities, establishing a link between “compliance” and combating organised crime, and outlining new ways to ensure Ukraine's sustainable development. The system-structural method was employed to investigate the standards of “compliance”, specifically, anti-corruption management, risk management, management system audits, as well as the principles and guidelines for organising a compliance audit as part of the processes of combating organised crime.

Upon investigating this issue through the lens of the national policy of combating organised crime, the study analysed the scientific studies of Ukrainian and international researchers. The regulatory framework included regulations governing the functioning of the corruption prevention system; content and procedure of application of preventive anti-corruption mechanisms, rules on elimination of the consequences of corruption offences; audit of financial statements, conduct of audit activity and relations arising during its conduct; implementation of state financial control, as well as standards that have prospects for application in the relevant field^{1,2,3,4}. Their use helped to draw the most general picture of the definition of the content and guarantees of the implementation of the principle under study. To obtain reliable and real research results, the above methods were used in mutual connection and interdependence.

■ Results

The complexity of the problem of combating organised crime determines the specificity of ways to solve it and involves theoretical development and practical testing of best schemes to ensure the functioning of the mechanism for managing social processes arising from the presence of risks in various spheres of life. Its substantive aspect requires work on the development of legal forms of compliance audit as a component of the processes of combating organised crime, the main purpose of which is to implement state policy in practice, by performing general and special tasks by each of the participants in this work. The process of modelling the relevant systems involves an entire range of activities to determine the purpose, tasks, functions, and established links between organisational entities. Theoretically, the construction of a specific mechanism, the purpose and procedure of which is determined by the provisions of governing documents, and its multifunctional form will allow increasing the efficiency of management of the processes of

¹ Law of Ukraine No. 3341-XII “On the Legal Foundations of Combating Organized Crime”. (1993, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/3341-12#Text>.

² Law of Ukraine No. 1700-VII “On the Prevention of Corruption”. (2014, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/1700-18#Text>.

³ Law of Ukraine No. 2258-VIII “On the Audit of Financial Statements and Audit Activity”. (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2258-19#Text>.

⁴ Law of Ukraine No. 2939-XII “On the Fundamental Principles of the Public Financial Control in Ukraine”. (1993, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/2939-12#Text>.

combating organised crime, achieving the desired results with less cost. The formulation of the legal framework for the relevant processes is perceived as the principal task of ensuring national security.

The contradiction lies in the fact that the direct link between national security relations and state measures to combat the phenomena that violate them establishes the scope of powers of executive authorities to protect these relations. Therefore, the national policy in the field of national security is of concern, when the object of state activity in the field of protection of national security relations is becoming an increasingly wide range of issues, the solutions to which relate to the regulation of economic relations, not security. The danger of such a substitution lies in the excessive strengthening of the security institution in the internal governance of the state, the possibility of using security forces in almost all spheres of public life, i.e., the formation of a military-police state. The policy of expanding the scope of issues related to the protection of society and the individual by security measures creates the possibility of restricting human rights in case of unjustified, excessive state interference in human life.

The content of national security policy, which is based on a system of checks and balances with respect for the fundamental right to protection (security), can be illustrated by the example of international practices in this area. In Western Europe and North America, national security is primarily concerned with protecting individuals from criminal attacks, protecting state institutions and the foundations of democracy. This shows that ensuring national security is one of the motives that determines the policy of improving the system of state coercion and, admittedly, the system of state governance. Striking a balance between these measures is a political challenge.

Effective risk management and safeguarding the rights and interests of citizens requires a set of preventive measures. This requires not only the conscientious work of the state apparatus, but also of all local government participants who are at risk of corruption. This is especially important because organised crime tends to establish corrupt links for its criminal purposes (Huss *et al.*, 2020; Moroz *et al.*, 2023).

National security necessitates the creation of an extensive system of legal instruments, the level of use of which determines the effectiveness of the security mechanism. The process of modelling security systems is challenging and involves complexity, i.e., it involves the application of provisions from various scientific fields. The complex nature of the consideration is based on a multidimensional (political, economic, sociological, psychological, etc.) perception of the subject matter, and the use of the socio-legal approach allows establishing connections between such concepts as “organised crime” and “corruption”,

and creating new scientific and practical systems aimed at solving problems in this area. Within the framework of social engineering, the need should be considered as a complex scientific and theoretical system that contains a body of knowledge about a social phenomenon, an evaluation criterion for the life development of subjects of social relations and characterises the degree of disruption caused by negative manifestations of the social environment.

One of the aspects of the organisation and functioning of the social system is to determine the most complete number of factors that set the mechanism of regulation of social relations in motion, on which the nature of the system itself, its purpose, objectives, and functions depend. The fight against organised crime should be considered as an optimised system that should ensure the technological interaction of all its subsystems and the focus of each of them according to a single system-wide plan. The technological approach to managing this system implies the existence of a control centre that receives information on the functional areas of the macro system. The analytical units are elements of this centre. Formalised schemes of subordination of social actors to this centre and a formalised procedure for their interaction allow for the integration of information flows into a single direction. The centre is a carrier of the system-wide purpose, which implies providing it with a full set of tools to implement measures aimed at fulfilling this purpose. The status of information flow and the authority to implement it serve as the basis for the development of the organisational management structure. As an example, a subsystem built following these rules can be an analytics-driven model of policing, as is the case in the Intelligence Led Policing model (Korystin & Denysenko, 2023).

This model underlies the social system, its elements are evaluative, synthetic, and belong to the technological function of social activity; attention to it is determined by the fact that it is one of the global trends aimed at preventing offences, considering social and economic, organisational and legal, psychological and pedagogical, moral and ethical, cultural and educational, and other factors.

The appropriate approach to modelling promising legal mechanisms for taking comprehensive, effective measures to combat organised crime and corruption is a national matter, including the use of the compliance system. The perception of corruption as a manifestation of organised crime is fundamental, which makes the compliance system a component of the overall system of combating these negative phenomena and ensuring the national security of Ukraine.

The same applies to the use of the compliance audit mechanism, which allows maximising the efficiency of the system and focusing efforts on the principal financial control functions, primarily those of

the group of bodies authorised to carry out risk management. The directive nature of the organisation of the activities of the authorised bodies helps to eliminate excessive control and allows for the implementation of all decisions made by the main management body with minimal distortion of their content.

Organised crime has a large amount of money, which allows them to increase their potential, using the latest advances in science and technology for criminal purposes, and to really compete with law enforcement agencies in terms of efficiency, technical capabilities, use of information resources, information and communication technologies, etc. The threat of organised crime having access to nuclear, chemical, radiological, and bacteriological weapons is also a concern. It is possible to effectively counteract growing threats by using the most advanced technical developments and techniques.

Paying attention to the issues related to the specific concepts of the forms of state response to risks, among which a special place is occupied by methods, control technologies CAC/COSP/WG.4/2023/5 (Report of the meeting of the Intergovernmental ..., 2023), it is necessary to search for the most effective practices of its implementation for the purpose of their introduction in Ukraine, which may include the use of the compliance methodology. This statement is supported by the positive experience of implementing risk management measures.

It is difficult to overestimate the role of information technology in risk management. When acknowledging the need for a cybernetic model of the organisational structure of risk management, it is necessary to consider the danger of their use for criminal purposes due to corruption, which is dangerous both for the individual system and the entire society. This should be considered when developing legal forms of combating organised crime by creating mechanisms of prevention and counterbalance. Possible dangerous aspects of the functioning of the cybernetic control structure include the availability of criminal information and the ability to manipulate it through the use of planned misinformation. The danger lies in the fact that the determination of quantitative and qualitative indicators of information necessary for the organisation of stable management in the social sphere, which involves processing by means of computer technology in digital and graphic form, is perceived in a virtual format as a subject and an object of management. In terms of implementing financial

control tasks and organising an effective compliance audit, it is necessary to have well-developed procedures for exchanging information at both international and national levels. A special role in this matter is played by the structures tasked with countering money laundering (Financial Intelligence Unit, FATF, MONEYVAL, the Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG), the Egmont Group of Financial Intelligence Units of the World, Council of Europe and the European Commission, the United Nations Office on Drugs and Crime (UNODC), the World Bank, the International Monetary Fund, the Organisation for Security and Cooperation in Europe (OSCE), the GUAM Organization for Democracy and Economic Development, and other organisations operating at the international level (Vnukova & Hlebko, 2020).

At the same time, there is a need to pay attention to alternative systems of responding to the negative processes taking place in the modern world, which by their very nature can directly or indirectly affect the sustainable development of states. This makes risk management mechanisms relevant. It is natural for the state to use a system of standards in risk management. According to the goals and objectives set for the system as a whole and for a separate management unit, it is a complex system, which determines the presence of many elements in its structure that allow it to be used in the organisation and implementation of compliance audit.

The risk management system is based on a certain set of international and national standards, which contain provisions that allow for their use in compliance audit mechanisms. In the organisational aspect of this management, the list of terms contained in ISO/IEC Guide 73¹ plays a significant role. Based on this international document, the internal standard DSTU ISO Guide 73:2013 Risk Management was developed². In Ukraine, DSTU ISO 31000:2014 Risk Management was in force. Principles and Guidelines (ISO 31000:2009; IDT)³, which was subsequently replaced by DSTU ISO 31000:2018 Risk Management. Principles and guidelines (ISO 31000:2018, IDT)⁴. Standards are available that contain methods for general risk assessment at the national (domestic) level, specifically, DSTU IEC/ISO 31010:2013 Risk Management. Methods of general risk assessment (IEC/ISO 31010:2009, IDT)⁵, which focuses on the concepts, processes, and selection of risk assessment methods, and DSTU ISO/TR 31004:2018

¹ ISO/IEC Guide 73:2009. (2009). Retrieved from <https://www.iso.org/ru/standard/44651.html>.

² ISO Guide 73:2013. (2013). Retrieved from <https://khoda.gov.ua/image/catalog/files/dstu%2073.pdf>.

³ ISO 31000:2014. (2014). Retrieved from https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=76874.

⁴ ISO 31000:2018. (2018). Retrieved from https://alison.com/course/iso-31000-2018-enterprise-risk-management-framework-for-risk-leaders?utm_source=google&utm_medium=cpc&utm_campaign=Performance-Max_Tier-5_Audience-Targeting&gad_source=1&gclid=EAIaIqobChMILZmsnMmXgwMVJZqDBx12IAoAaEAYAiAAEgLLbvD_BwE.

⁵ IEC/ISO 31010:2013. (2013). Retrieved from <https://khoda.gov.ua/image/catalog/files/dstu%2031010.pdf>.

(ISO/TR 31004:2013, IDT) Risk management. ISO 31000 Implementation Guide¹.

The originality of the compliance system in the fight against organised crime can be characterised by the fact that international practices show the need to use this mechanism in management decision-making procedures, but there are no examples of its existence. The analytical materials of the International Compliance Association (Governance, Risk and Compliance, n.d.) are useful. In the United States of America, the use of this mechanism is regulated by law. The US Foreign Corrupt Practices Act (FCPA) is noteworthy, as it created a legal mechanism to counteract this phenomenon, which inherently threatens the national development of this country. Financial control, in its broadest sense, also has elements of compliance at its core, but the latter is already characterised by signs of an independent system in the current environment. This is confirmed by the legislation of certain countries, including Ukraine². It can help improve performance audits and identify promising and rational areas for redistributing public financial resources. This is also confirmed by documents, specifically, the US Department of Justice's Corporate Compliance Programme Assessment Guide (2023); the US Treasury's Office of Foreign Assets Control's Core Compliance Requirements (2019); the UK Serious Fraud Office's Compliance Programme Assessment Guide (2020); Bribery Act 2010 Guidance (2010), which contains recommendations for companies to implement anti-corruption standards and procedures; the US Sentencing Commission's guidelines (2018 Guidelines Manual Annotated, 2018).

A range of documents should be considered when organising the functioning of compliance, including: ISO 37301:2021 Compliance Management System – Requirements with application guidance³; ISO 37001:2016 Anti-Corruption Management System – Requirements with guidance for use⁴; ISO 37002:2021 Whistleblowing Management Systems – Guidelines⁵; ISO 19011:2018 Guidelines for conducting

management system audits⁶; IEC 62740:2015 Root cause analysis⁷. The latter is used in the development of the internal audit methodology of the compliance management system, the change management methodology, the non-conformity management methodology, and corrective actions are carried out using this standard. ISO 19600 Compliance Management System – Guidelines⁸ is functionally related to the compliance management system (FDIC, n.d.). The compliance system is based on the requirements of the following standards and documents:

- New compliance standard – ISO 37301:2021 Compliance management system – Requirements with guidance for use⁹;

- standard adopted by the International Organisation for Standardisation (ISO) in April 2021, replacing ISO 19600:2014¹⁰. It is crucial and fundamental that the requirements of this document are of a general nature and are intended to apply to all organisations, regardless of the type, size, and nature of their activities, and whether they are in the public, private, or non-profit sectors. This provision opens the prospect of using the mechanism stipulated in it in the fight against organised crime and corruption. Despite all the advantages of this document, the prospect of its use in the activities of certain facilities with different functional areas is decided by their managers. They also assess the possibility of obtaining a positive effect both in the external and internal environment of the organisation. At the same time, the use of this standard in planning processes and the creation of alternative models confirms that developers are based on international practices, aiming to eliminate risks as much as possible, which ensures the prospect of achieving a positive effect from the goals and objectives of a particular project;

- ISO 37001:2016 Anti-Corruption Management System – Requirements with guidance for use¹¹ and the requirements of the new ISO 37002:2021 Whistleblowing Management Systems – Guidance¹²;

¹ ISO/TR 31004:2018. (2018). Retrieved from <https://zakon.isu.net.ua/norm/478454-menedzhment-rizikiv-nastanova-z-vprovadzhennya-iso-31000-isotr-310042013-idt>.

² Law of Ukraine No. 2939-XII "On the Fundamental Principles of the Public Financial Control in Ukraine". (1993, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/2939-12#Text>.

³ ISO 37301:2021. (2021). Retrieved from https://www.iso.org/obp/ui/?fbclid=IwAR2_mKFAR5SQPCqaw0iGIEYeDyvvD6fFtnSS1FeIPy0phPabTule521UK5s#iso:std:iso:37301:ed-1:v1:en.

⁴ ISO 37001:2016. (2016). Retrieved from https://professional.lexisnexis.com/en-int/eddm-iso37001?gad_source=1&gclid=EAlaIqobChMIitXhpsOXgwMVdoCDBx2FKw0REAAAYASAAEgLqrPD_BwE.

⁵ ISO 37002:2021. (2021). Retrieved from <https://www.iso.org/ru/standard/65035.html>.

⁶ ISO 19011:2018. (2018). Retrieved from https://zakon.isu.net.ua/sites/default/files/normdocs/dstu_iso_19011_2019.pdf.

⁷ IEC 62740:2015. (2015). Retrieved from <https://webstore.iec.ch/publication/21810>.

⁸ ISO 19600:2014. (2014). Retrieved from <https://www.iso.org/ru/standard/62342.html>.

⁹ ISO 37301:2021. (2021). Retrieved from https://www.iso.org/obp/ui/?fbclid=IwAR2_mKFAR5SQPCqaw0iGIEYeDyvvD6fFtnSS1FeIPy0phPabTule521UK5s#iso:std:iso:37301:ed-1:v1:en.

¹⁰ ISO 19600:2014. (2014). Retrieved from <https://www.iso.org/ru/standard/62342.html>.

¹¹ ISO 37001:2016. (2016). Retrieved from https://professional.lexisnexis.com/en-int/eddm-iso37001?gad_source=1&gclid=EAlaIqobChMIitXhpsOXgwMVdoCDBx2FKw0REAAAYASAAEgLqrPD_BwE.

¹² ISO 37002:2021. (2021). Retrieved from <https://www.iso.org/ru/standard/65035.html>.

▪ “Guidance on Evaluating Corporate Compliance Programmes” (2023) of the US Department of Justice (2023); “Core Compliance Requirements of the Office of Foreign Assets Control” (2019); “Guidance on Evaluating Compliance Programmes” of the UK Serious Fraud Office (2020);

▪ ISO 31000:2018 Risk Management standard. Principles and Guidelines¹;

▪ EN IEC 31010:2022 Risk management – risk assessment methods²;

▪ conducting internal audits of the compliance management system using the requirements of ISO 19011:2018 Guidelines for conducting management system audits³.

The development of an internal audit methodology for the compliance management system, a change management methodology, a methodology for managing non-conformities and taking corrective actions is carried out using the IEC 62740:2015 Root Cause Analysis standard⁴. ISO 19600 Compliance Management System – Guidelines⁵ is an international standard that provides guidance to help organisations develop, implement, maintain, evaluate, and improve a Compliance Management System (CMS) (FDIC, n.d.).

In determining the elements of an effective compliance system, three international documents that set out the elements of an effective compliance programme should be used as a basis, namely:

▪ the UK Bribery Act 2010 Guidance (2010)⁶, which provides guidance to companies on how to implement anti-bribery standards and procedures;

▪ Criteria for an effective compliance and ethics programme as set out in the US Sentencing Commission Guidelines Manual (USA, 2018)⁷;

▪ International standard ISO 37301:2021 Compliance management systems – Requirements with guidance for use⁸ (Korshun, 2021).

It is the comprehensiveness of this approach that makes it possible to expand the mechanisms for ensuring the effectiveness of combating corruption as a manifestation of organised crime, using, among other things, the potential of financial control. One of such steps could be to amend the Laws of Ukraine “On the Audit of Financial Statements and Auditing Activities” (Articles 1, 7, 8, 14, 15, 40)⁹ and “On the Fundamental Principles of Public Financial Control in Ukraine” (Articles 2, 3, 5, 8)¹⁰ in terms of introducing an organisational and functional form of ensuring the ability of the audit entity to implement its tasks in the internal and external areas of its work – “compliance audit”.

To create algorithms based on which the relevant compliance will function, implementing the above approaches, it is necessary to use a set of standards, namely the internal standard DSTU ISO Guide 73:2013 Risk Management. Glossary of terms (ISO Guide 73:2009, IDT)¹¹; DSTU ISO 31000:2018 Risk management. Principles and guidelines (ISO 31000:2018, IDT)¹²; DSTU IEC/ISO 31010:2013 Risk management. Methods of general risk assessment (IEC/ISO 31010:2009, IDT)¹³; DSTU ISO/TR 31004:2018 (ISO/TR 31004:2013, IDT) Risk management. ISO 31000 Implementation Guide¹⁴, IEC 62740:2015 Root Cause Analysis¹⁵. The area of lawmaking should be based on the example of the proposal to amend the Laws of Ukraine “On the Audit of Financial Statements and Auditing Activities” (Articles 1, 7, 8, 14, 15, 40)¹⁶ and “On the Fundamental Principles of

¹ ISO 31000:2018. (2018). Retrieved from https://alison.com/course/iso-31000-2018-enterprise-risk-management-framework-for-risk-leaders?utm_source=google&utm_medium=cpc&utm_campaign=Performance-Max_Tier-5_Audience-Targeting&gad_source=1&gclid=EAIaIQobChMILZmsnMmXgwMVJZqDBx12IAoAaAYAAAEgLLbvD_BwE.

² EN IEC 31010:2022. (2022). Retrieved from https://online.budstandart.com.ua/catalog/doc-page.html?id_doc=100889.

³ ISO 19011:2018. (2018). Retrieved from https://zakon.isu.net.ua/sites/default/files/normdocs/dstu_iso_19011_2019.pdf.

⁴ IEC 62740:2015. (2015). Retrieved from <https://webstore.iec.ch/publication/21810>.

⁵ ISO 19600:2014. (2014). Retrieved from <https://www.iso.org/ru/standard/62342.html>.

⁶ Bribery Act 2010 Guidance. (2010). Retrieved from <https://www.gov.uk/government/publications/bribery-act-2010-guidance>.

⁷ US Sentencing Commission Guidelines Manual. (2018, November). Retrieved from <https://www.thefederalcriminalattorneys.com/federal-sentencing-guidelines>.

⁸ ISO 37301:2021. (2021). Retrieved from https://www.iso.org/obp/ui/?fbclid=IwAR2_mKfAR5SQPCqaw0iGIEYeDyvvD6fFtnSS1FeIPy0phPabTule521UK5s#iso:std:iso:37301:ed-1:v1:en.

⁹ Law of Ukraine No. 2258-VIII “On the Audit of Financial Statements and Audit Activity”. (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2258-19#Text>.

¹⁰ Law of Ukraine No. 2939-XII “On the Fundamental Principles of the Public Financial Control in Ukraine”. (1993, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/2939-12#Text>.

¹¹ ISO Guide 73:2013. (2013). Retrieved from <https://khoda.gov.ua/image/catalog/files/dstu%2073.pdf>.

¹² ISO 31000:2018. (2018). Retrieved from https://alison.com/course/iso-31000-2018-enterprise-risk-management-framework-for-risk-leaders?utm_source=google&utm_medium=cpc&utm_campaign=Performance-Max_Tier-5_Audience-Targeting&gad_source=1&gclid=EAIaIQobChMILZmsnMmXgwMVJZqDBx12IAoAaAYAAAEgLLbvD_BwE.

¹³ IEC/ISO 31010:2013. (2013). Retrieved from <https://khoda.gov.ua/image/catalog/files/dstu%2031010.pdf>.

¹⁴ ISO/TR 31004:2018. (2018). Retrieved from <https://zakon.isu.net.ua/norm/478454-menedzhment-rizikiv-nastanova-z-vprovadzhennya-iso-31000-isotr-310042013-idt>.

¹⁵ IEC 62740:2015. (2015). Retrieved from <https://webstore.iec.ch/publication/21810>.

¹⁶ Law of Ukraine No. 2258-VIII “On the Audit of Financial Statements and Audit Activity”. (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2258-19#Text>.

Public Financial Control in Ukraine” (Articles 2, 3, 5, 8)¹ in terms of introducing an organisational and functional form of ensuring the ability of the audit entity to implement its tasks in the internal and external areas of its work – “compliance audit”.

When developing algorithms based on the specifics of a particular area of social activity, compliance can become a tool not only for special bodies responsible for regular work on reviewing and identifying corruption risks and vulnerabilities, but also for a much wider range of actors. Objectively, this creates a basis for using compliance in the fight against organised crime.

The research hypothesis concerned the essence of organised crime, which is manifested at the regulatory, instrumental, and other levels. In modern conditions, new legal mechanisms for combating them are being formed, specifically, compliance audit and its embodiment in the form of a relatively independent complex of specific components of the financial control system. The development of the concept of compliance audit as an element of theoretical and legal knowledge based on international practices will become one of the foundations of an integrated approach to the development of an effective risk management system in Ukraine, and the conclusions obtained will contribute to further improvement of scientific research in other areas of legal research. Notably, Ukrainian scholars have paid attention to the problem of developing compliance mechanisms, and their position is not objectionable. On the contrary, they deserve support. Thus, V. Gura (2023) suggests that “compliance” should be interpreted as “the compliance of the enterprise and its internal policies, rules, and procedures with national and international legislation, moral and ethical standards of doing business, control over all processes, implementation of compliance risk management in the system of combating corruption and strengthening economic security”. This definition does not contradict the meaning of the concept as defined by the International Compliance Association. It is also important that the study identified and thoroughly described the principal components of the compliance system, including the purpose of compliance control, its objectives, principles, and functions. The areas of internal and external compliance control were defined. Confirmation of the existence of the system property, which is the basis for the present study, is provided by T. Klumko & O. Melnuk (2015), who argue that the compliance system is a universal and internationally recognised system aimed at countering

threats and managing risks. Its key purpose is to ensure that the company’s activities follow the law, rules, guidelines, and standards.

To build the relevant system discussed above, the emphasis is placed on the introduction of compliance audit into the process of auditing financial activities, one of the arguments for this step is the proof by O. Konoplina & L. Voronina (2017) that anti-corruption audit is a factor of financial and economic security. This conclusion further confirms the significance of compliance for ensuring national security and sustainable development of the state. This approach meets the requirements of the new compliance standard ISO 37301:2021 Compliance Management System – Requirements with guidance for use². Notably, the requirements of this document are of a general, non-departmental nature.

The assertion that compliance audit is a component of financial control is confirmed by T. Kobeleva (2020), who made the following reasonable conclusions: compliance control is a new type of control. The implementation and use of this system can substantially reduce compliance risks. Kobeleva uses a good phrase “ensuring the required level of security compliance”. The researcher also substantiated the theoretical and methodological provisions for monitoring key indicators of compliance security. For the first time, two monitoring functions for practical use were proposed, based on tangential (as the principal indicators that reflect the degree of compliance threats to an enterprise and consider the four components of the country’s economic security: energy, financial, social, innovation, and investment) and arctangential (including essential components of compliance security: financial, political and legal, energy and interface) dependencies. T. Kobeleva & P. Pererva (2019) include integral indicators of compliance risk and compliance security in the basis of the monitoring function.

L. Hnylytska (2017) emphasised the need to define methodological tools for the use of compliance audit. However, today this task can be performed using the standards containing the requirements for the compliance system, which are listed above. The correctness of the chosen methodology for solving the problem under study is also supported by other scientific findings of the researcher (Hnylytska, 2015). Thus, Hnylytska clearly states that the conceptual approach in the field of national security is to apply methods for identifying the interdependence of the impact of national security in the economic sphere of Ukraine on the state of economic security of business

¹ Law of Ukraine No. 2939-XII “On the Fundamental Principles of the Public Financial Control in Ukraine”. (1993, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/2939-12#Text>.

² ISO 37301:2021. (2021). Retrieved from https://www.iso.org/obp/ui/?fbclid=IwAR2_mKFAR5SQPCqaw0iGlEYyDyvvD6fFtnSS1FeIPy0PhPabTule521UK5s#iso:std:iso:37301:ed-1:v1:en.

entities and vice versa. In turn, corruption hinders this, which poses a threat to national security in general.

The present study is complemented by the findings of M. Mozharovsky (2021), who focuses on identifying the specific features of compliance that underlie industry affiliation as the most common and widely used internal control mechanisms. Mozharovsky uses the terms “compliance risks”, “compliance procedures”, “anti-corruption compliance”, “tax compliance”, “corporate compliance”, “labour compliance”, “compliance standards”, “compliance control”, which can be considered as an argument for using the term “compliance audit” in this study.

P. Matveev & M. Mozharovskyi (2021) investigated the positive experience of the United States and the United Kingdom in the development of compliance systems. Researchers reveal such terms as “compliance norms”, “compliance measures”, “compliance functions”, which practically characterise “compliance” as a component of the process of managerial influence. Thus, this confirms the thesis that “compliance” can also be used in the organisation of the work of organised crime actors. The initial thesis that compliance in its functionality should be considered as a mechanism for managing risks, including those arising from organised crime, is confirmed in the study by N. Moskalenko (2018), who, based on the requirements of fair implementation of legislation, ethical standards adopted by S.J. Griffith (2016), emphasises that compliance includes mechanisms for preventing and detecting violations of the law. The vision of some researchers, namely V. Ivanov & I. Lavryk (2016), of compliance as a phenomenon with functional features and its formal characteristics is novel. It is used to combat crime (legalisation of proceeds of crime, terrorist financing). It also provides evidence of the legitimacy of using compliance in combating organised crime and improving the legal forms of combating this negative phenomenon. S. Telenyk (2020) supports the fact that compliance is a practice-oriented form of control that is strategic and long-term in nature. However, the author of the present study cannot agree with this thesis, because by its very nature this phenomenon can be carried out based on planning, which has different levels, and this is what is considered when formulating amendments to the current legislation.

The perception of the fight against organised crime as a complex system necessitates the introduction of new forms of risk management, which are currently implemented in systems designed to solve other problems in different areas. Compliance control is such a universal form. The correctness of such steps is confirmed both at the theoretical and practical levels, for which the most appropriate is the “experiment on the spread of compliance control in combating manifestations of organised crime”, the

development of this form in practice. This can include combating trafficking in persons, arms, drugs, etc. As noted above, the implementation of compliance control is implemented through standardisation, i.e., such a decision can be made both at the national and departmental levels, specifically by law enforcement agencies and security forces.

■ Conclusions

When considering risk management in the fight against organised crime from a procedural perspective, it is important to correlate it with social impact. Since the process of influence consists of many operations and controlled expenditures of force, the choice should fall on those procedures that would ensure the effective, complete implementation of operational tasks by the subjects of security measures. An essential characteristic of the compliance control procedure is the presence of such a property as managerial influence, which makes them expedient and ensures the achievement of concrete results. Through the exercise of managerial influence, compliance control measures are included in the system of social regulation as an important factor in ensuring security.

Security procedures are not fundamentally different from the management measures that take place in other areas of social regulation. Management activities are social in nature and require an appropriate mechanism for their implementation. It is fundamental that compliance in the mechanism of combating organised crime and counteracting the establishment of corrupt ties by criminals in institutions, organisations, and enterprises, especially those included in the national security system, is ensured by the interconnection between preventive and law enforcement approaches.

The periodicity of the system's development is related to the cycles that the system goes through in its development as a social entity. A set of phenomena, works, processes that constitute a complete circle of system development over a certain period. The cyclical development of the social system requires precision, accuracy, and coherence of all elements, and it improves control and organisation of work. The cycle of social processes consists of the following stages: emergence of social relations on a small scale; spreading and gradual definition; substantial impact on large social masses; loss of the leading position of one group of social relations and its replacement by another; dissolution in new social relations; their final disappearance without a trace. The introduction of compliance control into the system of fighting organised crime as a component of risk management may symbolise the next stage of its development.

The most promising for further research in this area is to identify ways and features of the implementation of the International Standard ISO 37301:2021 Compliance Management Systems – Requirements

with guidance for use. The political, legal, economic, psychological, and complex aspects of assessing the qualitative and quantitative indicator of compliance control will be reflected in a formalised external and internal control mechanism. In this case, the role of the Central Management Apparatus involved in the fight against organised crime will also be assessed, with a view to introducing new forms of countering this evil and modernising risk management mechanisms.

Paradoxically, the use of compliance control implies the desire to achieve transparency in the activities of law enforcement and security forces, although the system is characterised by secrecy. The activities

of these bodies should be subject to detailed analysis to identify dangerous symptoms or facts that pose a threat to the normal functioning of the system, and compliance will also play a role in this. That is why the practical aspects of implementing compliance in the activities of law enforcement agencies require further investigation.

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■ Conflict of Interest

None.

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Шляхи впровадження управління ризиками в боротьбу з організованою злочинністю

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■ **Анотація.** Загострення оперативної обстановки в умовах воєнного стану створює загрозу широкому колу прав, інтересів особи й суспільства. Для недопущення подальшого ускладнення криміногенної ситуації необхідним є пошук прогресивних механізмів боротьби з організованою злочинністю. Метою роботи визначено формування науково обґрунтованих пропозицій щодо розвитку механізмів боротьби з організованою злочинністю, протидії встановленню злочинцями корупційних зв'язків в установах, організаціях, підприємствах, передусім у тих, які належать до системи національної безпеки. Відповідно до поставленої мети та специфіки предмета дослідження, використано історичний підхід, порівняльно-правовий і системно-структурний методи. Окреслено зміст процесів організації управління підсистемами, що задіяні у справі забезпечення національної безпеки. Необхідність її ефективного забезпечення засвідчують статистичні дані про ускладнення оперативної обстановки в окремих регіонах, загальна соціально-політична обстановка та загрозливі тенденції криміналізації суспільства. Стан стагнації не відповідає курсу максимально безпечного розвитку суспільства, тому головним завданням держави є активний захист громадян від небезпечних антисоціальних, злочинних і насильницьких виявів. Обґрунтовано, що успішність протидії цим негативним явищам залежить передусім від уніфікації окремих механізмів як на міжнародному, так і внутрішньодержавних рівнях, це стосується і стандартів. Доведено, що вдосконалення організаційно-правових форм боротьби з організованою злочинністю слід здійснювати в напрямі покращення стандартів у системі управління ризиками, зокрема забезпечення інформаційної безпеки, стимулювання захисту інформаційних потоків. Аргументовано, що впровадження терміна «комплаєнс-аудит» до окремих законів України, що визначають основні засади реалізації державного фінансового контролю, аудиту фінансової звітності й організації аудиторської діяльності, забезпечить позитивний ефект у боротьбі з цими негативними явищами. Результати роботи можуть бути основою процесів підготовки прогнозних і програмних документів вищими ревізійними установами, антикорупційними органами, бізнес-середовищем щодо протидії виявам організованої злочинності, виявлення та ліквідації корупційних зв'язків зі злочинцями

■ **Ключові слова:** стандарт; упровадження; протидія; корупція; комплаєнс-аудит