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Analysis of corruption crime detection mechanisms and identification of areas for improvement

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■ **Abstract.** Corruption is a factor that hinders the development of civil society, undermines democratic values, and contributes to legal nihilism and the spread of other types of criminal offences. Therefore, effective counteraction to corruption-related crimes, in particular their effective detection, is a guarantee of the state's sustainable development and the safeguarding of its security, which becomes particularly relevant when it is necessary to defend sovereignty by repelling external armed aggression. The study aimed to determine the state of the system of institutional, social and information-analytical means for detecting corruption-related criminal offences, to identify problems in this area and to develop ways of resolving them. The methodology involved the use of logical-legal and systemic-structural methods, through which the provisions of a number of laws and subordinate regulatory acts, as well as the practice of their implementation, were analysed. In addition, the expert assessment method was used, the results of which were analysed in conjunction with the findings of scientific research in the fields of operational-investigative, criminal procedural, intelligence and counter-intelligence activities. Based on the research findings, steps were proposed to improve the legal regulation of the system of means for detecting criminal offences of corruption. These measures include: granting operational units a wide range of powers and tools for gathering initial intelligence, which may be used before the opening of a criminal investigation; legally defining the scope of operational units' authority to recruit informants from among employees of enterprises, institutions and organisations with corruption risks for the operational monitoring of these entities (to detect corruption offences); establishing a list and description of the actions such informants may take to gather the necessary information; standardising the remuneration of informants at the level

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of the reward provided for by law for whistleblowers. The practical significance of this work lies in the possibility of using its results to improve existing legislation and subordinate regulatory acts concerning the fight against crime and the prevention of corruption

■ **Keywords:** corruption; crime; criminal intelligence; operational and investigative activities; pre-trial investigation; search operations; national security

■ Introduction

One of the most significant challenges of sustainable functioning and development of a democratic, law-based, social state is the high level of corruption, in particular its most dangerous manifestation: corruption-related crime. The latter causes mistrust of the authorities and legal nihilism, hinders the normal functioning of public administration, tarnishes the state's international image, and contributes to the spread of other forms of crime. Furthermore, a significant level of corruption-related crime poses a potential threat to national security. During wartime, such a threat becomes a reality, is actively encouraged and exploited by the aggressor, and threatens the very existence of the state. This necessitates ensuring the effectiveness and efficiency of measures to combat corruption-related criminal offences, particularly under the legal regime of martial law.

In academic publications, the high level of corruption in Ukraine is presented as a proven, indisputable fact. For instance, in a study conducted by V. Blikhar *et al.* (2022), Ukraine is classified as one of the countries with a high level of corruption and a comparatively low standard of living. A similar assertion was made by V. Cherniei *et al.* (2022), who, emphasising the significant corruption within the authorities, noted that the situation in Ukraine does not meet the requirements of international documents regarding the interaction between the authorities and the public. G. Sobko *et al.* (2023) emphasise that, despite the reforms conducted and the significant number of anti-corruption measures implemented, Ukraine remains behind other countries in terms of corruption metrics.

The fact that corruption-related crime in Ukraine poses a threat to national security is also confirmed by a number of academic studies. For instance, A. Kovalchuk *et al.* (2022) have highlighted key aspects of the destructive impact of corruption on state security. The study concluded that corruption is one of the phenomena that generate crises in various spheres of public life: politics, the economy, and public administration, and is one of the main prerequisites for the existence of organised crime. Elaborating on this idea (within the framework of a study on the proportionality of anti-corruption measures in Ukraine during wartime), L. Timofieieva (2023) noted that corruption poses a threat to national security and negatively affects all spheres of life, facilitating the commission of other crimes. The author includes among these terrorism, organised crime, human trafficking and illegal migration, which pose risks not only to Ukraine but also to global security, undermining the process of European integration. As regards European integration, research conducted by M. Králiková (2022) shows that the anti-corruption reforms introduced in Ukraine do not fully meet EU expectations and standards. These reforms faced informal practices among Ukrainian high-ranking officials, leading to the imitation and fragmentation of institutional innovations. The assertion that the challenges of combating corruption have become particularly acute in the context of armed aggression against Ukraine is also evident in a number of academic publications. For instance, O. Maletova & M. Utkina (2025) emphasise that corruption was a systemic problem before the war and intensified significantly during martial law. Similar arguments are made by J. Cifuentes-Faura (2024), S. Kravtsov *et al.* (2024), and A. Markovska *et al.* (2025).

By emphasising causes and consequences of corruption, methods of eradicating it, and political, institutional, legal, organisational and other means of preventing corruption-related crime, researchers often overlook the methods used to detect criminal offences involving corruption. At the same time, the covert nature of these offences means that the very process of detecting them is the most crucial component of the fight against corruption. The effectiveness of methods for detecting corruption-related offences not only helps identify and prosecute those who plan and commit corruption-related offences promptly, but also has a preventive effect by deterring corrupt individuals from committing such offences. Therefore, the study aimed to identify shortcomings in the current system of measures for detecting corruption-related criminal offences and to propose ways of improving its effectiveness.

■ Materials and Methods

The study analysed and summarised the provisions of the following legislative acts: the Constitution of Ukraine[1]; the Criminal Code (CC)[2] and the Code of

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.

Criminal Procedure (CCP) of Ukraine[1]; the Laws of Ukraine "On the Prevention of Corruption"[2], "On Operational and Investigative Activities"[3], "On the National Anti-Corruption Bureau of Ukraine"[4], "On the National Police"[5], and "On the Prosecutor's Office"[6]. In addition, draft versions of the new Ukrainian laws "On Operational and Investigative Activities" submitted in 2016, 2017 and 2019[7,8,9] were analysed. The Action Plan aimed at implementing the Comprehensive Strategic Plan for the Reform of Law Enforcement Agencies as part of Ukraine's Security and Defence Sector for 2023-2027, approved by Order of the Cabinet of Ministers of Ukraine No. 792-r of 23 August 2024[10]. Using a logical-legal approach, the concept was formulated, and the meaning of the category "detection of criminal offences related to corruption" was elucidated. Using a systemic-structural analysis of laws and subordinate regulatory acts that establish the foundations for combating corruption and define the status and powers of anti-corruption bodies, a list of the means for detecting criminal offences of corruption was drawn up, and their essence was demonstrated.

The expert assessment method was used to verify the results obtained. A total of 100 detectives from the National Anti-Corruption Bureau of Ukraine (NABU) and 200 operational staff from various regions of Ukraine were surveyed. The survey aimed to cover this number of detectives and police officers to ensure a high level of representativeness of the results obtained. Each respondent was given the opportunity to remain anonymous, and the methods and guarantees were explained. All participants were informed of the aims and objectives of the survey, as well as how the information obtained would be used and the risks that might arise in this regard. Ethical standards were observed when working with people during the survey. The research was conducted following the principles of the Declaration of Helsinki[11] and the European Commission's guidelines[12] on ethics and data protection. A questionnaire developed by the authors, presented in Table 1, was used for the survey. Several answer options were provided for each question. Nevertheless, the questions were left open-ended, inviting respondents to provide their own answers.

Table 1. List of questions included in the author's questionnaire

No.	Question
1.	What methods or tools for detecting criminal offences relating to corruption are you familiar with?
2.	Which of these tools (methods, instruments) do you use in your day-to-day work?
3.	Which of the following methods or tools for detecting criminal offences relating to corruption do you consider to be the most effective?
4.	What legal and/or organisational issues arise in connection with the use of these means (methods, tools)?

Source: compiled by the authors

The survey was launched in November 2025 and lasted four months. The surveyed NABU detectives reside and work in Kyiv. The officers from the National Police's operational units surveyed live and work in Kyiv, as well as in the Vinnytsia, Zhytomyr, Zakarpattia, Odesa, and Khmelnytskyi regions of Ukraine. The survey of police officers and detectives was conducted in writing using a mixed format (face-to-face and remote). Police officers undergoing retraining and professional development courses at

[1] Criminal Procedural Code of Ukraine. (2013, April). Retrieved from https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#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. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.
[4] Law of Ukraine No. 1698-VII "On the National Anti-Corruption Bureau of Ukraine". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1698-18#Text.
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the National Academy of Internal Affairs (87 people) were interviewed face-to-face. A further 113 police officers were interviewed online. Among NABU detectives, 17 were interviewed in person and 83 remotely. Of those interviewed in person, 17 NABU detectives (all of them) and 23 operational staff from the National Police of Ukraine agreed to be interviewed (on condition of anonymity). During these interviews, they provided explanations for their answers and illustrated them with examples from their own practice. Among those interviewed in absentia, 42 police officers and 27 NABU detectives provided written explanations of their answers. The results obtained were examined in the context of the findings of contemporary researchers on intelligence, counter-intelligence and law enforcement activities.

Results and Discussion

The concept and scope of detecting criminal offences of corruption. Law enforcement agencies protect individuals, society and the state from criminal offences, including those involving corruption, through prevention, detection, suppression and investigation. These stages are closely interlinked but, for the most part, occur at different times. The investigation of corruption offences is necessarily preceded by the process of their detection. Such detection may be spontaneous or incidental (during the investigation of other criminal offences, the conduct of audits, inspections, the receipt of reports from whistleblowers, etc.). Thus, according to research conducted by V.M. Shevchuk (2022), sources of information regarding indications of corruption-related criminal offences entered into the Unified Register of Pre-trial Investigations include, amongst others: materials from pre-trial investigations already underway; case files on administrative offences; other materials from law enforcement agencies (the Security Service of Ukraine, the Prosecutor's Office, the National Anti-Corruption Bureau, the National Agency for Corruption Prevention); statements and reports from victims, complaints and appeals from individuals and legal entities; reports from officials and representatives of civil society organisations; the results of scheduled control and audit measures; and publications in the media.

However, given the scale of corruption-related crime in Ukraine and its specific nature, it is not possible to rely solely on the incidental, random detection of criminal offences to combat it effectively. After all, one of the key characteristics of this type of crime is latency, a fact recognised by both theorists and practitioners. Thus, I.H. Bohatyrov (2024) rightly notes that criminal statistics do not reflect the true extent of organised corruption-related crime in the country due to its high level of latency. I.D. Havryliuk (2025), in detailing the methods of committing corruption offences linked to the receipt of undue advantage, among other things, aptly highlights the common means of concealing them, which include falsification of records and reporting (making alterations to documents that conceal the fact of receiving undue advantage); destruction of evidence (destruction of documents or physical evidence that may indicate criminal activity); transferring individuals involved in the crime to other posts or workplaces; falsification of legality (signing of handover-acceptance certificates for services or work that were not actually provided); and forgery in the course of duty (creation of fictitious documents that conceal other crimes, such as abuse of office or bribery).

According to the well-founded conclusion of M.V. Kikalishvili (2023), the covert nature of corruption is a factor that hinders the detection of such criminal offences at the very stage of their preparation or commission, and prevents a focus on the specific conditions and circumstances necessary for their elimination. All these factors significantly complicate the process of detecting corruption offences; therefore, there is a need to apply comprehensive methods, specific tools and measures that differ from those used to detect other types of criminal offences. To identify such methods and specific tools, it is first and foremost necessary to have a clear understanding of the concept of "detection of criminal offences" and to clarify its meaning in the context of corruption-related crime. V.M. Shevchuk (2022) considers the identification of signs of corruption-related criminal offences to be a structural element of criminalistic investigative methodology. The study defined such detection as a specific process conducted by authorised entities (investigators, prosecutors, operational staff) during which hidden (latent) facts of such criminal offences are established and become known to law enforcement agencies, and from that moment a legal obligation arises to examine the materials regarding the presence of signs of such a criminal offence, to uncover and investigate it. This definition contains a debatable assertion that the process of detecting corruption-related criminal offences or their indications should be regarded as an element of forensic investigative methodology. After all, according to Part 1 of Article 214 of the Code of Criminal Procedure of Ukraine[1], an investigation commences only after these indications have been detected. If there is no investigation, there can be no investigative methodology either.

Furthermore, if the detection of criminal offences is viewed specifically as an activity (rather than as the result of complaints, reports, inspections or audits) conducted by law enforcement agencies,

[1] Criminal Procedural Code of Ukraine. (2013, April). Retrieved from https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text.

it is appropriate to emphasise its proactive and initiative-driven nature. Therefore, the view of those researchers who, in the context of the activities of operational units, interpret this concept as proactive efforts to seek and record previously unknown information regarding the preparation of a criminal offence, an attempt to commit a criminal offence, or the commission of a completed criminal offence, is well-founded. Legal, organisational and tactical means of detecting criminal offences (or their indications), including corruption offences, are outside the scope of criminal proceedings. Code of Criminal Procedure of Ukraine[1] regulates the procedure for the investigation and judicial examination of criminal offences that have already been detected, i.e. those regarding which information has been obtained by an investigating prosecutor from any source and entered into the Unified Register of Pre-trial Investigations. This legislative act does not oblige the investigator, prosecutor or operational units to detect criminal offences. Therefore, proactive, initiative-driven detection of corruption offences must now be addressed in other legislative acts.

Institutional mechanisms for detecting criminal offences relating to corruption. Among the aforementioned legislative acts, Ukrainian laws "On the Prevention of Corruption" and "On Operational and Investigative Activities" are noteworthy. These acts contain provisions that explicitly establish institutions whose functions include, amongst other things, the detection of criminal offences relating to corruption. Thus, following Article 13-1 of the Law of Ukraine "On the Prevention of Corruption"[2], the institution of authorised units (authorised persons) for the prevention and detection of corruption has been established. Part 6 of the said Article assigns several tasks to these units, including: identifying conflicts of interest; monitoring compliance with anti-corruption legislation; and examining reports of breaches of this Law, in particular at subordinate enterprises, institutions and organisations; protecting persons who have reported corruption offences following legislation on the protection of whistleblowers. Section VIII of the same Act introduces the institution of whistleblowers. These institutions are not only a means of preventing but also of detecting breaches of anti-corruption legislation. At the same time, their existence serves a preventive function, based on the understanding that there is a probability of exposing corruption risks and manifestations – ranging from conflicts of interest to criminal offences. However, the institution of authorised units (authorised persons) for the prevention and detection of corruption operates openly, transparently and publicly. This significantly limits its ability to combat corruption-related crime, which is highly covert and employs a variety of means of concealment.

The whistleblower system is based on the initiative of individuals to report information that has come to light in connection with their activities (whether work-related, business-related, professional, etc.). They do not collect such information deliberately, nor do they use special methods or means. Furthermore, the primary purpose of these institutions is not the targeted detection of crimes per se (they were established to prevent all corruption-related offences, both administrative and criminal). The detection of criminal offences, including corruption, on a professional basis and using special means and methods, must be conducted within the framework of operational and investigative activities. Thus, following paragraph 1 of Part 1 of Article 7 of the Law of Ukraine "On Operational and Investigative Activities"[3], units conducting such activities are obliged, within the limits of their powers and in accordance with the laws forming the legal basis for criminal intelligence and surveillance operations, take the necessary operational and investigative measures to prevent, promptly detect and stop criminal offences, and to uncover the causes and conditions that facilitate the commission of criminal offences, as well as to conduct the prevention of offences. In other words, the detection of criminal offences, including corruption, is one of the main duties of criminal intelligence and surveillance operations entities. The sole legal instrument for fulfilling this duty is "necessary operational and investigative measures".

This is the issue at the core of the problems that have arisen throughout the entire period of validity of the current Law of Ukraine "On Operational and Investigative Activities"[4]. Part 3 of Article 9 prohibits the conduct of operational and investigative measures without the opening of an operational and investigative case. Part one of this Article stipulates that an operational-investigative case shall be opened where there are grounds for conducting operational-investigative activities. These grounds are defined in Part 1 of Article 6, which includes the existence of sufficient information obtained in accordance with the procedure established by law, which requires verification through operational-investigative measures and means. Part three of Article 6 prohibits the decision to conduct operational-investigative measures in the

[1] Criminal Procedural Code of Ukraine. (2013, April). Retrieved from https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#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. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.
[4] Ibidem, 1992.

absence of the aforementioned grounds. This creates a vicious circle: to detect a latent criminal offence, particularly one involving corruption, operational and investigative measures must be conducted; yet to perform these measures, an operational and investigative case must first be opened based on a criminal offence that has already been detected or is being prepared. 78.5% of the operational staff of the National Police of Ukraine and 75% of NABU detectives surveyed agreed that this problem exists and needs to be resolved. Added to these problems is the lack of clarity in the legislation regarding the concepts of "operational and investigative measures" (82% and 79% of respondents, respectively, recognised the urgency of the problem) and 'detection of criminal offences' (65.5% and 68% of respondents, respectively, agreed on the relevance of the problem).

If these issues are to be addressed by amending the legislation, the following option are considered as most appropriate:

- Article 6 of the Law of Ukraine "On Operational and Investigative Activities"[1] should specify, as one of the grounds for conducting such activities, the prevention, timely detection and suppression of criminal offences, and the identification of the causes and conditions that contribute to their commission;
- to define in law the concept of operational and investigative measures as those conducted by operational units for the purpose of fulfilling the tasks of the Operational and Investigative Directorate, using the powers granted to these units by law;
- to provide a legal definition of search operations as a type of operational-investigative measure that may be conducted on the initiative of operational-investigative bodies, without the opening of an operational-investigative case and without the approval of a prosecutor or a court order (Hribov & Kozachenko, 2023).

At the same time, in addition to the proposal to amend the current Law "On Operational and Investigative Activities", other proposals are also being actively discussed. The most common of these is the adoption of the Law of Ukraine "On Criminal Intelligence" (to replace the current Law of Ukraine "On Operational and Investigative Activities"[2]) and the direct regulation of the activities of law enforcement agencies operational units in the prevention and detection of criminal offences within the Criminal Procedure Code of Ukraine. Thus, following paragraph 1.7. The Action Plan aimed at implementing the Comprehensive Strategic Plan for the Reform of Law Enforcement Agencies as part of Ukraine's Security and Defence Sector for 2023-2027, approved by Order of the Cabinet of Ministers of Ukraine No. 792-p[3] of 23 August 2024, provides for the drafting of a bill on criminal intelligence. This draft law is to include the organisational and legal framework for a system of overt and covert search and investigation measures and tools based on analytics (criminal analysis, law enforcement activities guided by analytical intelligence (ILP model)), aimed at the timely prevention, detection and neutralisation of actual and potential threats to Ukraine's national interests (Research Service of the Verkhovna Rada of Ukraine, 2024).

The drafting of the bill is underpinned by a theoretical framework developed by researchers in the field of policing, who represent various academic schools. The concept by S.V. Albul (2025) is distinguished from others by its longest history, consistent stance and public profile. This concept posits that criminal intelligence is a specific type of activity conducted by specially authorised state bodies, conducted on grounds defined by law to prevent criminal offences, detect, prevent and solve them, facilitate the implementation of criminal proceedings, identify and neutralise real and potential threats to Ukraine's national interests, and ensure national, state, military, economic and public security and the rule of law. At the same time, criminal intelligence must be conducted through a synergistic combination of criminal intelligence measures; analytical activities; and covert cooperation. The author of this concept does not specify in the text what exactly constitutes "criminal intelligence measures". However, for the present study, two other elements of the aforementioned synergistic combination are more substantial: analytical work and covert cooperation. These two tools are predominantly used in practice as means of proactively detecting criminal corruption offences. This statement was supported by 87% of the NABU surveyed detectives and 91% of National Police operational staff. At the same time, 56% of NABU detectives rank analytical activities as their top priority, whilst 29% prefer covert cooperation. Among operational staff of the National Police, 68.5% consider covert cooperation to be the priority tool for detecting corruption offences, whilst 22.5% rank analytical work as the top priority. Of particular interest is the view unanimously expressed by 9% of the NABU detectives surveyed and 11% of police officers. Their views coincide in that the detection of corruption offences can be conducted by undercover officers who, among other things, possess specialist knowledge and

[1] Law of Ukraine No. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.
[2] Ibidem, 1992.
[3] Decree of the Cabinet of Ministers of Ukraine No. 792-r "On Approval of the Action Plan Aimed at Implementing the Comprehensive Strategic Plan for Reforming Law Enforcement Agencies as Part of Ukraine's Security and Defence Sector for 2023-2027". (2024, July). Retrieved from https://zakon.rada.gov.ua/laws/show/792-2024-%D1%80#Text.

the necessary software and can detect such criminal offences using OSINT.

Analytical efforts and covert cooperation, as means of detecting criminal offences, are reflected both in the concept of S.V. Albul (2025) and in other perspectives on the nature of criminal intelligence (Viedienieiev & Semeniuk, 2024; Prytula *et al.*, 2025). These methods were first proposed by D.S. Usov (2024) in the classification of intelligence methods based on their resource foundation (depending on the resource upon which specific methods are based, without which they cease to exist). The study categorised intelligence methods in the economic sphere into social, analytical, technical and institutional methods. Social means, according to the scholar, are based on human activity within society and interaction with other people (covert cooperation, agent work, residency, intelligence infiltration, intelligence questioning, inspection, surveillance, etc.). Analytical methods of intelligence activity are based on a person's information-analytical activities and the use of software and technical means of information processing.

Both analytical and social methods of gathering intelligence and detecting criminal offences are reflected in legislation. For instance, the Law of Ukraine "On the Operational and Investigative Activities"[1] establishes the right of operational units to have covert non-staff personnel (paragraph 13, part 1, Article 8) and to utilise confidential cooperation in accordance with the provisions of Article 275 of the Criminal Procedural Code of Ukraine[2] (paragraph 14, part 1, Article 8), to obtain information from individuals regarding criminal offences that are being prepared or have been committed, and regarding threats to the security of society and the state (paragraph 15, part 1, Article 8), which may be considered a social resource. As regards analytical activities, in the aforementioned legislative act, these are represented by the right of investigative bodies to directly conduct or initiate criminal analysis (paragraph 21 of Article 8). An analysis of the aforementioned laws suggests that the primary direct (specialised) bodies responsible for using analytical and social media tools to detect criminal offences relating to corruption are the operational units of the National Police of Ukraine and the detective units of the National Anti-Corruption Bureau of Ukraine. Prosecutorial authorities are not authorised to use these tools directly, but are required to oversee the legality and effectiveness of the detection of corruption-related criminal offences by the two aforementioned institutions. Other law enforcement agencies have the authority to detect such offences using the specified tools for the purpose of combating corruption among internal staff. Consequently, the responsibility for detecting criminal offences relating to corruption lies with specially authorised bodies in the field of anti-corruption (the Public Prosecutor's Office, the National Police, the National Anti-Corruption Bureau of Ukraine, and the National Agency for the Prevention of Corruption), as well as on the institution of authorised units (authorised persons) for the prevention and detection of corruption. These bodies are authorised to detect criminal offences of corruption using only those means provided for by law.

At the same time, the detection of criminal offences involving corruption is a right enjoyed by every citizen. Such detection may be conducted specifically by journalists (both in general and, in particular, by those who have chosen this as their specialisation). For instance, I. Soldatenko *et al.* (2025) emphasised the role of journalism in uncovering corruption, noting the need to expand access of media representatives to the information required for this purpose. In this context, the researchers refer to journalists as "public observers". However, not only journalists but also representatives of anti-corruption civil society organisations can act as public observers. K. Kulyk (2024) and M. Popova (2025) emphasise that civil society organisations dedicated to combating corruption play a vital role in countering corruption-related criminal offences.

The institution of whistleblowers provides for the possibility of any individual, who, due to certain circumstances, has become aware of the planning or commission of corruption offences, to participate in the detection of such offences. Their activities in exposing corruption may be supported by public figures and journalists who, in accordance with Article 1 of the Law of Ukraine "On the Prevention of Corruption"[3], provide "external channels for reporting possible instances of corruption or corruption-related offences".

Social mechanisms for detecting criminal offences relating to corruption. All the institutions mentioned above (the media, civil society organisations, and the whistleblower scheme) are established and operate in accordance with the law. However, in practice, they consist of specific individuals, thereby forming social mechanisms for detecting criminal offences of corruption. This embodies the inseparable link between legal, institutional and social mechanisms. Unlike specially authorised state bodies, these

[1] Law of Ukraine No. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.
[2] Criminal Procedural Code of Ukraine. (2013, April). Retrieved from https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text.
[3] 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.

institutions may act in any manner not prohibited by law. However, they do not have the power to obtain information covertly (in secret). In particular, they are not authorised to cooperate covertly with other persons, which constitutes a separate institution within the framework of pre-trial investigation and criminal proceedings. Use of undercover agents (freelance undercover operatives) to detect crimes, particularly corruption, should be considered within the context of operational support for specific sites (sectors, industries). Such monitoring should be understood as a system for implementing planned measures aimed at ensuring a continuous process of obtaining primary information on the operational situation at the monitored facility, its analysis, systematisation and subsequent use for the purpose of combating crime.

Undisclosed agents, deployed (selected or recruited) by an operational officer or detective at a specific site under operational surveillance, are a vital source of information regarding crimes that have not yet come to light (or been detected). Undoubtedly, where necessary, it is advisable to use them for the operational investigation of specific individuals within the scope of an operational and investigative case, as well as for obtaining evidence within the framework of criminal proceedings. However, the function of obtaining primary information and the active covert identification of signs of corruption-related criminal offences is paramount.

The process of recruiting undercover agents and deploying them at specific locations, along specific routes and in specific areas is an element of the organisation of operational and investigative activities and cannot, in general, be classified as an operational and investigative measure. Such measures should include the specific actions taken by undercover agents aimed at obtaining operational and investigative information. This raises the question of what specific actions undercover agents may take to obtain information about corruption offences that are being planned or have been committed (but not detected) at a specific site, or to create conditions there to prevent such offences from being committed (Hribov & Kozachenko, 2023).

The answer to this question must be formulated bearing in mind that, according to the established (classical) view in the theory of operational-investigative activity, the function of detecting criminal offences is conducted within the framework of operational search, which is regarded as one of the forms (stages) of operational-investigative activity. Often, the process of proactive crime detection by operational units is equated with operational search, which does not give rise to any fundamental objections.

An analysis of the definition of operational search by such criminal intelligence and surveillance operations theorists as V.V. Shendryk & M.O. Voloshyna (2019) and D.M. Tsekhan (2022) identified fundamental characteristics. The analysis concluded that operational search:

- precedes the operational development;
- its main tasks include obtaining initial information regarding the preparation or commission of a criminal offence;
- involves continuous, active and targeted efforts, comprising a system of investigative measures that may be conducted either directly by an operational officer or with the involvement of other (legally authorised) resources and personnel;
- may only be conducted based on a suspicion that a criminal offence may have been committed;
- is conducted independently of any specific individual or event, specific case, the performance of individual tasks, or the detection and investigation of specific criminal offences;
- may be conducted in secret, using covert methods.

This interpretation of the concept of operational search is consistent with the definition proposed by V.I. Vasylynchuk & S.V. Tikhonov (2022). O.S. Kireieva *et al.* (2022) demonstrate similar approaches to the nature of operational search. At the same time, modern legislation does not regulate the scope of operational search or the measures that may be conducted within its framework. Nor is the issue of involving unregistered freelance workers in operational search regulated at the legislative level.

These matters are regulated by departmental regulatory acts. Their drafters take different approaches to terminology, the definition of operational search, the system of search measures, and the interpretation of their content. At the same time, there is no direct alignment of operational search measures with measures that may be conducted by operational units (without court authorisation and/or the prosecutor's approval) based on their rights, as defined in Part 1 of Article 8 of the Law of Ukraine "On the Operational and Investigative Activities"[1] (sub-paragraphs 1, 3, 5, 6, 8, 14-17, 20, 21).

Legislators have repeatedly attempted to rectify this situation by drafting and submitting to the Verkhovna Rada of Ukraine new bills "On the Operational and Investigative Activities" in 2016[2], 2017[3] and

[1] Law of Ukraine No. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.
[2] Draft Law of Ukraine No. 4778 "On the Operational and Investigative Activities". (2016, June). Retrieved from https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59321.
[3] Draft Law of Ukraine No. 6284 "On the Operational and Investigative Activities". (2017, April). Retrieved from https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61497.

2019[1]. All these draft laws employ a single approach to resolving the problem in question: incorporating directly into the text of the law those measures (and their definitions) proposed by the drafters of departmental regulatory acts. Thus, these draft laws represent a synthesis of the approaches taken by various departments regarding the content and scope of investigative measures. A critical analysis of the aforementioned draft legislation, departmental regulatory and the practice of their application has enabled Ukrainian scholars to draw up a list of measures which it would be advisable to enshrine in the Law of Ukraine "On the Operational and Investigative Activities"[2] as a separate category of operational-investigative measures constituting the substance of operational search and which may be conducted by decision of an operational officer (without court authorisation or a prosecutor's decision).

An analysis of this system of measures suggests that it is based on two groups: social measures (referred to in intelligence theory as Human Intelligence, or HUMINT) and information-analytical measures (which form part of criminal analysis). The former include: interviewing individuals with their voluntary consent; inspecting publicly accessible sites; inspecting sites not accessible to the public with the voluntary consent of the persons in whose possession (use) they are; obtaining confidential information with the consent of individuals who have access to it; surveillance (consisting of short-term, improvised visual observation of a specific object (person, item or location), the results of which are used exclusively for operational and tactical purposes).

The second group includes: gathering publicly available information from any source; gathering restricted-access information contained in law enforcement databases, following their remit; and conducting a comprehensive analysis of information obtained during other operations conducted by operational units. Operational and investigative measures in the first group (Human Intelligence) are natural methods of human action for obtaining information. They are constantly used by both regular operational staff and intelligence officers, as well as by individuals who gather the necessary information on their behalf. However, based on Article 19 of the Constitution of Ukraine[3] and the principle of legal certainty, these measures must be enshrined in the Law of Ukraine "On Operational and Investigative Activities"[4] or in another law regulating social relations related to the proactive detection of criminal offences.

Operational and investigative measures should be regulated to ensure clarity regarding their feasibility:

- without any permits or approvals;
- both openly and covertly (concealing the true purpose and the ultimate recipients of the required information);
- both permanent staff and individuals engaged by them to conduct criminal intelligence and surveillance operations tasks.

The set of operational and investigative measures undertaken by the second group effectively constitutes the substance of criminal analysis. Thus, criminal analysis is one of the two main components of the operational investigation of criminal offences. It is therefore necessary to establish a synergistic framework for combining criminal analysis and covert cooperation in the detection of corruption offences.

Information and analytical tools for detecting criminal offences relating to corruption. Whilst granting operational units the right to conduct criminal analysis, the legislator has not defined its scope or formulated the concept. This gap does not exist in the theory of operational-investigative activities, as scholars who have studied the subject have developed a theoretical understanding of the essence of criminal analysis. Thus, O. Honcharuk & K. Ismailov (2023) defined the theoretical and practical content of criminal analysis through its aims and objectives. A.M. Lyseiuk (2021) and O.M. Bohatyrchuk (2024) characterised criminal analysis as an element of countering specific types of criminal offences.

Analysis of studies in this field supports the opinion of A. Movchan *et al.* (2023), defining criminal analysis as a specific type of information and analytical activity conducted by law enforcement agencies, involving the verification and evaluation of information, its interpretation, and the identification of links between data obtained during the detection, the detection, suppression and investigation of crimes, and which is relevant to operational and investigative activities and criminal proceedings, with a view to its use by law enforcement agencies and the courts, and the subsequent conduct of operational, tactical and strategic analysis. This definition does not preclude the interpretation of criminal analysis both as a distinct type of activity and as a specific measure used to detect criminal offences involving corruption.

[1] Draft Law of Ukraine No. 1229 "On the Operational and Investigative Activities". (2019, September). Retrieved from https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66597.
[2] Law of Ukraine No. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.
[3] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[4] Law of Ukraine No. 2135-XII "On the Operational and Investigative Activities". (1992, February). Retrieved from http://zakon3.rada.gov.ua/laws/show/2135-12.

V.V. Motsa stated that the use of criminal analysis in the organisation of police activities helps to strengthen the proactive element, based on conclusions drawn from the analysis of trends and patterns identified within the criminal environment. This applies both to the organisation of police activities in general, using the concept of intelligence-led policing, and to the organisation of individual operations and measures. An integral part of criminal analysis is the collection and analysis of information from open sources (OSINT). This tool is widely used not only in law enforcement (Movchan *et al.*, 2023) but also in intelligence operations (Burba, 2019). The fight against corruption is no exception in this regard. As M.O. Dumchykov (2024) noted, OSINT is critical in uncovering corruption offences, as it enables the analysis of numerous open-source information channels. Using this data, it is possible to trace illegal banking transactions, uncover hidden assets and expose corruption schemes. This makes OSINT a valuable tool for representatives of the media, civil society organisations and, in particular, anti-corruption organisations. Thus, the researcher identifies not only law enforcement officers but also representatives of the media and the public as users of OSINT for the purpose of detecting corruption-related criminal offences. In this regard, M.O. Dumchykov (2024) provides specific examples of the successful exposure of corrupt officials by journalists and civil society activists.

It is worth noting that OSINT tools are successfully used, amongst other things, by businesses at various levels to conduct so-called competitive intelligence (Lande, 2022). At the same time, the professional standards of private OSINT and the expertise of its specialists often prove to be superior to the capabilities of state agencies. Specialists in the field of intelligence and counter-intelligence (Usov, 2024) assert that, at present, most developed countries have already established robust, structured economic intelligence systems, the main elements of which are: individual state institutions (special services, diplomatic missions, foreign trade agencies, etc.); transnational corporations; enterprises of various forms of ownership, as well as scientists and experts. Due to several circumstances (in particular, the increase in the number of challenges and threats, and changes in their characteristics), a so-called "public-private partnership" has begun to develop in this specific field of activity, i.e. the conduct of intelligence gathering using OSINT by private entities on behalf of state intelligence agencies. This leads to the assumption (by analogy) that state law enforcement agencies may confidentially engage certain private individuals (experts, specialists, scientists) and business entities possessing the relevant experience and expertise to conduct OSINT-based intelligence gathering for the purpose of detecting criminal offences.

In assessing the merits of this approach, it is worth noting that a survey was conducted on this matter among operational staff of the NABU. The following results were obtained. 78.5% of the National Police officers surveyed stated that it is problematic for them to engage the resources of the Criminal Analysis Department specifically for the detection of corruption offences at certain sites and operational service lines. Respondents explained that, for the most part, the capabilities of this department are utilised within the framework of criminal proceedings already underway and, as an exception, within the framework of operational and investigative cases that have been opened. The NABU detectives surveyed share a similar view on the use of the resources of the Criminal Analysis and Financial Investigations Department. Of these, 81% use OSINT independently to detect corruption-related criminal offences (drawing on knowledge acquired through a specialised training programme for NABU staff), as the capabilities of this department are primarily utilised in the operational support of relevant criminal proceedings.

At the same time, 89% of police officers and 91% of NABU detectives who participated in the survey: firstly, agree that the detection of corruption-related criminal offences using OSINT by specialists from criminal analysis units is far more effective than them conducting their own open-source intelligence gathering; secondly, they are critical of the idea of confidentially involving private specialists in such intelligence gathering. As revealed during the interviews, this sensitivity stems from the risk of information leaking regarding interest in a specific target, and doubts about the ability to offer sufficient financial incentives to attract OSINT specialists of the required calibre to engage in confidential cooperation. Whilst acknowledging the existence of these factors, it is nevertheless advisable to establish legal frameworks governing the operational units' ability to engage OSINT specialists in confidential cooperation. After all, the risks of information leaks exist in any instance where private individuals or legal entities are involved in conducting operational and investigative tasks. The assessment of these risks is a matter for the specific operational officer, who, in a specific operational and tactical situation, must determine the appropriateness of engaging a specific confidential informant or utilising the assistance of third parties in the process of detecting criminal offences.

Regarding financial incentives for private OSINT specialists (in terms of remuneration for their work in detecting criminal corruption offences), the

payments established for undercover agents by departmental regulations may, in this case, be combined with payments analogous to those paid to whistleblowers in criminal proceedings in accordance with the provisions of Article 130-1 of the Criminal Procedural Code of Ukraine[1], i.e. 10% of the monetary value of the subject of the corruption offence or of the damage caused to the state following the court's conviction, but not exceeding three thousand times the minimum wage established at the time the offence was committed. The procedure and conditions for such payment, as stipulated in the provisions of the aforementioned Article of the CPC of Ukraine, are entirely acceptable and logical for application to private OSINT specialists. Thus, pursuant to paragraph 1 of Part 2 of Article 130-1 of the CPC of Ukraine, information provided by a whistleblower to a law enforcement agency must be derived from their personal knowledge, including information obtained from third parties, and must not be contained in public reports, audit results, materials, studies, news reports, etc., from authorities or the media, unless the informant is the source of such information, and must not be known to the law enforcement agency from other sources. On the other hand, OSINT is conducted using open (public) sources. By processing this data, the analyst obtains new information. This information is the result of their analytical work, a conclusion to which they have arrived first. This conclusion is not a consequence of their knowledge, but the result of careful research. Therefore, such a private specialist deserves the specified remuneration. Consequently, the remuneration for the work of such specialists engaged in confidential cooperation must be regulated separately at the legislative level.

In relation to the above, the question arises as to the remuneration of individuals engaged in covert cooperation, as they have access to information regarding operational targets where corruption risks exist. These individuals form the social foundation for the direct covert detection of corruption offences (Human Intelligence). In fact, their work and its results are similar to the activities and results of whistleblowers in criminal proceedings. However, in contrast to whistleblowers, who do not possess such information initially, they, acting in accordance with agreements with an operational officer (detective), take steps to obtain it. In doing so, they often risk their lives and health. Therefore, similar to whistleblowers, they are entitled to appropriate remuneration if the information provided is effectively utilised within the framework of criminal proceedings. However, the issue of distinguishing the functions and status of whistleblowers and covert freelance operatives requires separate examination.

Conclusions

It is worth noting that detection of criminal corruption offences is one of the key and, at the same time, interrelated elements of the anti-corruption system, alongside the suppression of such offences, their investigation and the prevention of their commission. The effectiveness of this stage, as demonstrated by the practice of law enforcement agencies, largely determines the effectiveness of the state's entire anti-corruption policy. The existence of an effective system for detecting criminal corruption offences is, in essence, a significant tool for their prevention, as the potential offenders will be aware of the high probability of detection. In both academic and practical terms, the detection of corruption-related criminal offences should be understood as a proactive activity conducted by authorised bodies, aimed at seeking, obtaining and recording unknown information regarding the commission of a completed corruption-related criminal offence previously, an attempt to commit such an offence, or preparations for its commission. In this context, the means of such activity comprise everything that serves to achieve the relevant result, i.e. the acquisition of factual information capable of indicating the presence of signs of a corruption offence. Among such methods, it is methodologically sound to distinguish between legal and social approaches – which involve the use of human intelligence – as well as information and analytical approaches, which are based on the processing and interpretation of existing datasets.

At the same time, as an analysis of existing legislation and its application shows, the modern system for detecting criminal offences relating to corruption requires further improvement. In particular, there is a need to enshrine in law the powers of operational units of law enforcement agencies to, on initiative – that is, without prior authorisation by a court or prosecutor – collect preliminary information regarding the preparation or commission of corruption-related criminal offences before the initiation of an operational-investigative case and the commencement of criminal proceedings. It is worth noting that such information gathering should be conducted using any permissible methods and means, including covert ones, provided that they do not restrict human rights or constitute an intrusion into private life. It is advisable to define the probability of risks of the preparation or commission of corruption-related criminal offences as the basis for conducting such activities. Furthermore, a pressing issue is the legal legitimisation of the use of covert cooperation to obtain primary information at specific sites with heightened corruption risks, which

[1] Criminal Procedural Code of Ukraine. (2013, April). Retrieved from https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text.

in operational practice is usually referred to as operational support. At the same time, the range of actions that undercover agents may undertake in the course of such operational activities requires regulatory clarification, in particular, the definition of the scope of operational and investigative measures aimed at detecting corruption offences. An equally relevant issue is the introduction of a system of financial incentives for undercover agents who have assisted in exposing corruption offences, by analogy with the reward mechanisms provided for whistleblowers. Prospects for further research in this area, in turn, relate to the drafting of regulatory acts necessary for the practical implementation of the proposals outlined, as well as to a more in-depth analysis of the issues surrounding the legal regulation of the institution of whistleblowers and the search for effective solutions to these issues.

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Conflict of Interest

None.

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Аналіз системи засобів виявлення корупційних кримінальних правопорушень і визначення напрямів її вдосконалення

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■ **Анотація.** Корупційна злочинність є чинником, який перешкоджає розвитку громадянського суспільства, підриває демократичні цінності, сприяє правовому нігілізму та поширенню інших видів кримінальних правопорушень. Тому дієва протидія корупційним злочинам, зокрема їх ефективне виявлення, є запорукою сталого розвитку держави, забезпечення її безпеки, що стає надзвичайно актуальним у разі необхідності відстоювати суверенітет, відображаючи зовнішню збройну агресію. Мета статті полягала у визначенні сучасного стану системи інституціональних, соціальних та інформаційно-аналітичних засобів виявлення корупційних кримінальних правопорушень, виявлення проблем у цій сфері та розробленні шляхів їх розв'язання. Методологія охоплювала використання логіко-юридичного та системно-структурного методів, за допомогою яких було проаналізовано положення низки законів, підзаконних нормативно-правових актів, а також практику їх реалізації. Крім того, використано метод експертних оцінок, результати якого проаналізовано разом з висновками останніх наукових досліджень у галузі оперативно-розшукової, кримінальної процесуальної, розвідувальної та контррозвідувальної діяльності. За результатами дослідження було запропоновано кроки з удосконалення правового регулювання системи засобів виявлення корупційних кримінальних правопорушень. До таких кроків віднесено: надання оперативним підрозділам широкого спектру повноважень й інструментів з одержання первинної інформації, що можуть бути використані до моменту заведення оперативно-розшукової справи; нормативне визначення можливостей оперативних підрозділів із залучення конфідентів з числа працівників підприємств, установ, організацій з корупційними ризиками для оперативного обслуговування цих об'єктів (з метою виявлення корупційних злочинів); встановлення переліку та змісту дій, до яких можуть вдатися зазначені конфіденти для збирання необхідної інформації; унормування оплати праці конфідентів на рівні з винагородою, що передбачена законом для викривачів. Практична значущість роботи полягає в можливості використання її результатів для вдосконалення чинного законодавства та підзаконних нормативно-правових актів щодо протидії злочинності й запобігання корупції

■ **Ключові слова:** корупція; злочинність; кримінальна розвідка; оперативно-розшукова діяльність; досудове розслідування; пошукові заходи; національна безпека

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The State Bureau of Investigation as subject of countering criminal offenses in the field of official activity

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■ **Abstract.** The relevance of the study is determined by the necessity to eliminate normative inconsistencies and improve the effectiveness of criminal prosecution in cases related to official activities, amid the reform of the pre-trial investigation system in Ukraine. The study covers the period from 2021 to 2024. This approach made it possible to establish the relationship between the institutional effectiveness of different pre-trial investigation bodies and identify the current problem areas of jurisdictional delimitation. The purpose of the study was to assess the institutional capacity of the State Bureau of Investigation (SBI) in countering criminal offenses of an official nature. The methodological basis was a sequential combination of statistical analysis, normative-legal evaluation of current regulations, and institutional modeling of interactions between criminal justice bodies. The results of the quantitative analysis demonstrated that the majority of criminal proceedings under the jurisdiction of the SBI concerned abuse of power (3,955 cases in 2021) and official negligence (1,894 cases in 2024). The highest conviction rate was observed in cases of unlawful benefit receipt (99 verdicts in 2021), while the lowest was in cases of exceeding power (8 verdicts in 2024). A comparative analysis with the National Police data showed that in 2025, the highest share of closed proceedings was under Article 367 of the Criminal Code of Ukraine ("official negligence") (527 cases), confirming difficulties in proving intent and qualifying actions. The results showed the presence of institutional contradictions in defining the competence of pre-trial investigation bodies and conflicts between the provisions of the Criminal Procedure Code of Ukraine and special laws. The issue of jurisdictional overlap between the SBI, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, and the National Police remains problematic, complicating the separation of powers and delaying the investigation process. This necessitates the improvement of normative regulation and optimisation of procedures for documenting official crimes. The results of the study can be used by criminal justice bodies, scientific institutions, and higher education institutions in the development of educational and law enforcement programs

■ **Keywords**: investigation; investigative units; procedural guidance; official crimes; corruption offenses; abuse of official position; European standards

■ Introduction

The need for a clear understanding of the legal status of the State Bureau of Investigation (SBI) in Ukraine emerged during the transformation of criminal justice institutions, which occurred as a result of the reform of pre-trial investigation bodies, including the abolition of the prosecutorial investigation functions, the creation of the National Anti-Corruption Bureau of Ukraine (NABU) and the Specialised Anti-Corruption Prosecutor's Office (SAPO), the launch of the SBI's activities, and subsequent legislative

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changes aimed at clarifying its status and jurisdiction. Changes in the architecture of state governance, the growing public demand for enhanced effectiveness in responding to offenses in public administration, and the functional rethinking of the role of specialised anti-corruption bodies necessitated a review and specification of the SBI's powers.

In the study by O.Y. Amelin (2022), the conceptual mission of the prosecutor's office as a guarantor of public legitimacy in criminal prosecution was highlighted, gaining particular relevance in the context of the transformation of the national justice system. It was argued that the prosecutor's involvement goes beyond procedural guidance, encompassing the formation of the content of the accusation and ensuring a balance between the repressive and human rights functions of the state. It was substantiated that the quality of prosecutorial supervision significantly influences the stability of the criminal procedural model in cases of abuse in the sphere of public administration. These conclusions are directly related to the SBI's activities, as the effectiveness of its powers in cases of official crimes largely depends on the level of coordination with prosecution bodies, which provide procedural guidance and define the balance between the autonomy of investigations and guarantees of legality. In S.M. Yeftemiy's (2021) publication, the legal status of law enforcement personnel as subjects of criminal responsibility was justified, emphasising the need for functional differentiation of powers when qualifying criminal offenses. These conclusions are of direct relevance to the SBI, as a significant number of cases concerning law enforcement officers fall under its jurisdiction, and a clear definition of the status of law enforcement personnel and the scope of their responsibility is key to avoiding conflicts in qualification and preventing jurisdictional duplication.

The work of N. Nosevych (2024) laid the foundation for considering the SBI as a subject in the formation of the state's criminological policy, which not only carries out investigative functions but also plays a preventive role capable of transforming law enforcement practices in the field of official offenses. In R.Yu. Kurepin's (2022) thesis, the SBI was understood as an integrated element of law enforcement architecture, capable of adapting its institutional model to the conditions of public administration amid instability. In the study by I. Litvinova & Y. Ryepina (2022), the legal parameters of the SBI's operation were systematised, including institutional and organisational aspects of its formation, as well as its normative basis in the context of the constitutional model of the separation of powers. The analysis conducted by M.S. Korejo *et al.* (2021) revealed issues of legal certainty in countering money laundering. The authors focused on the difficulty of forming a universal definition of the concept of "money laundering", which complicates law enforcement and creates risks for the effectiveness of criminal justice bodies. Given the specific jurisdiction of the SBI, these conclusions highlight the importance of clear normative differentiation of concepts and legal categories in the field of official crimes, which allows for avoiding conflicts in the investigation process and increases the evidentiary robustness of proceedings. In the publication by W.M.W. Hashim & M.M. Hussain (2021), the legal nature of offenses in the field of official activities was examined, with an evaluation from the perspective of criminal liability in Malaysia. The authors justified the need for the systematisation of criminal offenses related to abuse of official powers and consistent jurisdictional separation between different entities. These provisions are applicable to the Ukrainian context, as the SBI faces similar issues regarding jurisdictional duplication and ambiguity in criteria for assigning cases to its jurisdiction.

In the collective study by A. Babenko *et al.* (2024), the challenges faced by the SBI in preventing offenses during armed conflict were analysed, particularly concerning procedural guarantees and maintaining the functional independence of investigative units. The directions for improving personnel support, methodological assistance, and inter-institutional coordination were identified. In the study by O.V. Sachko & O.V. Khoroshun (2024), the role of the SBI as a structural element in the public safety system was clarified, performing a bridging function between control, oversight, and law enforcement institutions. N. Shmilo's (2024) publication is of comparative significance: by analysing the administrative-legal models of the SBI and the Federal Bureau of Investigation (FBI), a typology of functional models of specialised bodies in different legal systems was proposed. The comparative approach allowed for the identification of the legal individuality of the Ukrainian SBI and the directions for potential unification in line with international standards.

In the analysed scientific sources, the focus was on individual aspects of pre-trial investigation bodies' activities, but the impact of the SBI's institutional architecture on the quality and effectiveness of investigations related to official activities was not comprehensively addressed. The issue of coordinating the mechanisms of interaction between the SBI and the NABU, the SAPO, and other criminal justice bodies remained unregulated, significantly complicating the separation of functional competences. The purpose of this study was to analyse the implementation features of the SBI's powers in countering criminal offenses related to official activities and to identify institutional barriers limiting its effectiveness. To achieve this goal, the following tasks were set: to conduct a quantitative analysis of the results

of criminal proceedings under the SBI's jurisdiction, by types of offenses and stages of procedural completion; to identify institutional barriers limiting the SBI's powers in official crimes; and to characterise the normative contradictions between the provisions of the Criminal Procedure Code of Ukraine (CPC) and the Law of Ukraine No. 794-VIII "On the State Bureau of Investigation"[1] in terms of jurisdiction and procedural interaction.

Materials and Methods

The research belongs to the applied interdisciplinary legal studies with a focus on institutional analysis, determined by the need to assess the structural and normative foundations of the functioning of the SBI amidst the transformational dynamics of criminal justice in Ukraine. The choice of an institutional approach was driven by the nature of the issue related to organisational autonomy, jurisdictional delimitation of powers, and the normative consistency of regulation. The chronological scope of the study covers the period from 2021 to 2025, which corresponds to the current stage of institutional changes in the activities of the SBI, the revision of legislative support, and the development of new formats of interaction between pre-trial investigation bodies and the prosecution. This time frame allowed for the identification of the most representative changes in the field of criminal prosecution of official offenses after the structural update of the system.

Empirical data was collected using official reports from the State Bureau of Investigation (2022; 2023; 2024; 2025) of Ukraine, including annual analytical reports from 2021 to 2024, as well as statistical reports from the Office of the Prosecutor General (n.d.). An additional source of quantitative data was the open Crime Data Lab database (n.d.), which provided detailed information on the dynamics of criminal proceedings under various articles of the Criminal Procedure Code of Ukraine[2] (Article 364 – abuse of power or official position, Article 365 – exceeding power or official duties by a law enforcement officer, Article 367 – official negligence, Article 368 – unlawful benefit receipt) in 2021-2024. Furthermore, to qualitatively illustrate the identified patterns, judicial practice and academic research were analysed, specifically works dedicated to procedural aspects of appointing and replacing prosecutors in criminal proceedings related to official misconduct, as well as Case No. 275/271/17[3], which revealed violations of jurisdictional requirements after the creation of the NABU and showed the direct impact of proper procedural guidance and correct jurisdictional delimitation on the legality and effectiveness of criminal proceedings (Amelin, 2024).

The normative-legal framework was also processed, including provisions from the Criminal Code of Ukraine (CCU)[4], Law of Ukraine No. 1698-VII "On the National Anti-Corruption Bureau of Ukraine"[5], Law of Ukraine No. 2229-XII "On the Security Service of Ukraine"[6], Law of Ukraine No. 580-VIII "On the National Police"[7] and Law of Ukraine No. 1697-VII "On the Prosecutor's Office"[8]. The inclusion of these acts enabled the normative-functional verification of the competences of law enforcement agencies. This data set provided the opportunity to identify statistical patterns and structural contradictions. A comparative-legal analysis method was applied to identify normative contradictions between the Criminal Procedure Code of Ukraine and Law of Ukraine No. 794-VII[9].

The systemic analysis method was used to study the internal organisational structure of the SBI in relation to the powers of its functional divisions. The application of this method allowed for the characterisation of interactions between investigative, analytical, operational, and administrative components within specific cases. This method also facilitated the creation of a normative-functional projection for the reform of the provisions of the Criminal Procedure Code of Ukraine[10] and Law of Ukraine No. 794-VII[11] according to Council of Europe Committee

[1] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[2] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[3] Judgment of the Appeal Court of Zhytomyr in Case No. 275/271/17. (2025, July). Retrieved from. https://reyestr.court.gov.ua/Review/128777882.
[4] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2341-14#Text.
[5] Law of Ukraine No. 1698-VII "On the National Anti-Corruption Bureau of Ukraine". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1698-18.
[6] Law of Ukraine No. 2229-XII "On the Security Service of Ukraine". (1992, March). Retrieved from https://zakon.rada.gov.ua/laws/show/2229-12.
[7] Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19.
[8] Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18.
[9] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[10] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[11] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.

of Ministers Recommendation Rec(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System[1] regarding the organisational autonomy of investigative bodies. This approach allowed for the integration of the results of comparative, systemic, and modeling analysis with quantitative monitoring data. The integration of case-study analysis of court decisions enabled the identification of specific procedural risks related to untimely investigative actions and violations of jurisdictional rules. This provided an opportunity to assess the institutional capacity of the SBI in terms of three main parameters: legal certainty, procedural effectiveness, and organisational independence.

Results

Legal status of the SBI in the system of counteracting official misconducts. The SBI holds a key position in the structure of pre-trial investigation bodies in Ukraine, ensuring a response to criminal offenses in the field of official activities committed by individuals with powers of authority. The Law of Ukraine No. 794-VII[2] establishes its legal status as a state law enforcement agency authorised to conduct pre-trial investigations into offenses committed by senior officials. In the Criminal Procedure Code of Ukraine[3], these functions are detailed in Articles 38, 39, and 216, which define procedural principles, the jurisdiction of criminal proceedings, and the scope of procedural guidance.

Although the SBI is not part of the prosecutor's office system, its activities are carried out in close connection with the function of procedural guidance, which is performed by authorised prosecutors. This model assumes a balance between the institutional autonomy of the SBI and its subordination in the procedural sphere. Consequently, the legal status of the SBI acquires a comprehensive administrative-legal nature, combining elements of operational response, independent investigation, and internal accountability within criminal proceedings. Unlike other law enforcement agencies, the SBI ensures the implementation of pre-trial investigations in cases involving judges, prosecutors, law enforcement officers, and individuals in particularly responsible positions, as defined by Part 4 of Article 216 of the Criminal Procedure Code of Ukraine[4].

The functional intersection of jurisdiction between the SBI, the NABU, and the SBU is clearly defined in the legislation. Thus, the jurisdiction of the SBI is regulated by Article 216 of the Criminal Procedure Code of Ukraine[5] and Law of Ukraine No. 794-VII[6]; the jurisdiction of NABU is defined by Law of Ukraine No. 1698-VII[7], which assigns to its competence crimes related to corruption by senior officials; while the SBU investigates crimes against national security according to Law of Ukraine No. 2229-XII[8]. To systematise this information, Table 1 provides a comparative overview of the legal status, jurisdiction, and organisational independence of the SBI, NABU, SBU, police, and prosecution bodies.

Table 1. Comparative legal characteristics of the powers of the SBI, NABU, SBU, Police, and Prosecutor's Office in the field of official offenses

Criterion/body	SBI	NABU	Security Service of Ukraine (SBU)	National Police of Ukraine	Prosecutor's Office
Normative base	Law of Ukraine No. 794-VII[9], Criminal Procedure Code of Ukraine[10]	Law of Ukraine No. 1698-VII[11], Criminal Procedure Code of Ukraine[12]	Law of Ukraine No. 2229-XII[13], Criminal Procedure Code of Ukraine[14]	Law of Ukraine No. 580-VIII[15], Criminal Procedure Code of Ukraine[16]	Law of Ukraine No. 1697-VII[17], Criminal Procedure Code of Ukraine[18]

[1] Council of Europe Committee of Ministers Recommendation Rec(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System. (2000, October). Retrieved from https://rm.coe.int/16804be55a.
[2] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://surl.li/qahslm.
[3] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[4] Ibidem, 2012.
[5] Ibidem, 2012.
[6] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://surl.li/kkeyla.
[7] Law of Ukraine No. 1698-VII "On the National Anti-Corruption Bureau of Ukraine". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1698-18.
[8] Law of Ukraine No. 2229-XII "On the Security Service of Ukraine". (1992, March). Retrieved from https://surl.li/efdwxn.
[9] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://surl.li/cvweqp.
[10] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[11] Law of Ukraine No. 1698-VII "On the National Anti-Corruption Bureau of Ukraine". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1698-18.
[12] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[13] Law of Ukraine No. 2229-XII "On the Security Service of Ukraine". (1992, March). Retrieved from https://surl.li/uvwbzy.
[14] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[15] Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19.
[16] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[17] Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18.
[18] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.

Table 1. Continued

Criterion/body	SBI	NABU	Security Service of Ukraine (SBU)	National Police of Ukraine	Prosecutor's Office
Subject specialisation	Official crimes by officials, judges, law enforcement officers	Serious and especially serious corruption crimes by senior officials	National security crimes, terrorism, espionage	General criminal offenses, official negligence	Procedural guidance, public prosecution
Jurisdiction (Article 216 of CPC)	Senior officials, judges, law enforcement officers	Individuals under Part 1 of Article 3 Law of Ukraine No. 1700-VII "On Prevention of Corruption"[1]	Crimes against national security	Other official and non-official persons	All criminal proceedings
Procedural status	Pre-trial investigation body	Pre-trial investigation body	Pre-trial investigation body	Pre-trial investigation body	Procedural guidance and public prosecution body
Independence/ subordination	Organisationally independent, under the procedural guidance of a prosecutor	Separate audit and appointment procedure, procedural independence	Part of the state security system, accountable to the President	Subordinate to the Ministry of Internal Affairs	Accountable to the General Prosecutor
Key limitations	Operates within defined competence, but the scope of powers in this area is limited by the tasks of pre-trial investigation.	Limited subject composition of cases	Only in crimes related to security	Does not investigate cases involving senior officials	Does not conduct pre-trial investigations (since 2020)

Note: table compiled based on current legislation as of 2025
Source: compiled by the author

The defining element of the legal status of the SBI is its jurisdiction, which determines the specific functional load of the body within the criminal justice system. According to Part 4 of Article 216 of the Criminal Procedure Code of Ukraine[2] the SBI's jurisdiction includes criminal offenses committed by judges, law enforcement officers (except for NABU officers regarding crimes defined in Articles 364-370 of the CCU), as well as individuals in particularly responsible positions, including members of the Cabinet of Ministers of Ukraine or heads of central executive authorities. Meanwhile, Part 5 of this same Article establishes that crimes defined in Articles 364-370 of the CCU, committed by employees of NABU, fall under NABU's jurisdiction. This distribution of competences forms the legal boundary between the institutions, but in practice, it often encounters conflicts. For instance, crimes related to corruption by high-ranking officials may fall under the jurisdiction of both the SBI (Part 4 of Article 216 of the CPC of Ukraine, concerning individuals in particularly responsible positions) and NABU (Part 5 of Article 216 of the CPC of Ukraine, related to corruption offenses). Similarly, offenses that threaten national security require jurisdictional determination between the SBI and the SBU. Therefore, additional clarification is needed to avoid jurisdictional conflicts and increase the effectiveness of pre-trial investigations.

The institutional model of the SBI also provides for close interaction with the prosecution bodies, which is carried out within the implementation of the procedural guidance function. Despite the SBI's legislative organisational independence, its investigators' activities are under the control of a prosecutor, who initiates or approves suspicion notices, agrees on key procedural decisions, and submits the indictment to the court. Thus, the SBI performs the function of direct pre-trial investigation, while the prosecutor's office executes the procedural guidance and public prosecution function. This model of function separation creates a balance between the autonomy of the pre-trial investigation and the necessity of prosecutorial supervision, which must be carried out in compliance with the principle of non-interference within the legally defined competence. In theoretical terms, this relationship forms the basis for conceptualising procedural partnership between pre-trial investigation bodies and oversight institutions.

Within the public-law approach, there arises the need to define criteria under which the SBI can be qualified as a specialised subject counteracting official crimes. Unlike other agencies in the fight against corruption, organised, or economic crimes, the

[1] Law of Ukraine No. 1700-VII "On Prevention of Corruption". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/en/1700-18#Text.
[2] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.

Bureau performs not only investigative but also institutional functions in ensuring the implementation of the state anti-criminal policy concerning public entities' responsibility. This status imposes increased requirements for institutional integrity, independence, and procedural effectiveness. The set of features of the legal status of the SBI, including normative autonomy, procedural accountability, and specialisation in investigating offenses committed by individuals performing public functions, indicates its central role in ensuring law and order at a high institutional level. Further development of legislation in this area should aim at resolving conflicts, harmonising the provisions of the Criminal Procedure Code of Ukraine[1] and the relevant law on the SBI, and ensuring the compliance of national law enforcement mechanisms with European standards of police independence.

The powers of the SBI in criminal proceedings regarding crimes in the field of official activity: Theoretical and practical analysis. Trends in official crimes in Ukraine require a detailed study of their statistical dynamics, as these offenses directly affect the level of trust in government bodies and the effectiveness of public administration. Special attention in academic research is given to crimes outlined in Chapter XVII of the CCU[2], as they reflect the characteristic problems of the functioning of the state apparatus and point to weaknesses in the criminal justice system. Assessing the quantitative and qualitative parameters of such offenses allows not only tracking their spread but also determining the level of procedural effectiveness at each stage of investigation and court proceedings. This, in turn, creates the basis for developing scientifically grounded proposals for improving law enforcement practices.

To provide a comprehensive understanding of this issue, Table 2 presents summary statistics on crimes under Articles 364, 365, 367 and 368 of the CCU[3], for the period 2021-2024. The data summarises the results of the activities of all pre-trial investigation bodies authorised to conduct proceedings in cases of this category (the SBI, the National Police of Ukraine, the Economic Security Bureau of Ukraine, the SBU and the NABU). Table 2 shows not only the total number of recorded proceedings, but also indicators relating to their procedural completion: cases referred to court, number of persons found guilty, cases of exemption from punishment and imposition of actual imprisonment. This approach allows us to assess not only the extent of official crimes, but also the effectiveness of law enforcement agencies in documenting them and bringing them to trial. The inclusion of long-term dynamics makes it possible to track consistent trends and identify weaknesses in the criminal procedural model of responding to offences in the sphere of official activities.

Table 2. Dynamics of criminal proceedings under specific articles of Section XVII of the Criminal Code of Ukraine from 2021-2024

Article of the criminal code	Year	Recorded Cases	Sent to Court	Convicted	Exempt from Punishment	Actual Imprisonment
364 (Abuse of Power or Official Position)	2021	3,955	183	4	2	0
	2022	2,214	160	3	0	1
	2023	2,983	634	5	1	1
	2024	2,345	188	9	0	0
365 (Exceeding Power or Official Duties by a Law Enforcement Officer)	2021	1,918	26	3	2	1
	2022	1,082	13	2	2	0
	2023	1,256	75	12	5	6
	2024	1,193	13	8	4	3
367 (Official Negligence)	2021	1,978	250	26	16	0
	2022	1,239	161	41	29	1
	2023	1,784	240	53	42	2
	2024	1,894	247	35	23	1
368 (Receiving Unlawful Benefit)	2021	1,556	255	99	2	9
	2022	988	121	65	3	5
	2023	1,403	237	92	9	10
	2024	1,640	365	80	2	4

Source: compiled by the author based on Crime Data Lab (n.d.)

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[2] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2341-14#Text.
[3] Ibidem, 2001.

The analysis of the data presented above reveals several key trends. Firstly, the highest number of recorded cases are found under Articles 364 and 367 of the CCU[1]; however, the actual number of convictions in these cases remains relatively low, indicating difficulties in gathering evidence and proving guilt. Secondly, crimes under Article 365 show a similar trend: despite having over a thousand cases annually, the number of actual punishments in the form of imprisonment is minimal. Thirdly, the most effective cases are those concerning the receipt of unlawful benefits (Article 368), which show the highest number of convictions and a significant share of actual imprisonment sentences, indicating stronger evidence density and greater societal harm associated with these offenses. Fourthly, there is a clear imbalance between the scale of registered criminal offenses and their procedural completion, highlighting systemic barriers in investigating official misconducts. Consequently, improving the effectiveness of criminal prosecution in this area requires the enhancement of methodological approaches to proving guilt, as well as the clarification of legislative norms regulating responsibility for official misconducts.

Analysis of the annual reports of the State Bureau of Investigation (2022; 2023; 2024; 2025) from 2021-2024 shows the consistent development of issues related to official crimes in criminal proceedings and reveals institutional limitations in implementing jurisdiction. In 2021, the majority of cases involved Articles 364 and 367 of the CCU. However, only a small portion of these cases were concluded with indictments, indicating challenges in proving intent and problems with proper documentation of official activities. The SBI emphasised the high closure rate of cases, which raised doubts about the effectiveness of mechanisms for holding public officials accountable. The 2022 report confirmed the persistence of this trend: the majority of cases were related to official negligence, while the actual procedural completion remained minimal (State Bureau of Investigation, 2023). The highest effectiveness was observed in corruption-related crimes, particularly under Article 368 of the CCU, which indicated a relatively better evidence base for cases involving unlawful benefits. At the same time, cases under Article 365 (exceeding authority) showed a noticeable imbalance between the number of registered cases and convictions. This further confirmed the low effectiveness of this norm, which remains challenging for law enforcement due to unclear boundaries between criminal and disciplinary liability. In 2023, the official report from the State Bureau of Investigation (2024) attempted to explain the causes of low effectiveness. Key factors included personnel instability, insufficient material and technical resources, and jurisdictional duplication with other law enforcement agencies (NABU, SBU, National Police). These issues complicated the evidence-gathering function and diverted resources to investigating high-profile cases, while a significant portion of cases was closed. Therefore, the report emphasised the institutional nature of these difficulties, which cannot be overcome by investigative practice alone, but require changes in management approaches and inter-institutional coordination. Finally, in 2024, the situation was further influenced by martial law (State Bureau of Investigation, 2025). The number of cases related to official negligence sharply increased due to increased pressure on government bodies and decision-making in crisis conditions. At the same time, the effectiveness under Article 365 remained critically low, with only a few cases leading to convictions. Conversely, cases under Article 368 showed relatively higher evidentiary effectiveness. Notably, this report marked the first clear indication of a strategic direction for improvement: the digitalisation of processes, standardisation of evidentiary procedures, and harmonisation of jurisdictional regulation, which indicated the gradual formation of a concept for institutional strengthening of the SBI.

The relevance of studying the investigation practices of criminal proceedings by various pre-trial investigation bodies is driven by the need to clarify the effectiveness of jurisdictional implementation and proper documentation of official misconducts. Under martial law and institutional transformations, the criminal justice system faces additional challenges, concerning both the evidentiary base and the normative delineation of competencies. Therefore, the analysis of cases investigated by the National Police and the Bureau of Economic Security becomes particularly significant, as it enables the evaluation of the effectiveness of inter-institutional interaction and the identification of problem areas in law enforcement. To illustrate this, Table 3 provides data on criminal proceedings under specific articles of Section XVII of the CCU[2] (364, 365, 367, 368), investigated by the National Police and the Bureau of Economic Security from January to July 2025 (Office of the Prosecutor General, n.d.). Table 3 reflects the number of indictments sent to court and the number of closed criminal proceedings, allowing for a comparison of procedural effectiveness. Analytical assessment for each Article identifies key problems and patterns that arise when documenting these offenses.

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2341-14#Text.
[2] Ibidem, 2001.

Table 3. Criminal proceedings under specific articles of the Criminal Code of Ukraine, investigated by the National Police of Ukraine and the Bureau of Economic Security of Ukraine (January-July 2025)

Pre-trial investigation body	Article of the Criminal Code and offense	Number of indictments sent to court	Number of closed criminal proceedings	Analytical assessment
National Police of Ukraine	Article 364 – Abuse of Power or Official Position	152	1,220	One of the most common types of official crimes; the high share of closed cases indicates difficulties in proving intent and qualification.
	Article 365 – Exceeding Power or Official Duties	1	34	A small number of indictments; the difficulty lies in proving the exceeding of powers, leading to the closure of a significant portion of cases.
	Article 367 – Official Negligence	442	527	A significant number of registered cases, but a high level of closures due to problems establishing the causal link between actions and consequences.
	Article 368 – Receiving Unlawful Benefit	1,702	843	A category with relatively more indictments; indicates a better evidence base and the priority of fighting corruption.
Bureau of Economic Security of Ukraine	Article 364 – Abuse of Power or Official Position	9	20	The Bureau's competence covers offenses with a pronounced economic nature; however, the effectiveness of procedural completion remains low.

Note: BEB – Bureau of Economic Security. "Indictments" – cases where the pre-trial investigation was completed with an indictment sent to court; "Closed Proceedings" – cases closed according to Article 284 of the CPC of Ukraine

Source: compiled by the author based on Office of the Prosecutor General (n.d.)

The data in Table 3 demonstrate significant differences in the dynamics of procedural completion of cases under various articles of the CCU[1]. The majority of cases involve crimes related to unlawful benefits (Article 368), where a relatively high level of indictments is observed, indicating a better evidence base and societal priority for these cases. Meanwhile, Articles 364 and 367 show the highest levels of case closures, reflecting systemic difficulties in proving intent and establishing causal links. The exceptionally low level of effectiveness is observed in cases under Article 365, where isolated indictments contrast with dozens of closed cases, confirming the challenges in proving the exceeding of authority. The Bureau of Economic Security's work in investigating abuse of power highlighted the need for specialisation in economic crimes; however, the large proportion of closed cases casts doubt on the effectiveness of this approach. Ultimately, the structure of the indicators suggests the need to strengthen methodological approaches in investigating official crimes and harmonise the regulation of jurisdiction.

Moreover, to qualitatively illustrate the identified patterns, judicial practices and academic research were analysed, including works on procedural aspects of appointing and replacing prosecutors in criminal proceedings concerning official misconduct (Amelin, 2024). The results of this analysis confirmed that proper procedural guidance directly influences the effectiveness of pre-trial investigations. It was found that criteria for appointing or replacing a prosecutor (objective – complexity of the case, public resonance; subjective – specialisation, experience, workload) determine the quality of jurisdiction implementation, the timeliness of procedural decisions, and the effectiveness of public prosecution. Optimising the procedural appointment of prosecutors is an important prerequisite for eliminating risks of overlapping functions between various pre-trial investigation bodies and ensuring a unified criminal process logic.

In the analytical context, particular attention is drawn to the coordination of operational support and adherence to jurisdictional rules. An illustrative example is Case No. 275/271/17[2] (Part 4 of Article 368 of the CCU), where the Zhytomyr Court of Appeal ruled that the investigation of an official crime was conducted by prosecution bodies, which lost their relevant powers after NABU was established. As a result, the collected evidence was deemed inadmissible, and the criminal case was closed. Similar cases confirm that violations of jurisdictional requirements

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2341-14#Text.

[2] Judgment of the Appeal Court of Zhytomyr in Case No. 275/271/17. (2025, July). Retrieved from. https://reyestr.court.gov.ua/Review/128777882.

have direct consequences for the legality of the evidence process and the final outcomes of the investigation. Therefore, improving normative regulation of inter-institutional cooperation, including through the digitalisation of data exchange, standardisation of qualification approaches, and algorithmisation of jurisdictional procedures, is a key direction for improving the effectiveness of criminal prosecution in official crimes.

Thus, the formulated provisions substantiate the need for a systematic assessment of organisational mechanisms of inter-institutional interaction as part of the law enforcement capacity of the SBI in the field of official crimes. Further exploration of this aspect will deepen the analysis of the effectiveness of coordination between pre-trial investigation bodies in cases involving individuals with powers of authority.

Results of the SBI and Prosecutor's Office interaction in official crimes cases (based on punishment statistics). The established procedural interaction between the SBI and the prosecution bodies is considered one of the key factors in ensuring the proper functioning of criminal proceedings mechanisms in cases involving official crimes. Coordinated decision-making at the pre-trial investigation stage increases responsiveness to offenses, minimises the risk of losing evidence, and helps maintain legal clarity and consistency in the evidence process. The need for such cooperation is heightened in complex cases that require the use of coercive procedural measures, the involvement of operational units, or involve jurisdictional issues.

For a deeper assessment of the effectiveness of investigations into official crimes, it is useful to analyse not only the quantitative indicators of case transfers but also the results of their judicial review. The statistics of imposed real punishments are of particular importance as they reflect the final result of interaction between investigative bodies and procedural leaders. Table 4 presents data on the imposition of real punishments under Articles 364, 365, 367, 368 CCU[1] from 2021-2024, allowing tracking the dynamics of applying real punishments based on the crime composition.

Table 4. Imposition of real punishments under Articles 364, 365, 367, 368 of the Criminal Code of Ukraine (2021-2024)

Year	Article of the Criminal Code of Ukraine	Imposition of real punishment					
		Imprisonment	Arrest	Fine	Restriction of liberty	Corrective labour	Service restrictions for military personnel
2021	Article 364	0	2	0	0	0	0
	Article 365	1	0	0	0	0	0
	Article 367	0	0	8	1	1	0
	Article 368	9	6	82	0	0	0
2022	Article 364	1	2	0	0	0	0
	Article 365	1	0	10	1	0	0
	Article 367	0	0	0	0	0	0
	Article 368	5	4	53	0	0	0
2023	Article 364	1	1	1	0	0	1
	Article 365	6	0	1	0	0	0
	Article 367	2	0	9	0	0	0
	Article 368	10	1	52	0	0	0
2024	Article 364	0	2	0	0	0	1
	Article 365	3	0	1	0	0	0
	Article 367	1	0	11	0	0	0
	Article 368	4	0	73	0	0	0

Source: compiled by the author based on Crime Data Lab (n.d.)

Analysis of Table 4 shows the uneven application of real punishments for specific articles of Section XVII of the CCU[2]. The highest number of imprisonment cases are recorded for offenses related to exceeding authority (Article 365) and receiving unlawful benefits (Article 368), which is explained by the high level of public danger of these actions and the concentration of evidence in these cases. On the other hand, in cases of official negligence (Article 367) and abuse of power (Article 364), the dominant practice is the use of fines or milder types of punishment (arrest, corrective labor), reflecting the difficulty in proving intent and establishing a direct causal link between the actions of officials and the negative consequences. Notably, there is a steady increase in fines under Article 368 of the CCU from 2021-2024, indicating a trend towards replacing actual imprisonment with financial sanctions. Overall, the dynamics

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2341-14#Text.

[2] Ibidem, 2001.

confirm the imbalance between the volume of detected crimes and the severity of imposed punishments, emphasising the need for the unification of punishment practices and strengthening procedural interaction between the SBI, prosecutors, and courts.

At the same time, an important aspect remains the nature of the interaction between the SBI and prosecution bodies when making key procedural decisions. Although the law provides for the possibility of creating joint investigative groups and coordination mechanisms, their practical application remains limited. In most proceedings, a vertical decision-making model is maintained, with the prosecutor playing the leading role, while the SBI functions as a pre-trial investigation body. This creates an imbalance between the autonomy of investigators and the supervisory function of the prosecutor, limiting the potential for horizontal interaction and joint planning of investigations in official crimes cases.

Given this, strategic cooperation between law enforcement bodies remains underdeveloped. There is a lack of a centralised information platform that would enable comprehensive monitoring of official crimes and risk prediction. In this context, the development of digital tools to support joint decision-making and enhance the analytical capacity of the SBI in evidence forecasting, digital support for proceedings, and standardisation of investigative actions is a key task.

Proposals for improving the legislative and institutional regulation of the SBI's activities in the field of official crimes. One of the key challenges in regulating the SBI's activities in counteracting official offenses is the presence of normative contradictions between the provisions of the Criminal Procedure Code of Ukraine[1] and Law of Ukraine No. 794-VIII[2]. he analysis indicates the fragmentary and non-systematic regulation of certain aspects of jurisdiction, procedural interaction with the prosecutor, the scope of investigators' functional rights, and the elements of organisational autonomy of the SBI. This disharmony reduces procedural certainty, increases the likelihood of jurisdictional conflicts, and complicates the practical implementation of powers at the pre-trial investigation stage.

To identify the most problematic areas of normative gaps between the Criminal Procedure Code of Ukraine No. 794-VIII[3] it is advisable to provide a comprehensive summary of the relevant legal provisions, noting the nature of the identified gaps and formulating a direction for overcoming them. This approach will not only systematise contradictions but also allow the use of these findings within legislative initiatives to improve criminal procedural regulation. For this purpose, Table 5 presents the structure of the normative intersection of these acts, identifies critical points of legal tension, and suggests conceptual models for their resolution.

Table 5. Contradictions between the provisions of the Criminal Procedure Code of Ukraine and the Law "On the State Bureau of Investigation" in the field of investigating official crimes and proposals for their elimination

Category of the problem	Article of the CPC / Law "On the SBI"	Nature of the contradiction/gap	Proposed direction of changes
Jurisdiction	Article 216 Criminal Procedure Code of Ukraine[4] vs Article 7 Law of Ukraine No. 794-VIII[5]	Lack of clear criteria for the division of competence between the SBI, NABU, SBU, and the National Police in cases involving both official and corruption offenses	Clarification of Article 216 of the Criminal Procedure Code of Ukraine by establishing a unified algorithm for resolving jurisdictional disputes between pre-trial investigation bodies without creating a separate section of the Code.
Investigative powers	Article 40 Criminal Procedure Code of Ukraine[6] vs Article 7 Law of Ukraine No. 794-VIII[7]	Lack of an agreed list of rights of investigators and procedural guarantees of their independence	Amendments to Article 40 of the CPC to include guarantees of functional autonomy for investigators.
Procedural interaction	Article 36 Criminal Procedure Code of Ukraine[8] vs Article 7 Law of Ukraine No. 794-VIII[9]	Lack of a formalised procedure for agreeing on joint investigative actions with the prosecutor	Establishment of a procedure for joint investigation planning in the CPC.

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[2] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[3] Ibidem, 2015.
[4] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[5] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[6] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[7] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[8] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[9] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.

Table 5. Continued

Category of the problem	Article of the CPC / Law "On the SBI"	Nature of the contradiction/gap	Proposed direction of changes
Notification of suspicion	Article 276 Criminal Procedure Code of Ukraine[1] vs Article 7 Law of Ukraine No. 794-VIII[2]	Lack of a defined procedure for agreeing on the transfer of a criminal case between pre-trial investigation bodies before notification of suspicion	Clarification in Article 276 of the CPC of the procedure for agreeing with the prosecutor on the decision to transfer a criminal case to another pre-trial investigation body before the notification of suspicion.
Operational autonomy	Not in the CPC /Article 7 Law of Ukraine No. 794-VIII[3]	The law only contains a declarative provision about organisational independence	Enhancement of the provisions in the Law "On the SBI" that detail the implementation of SBI's operational support and harmonise it with the general provisions of the Law of Ukraine No. 2135-XII "On Operational and Investigative Activities"[4] and Law of Ukraine No. 580-VIII[5]

Note: identified contradictions are grouped by key elements: jurisdiction, powers, interaction, guarantees, and functional autonomy
Source: compiled by the author

Table 5 demonstrates five key clusters of normative inconsistencies that objectively limit the implementation of the functions of the SBI within pre-trial investigation. The most pronounced problems are found in the area of jurisdiction, particularly in cases that combine features of official and corruption offenses, which complicates the identification of the competent body and requires a clear algorithm for resolving jurisdictional disputes between pre-trial investigation bodies. The powers of the SBI investigators, as established in the relevant law, partially do not correspond with the provisions of the Criminal Procedure Code of Ukraine, which reduces the predictability of law enforcement and complicates judicial review of procedural actions. The insufficient regulation of the procedural interaction mechanism with the prosecutor's office causes fragmentation in its implementation and dependence on the individual practices of separate investigators and prosecutors.

The institutional capacity of the SBI in the field of combating official offenses is determined not only by the availability of normative powers but also by the ability to implement them in an inter-agency environment, which is characterised by the distribution of powers and the interdependence of investigative actions. The analysis of the SBI's operational practice from 2021 to 2024 allowed for the identification of several internal institutional barriers that have a systemic nature and negatively affect the effectiveness of investigations. These include issues related to staffing, limited analytical support, duplication of powers with neighboring bodies, as well as difficulties in organising operational support. The identification of cause-and-effect relationships between these limitations and the effectiveness of the cases allowed for their structuring in the comparative format of Table 6, which can serve as the basis for further organisational changes.

Table 6. Typical institutional barriers in the SBI's work, their consequences, and proposals for elimination

Institutional limitation	Consequences for the SBI practice	Proposals for elimination
Need to improve cooperation between investigators and operational units of the SBI to ensure comprehensive support of criminal proceedings	Difficulty in coordinating operational support between various structural divisions during pre-trial investigation	Optimisation of normative regulation for the activities of the SBI's operational-analytical departments and strengthening their cooperation with other structural divisions
Limited access to analytical and informational resources	Low level of evidential substantiation in complex cases	Implementation of an automated risk-analysis system in cooperation with the Prosecutor General's Office
Duplication of functions with other agencies (NABU, SBU)	Jurisdictional conflicts, delays in decision-making, procedural competition	Development of an interagency regulation for cooperation and a unified algorithm for determining jurisdiction

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[2] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[3] Ibidem, 2015.
[4] Law of Ukraine No. 2135-XII "On Operational and Investigative Activities". (1992, Februrary). Retrieved from https://zakon.rada.gov.ua/laws/show/2135-12#Text.
[5] Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19.

Table 6. Continued

Institutional limitation	Consequences for the SBI practice	Proposals for elimination
Lack of a unified educational-methodological center	Uneven training of investigators and absence of a system for upgrading qualifications	Creation of a permanent educational center at the SBI with the involvement of academics and practitioners
Insufficient digital infrastructure	Difficulty in digital exchanges with other bodies, delays in transmitting materials	Integration of the SBI into a unified criminal justice information platform (eJustice)

Source: compiled by the author based on Criminal Procedure Code of Ukraine1, Law of Ukraine No. 794-VIII[2], Law of Ukraine No. 1697-VII[3]

Table 6 shows a wide range of organisational and functional factors that affect the effectiveness of the SBI's activities in the context of combating offenses in the public sector. The current operational support system allows for comprehensive recording of events that suggest criminal activity but needs further improvement in its interaction with investigative units. Developing the analytical direction of the SBI's work will help create more substantiated investigative versions and improve the accuracy of legal qualifications. Jurisdictional conflicts with NABU and SBU continue to create risks of overlapping procedural actions and delays in investigations, requiring normative regulation of jurisdictional issues. At the same time, ensuring the appropriate level of professional training of staff and digital integration remains crucial for creating a unified approach to investigations and improving inter-institutional communication. Expanding the analytical and digital capabilities of the SBI will contribute to enhancing its institutional autonomy and strengthening its role in the criminal justice system. Regarding the activities of prosecution bodies, the priority area of improvement should be ensuring continuous oversight within criminal proceedings, particularly in cases involving high-ranking officials. Using public tools to track prosecutor rotations in high-profile cases will promote procedural transparency and increase trust in the institution of procedural guidance. Moreover, forming a system of effectiveness indicators for prosecutor supervision – particularly based on the timeliness of decision approvals, the justification of suspicions, and the share of convictions – will allow for empirical monitoring of the quality of supervision.

The academic community is increasingly calling for improvements in forensic methods used in investigating abuses of power. Developing analytical models to establish intent within administrative activities, assessing official risks, and forming algorithms to verify managerial decisions as potential offenses are promising directions for interdisciplinary research. These developments should be adapted to the practical needs of pre-trial investigation bodies and integrated into professional training systems. In this context, law school curricula need updating to reflect current challenges. Integrating educational modules focused on investigating official misconduct, procedural ethics, the typology of public servants' behavior, legal evaluations of managerial actions, and the use of digital evidence will contribute to forming practice-oriented competence in graduates. Involving experts with practical experience in the SBI and prosecution will ensure a closer connection between theory and professional practice. Thus, the modernisation of the legislative and organisational model of the SBI in combating corruption offenses should be carried out within a comprehensive state strategy for legal transformation. Reforming this body should be viewed as part of a broader process of institutional renewal within the criminal justice sector, aiming to harmonise autonomy, accountability, and effectiveness. The directions proposed in the study should be synchronised with national anti-corruption policies and the processes of adapting international standards in law enforcement.

Discussion

The analysis of the legal framework revealed several inconsistencies between the provisions of the Criminal Procedure Code of of Ukraine[4] and Law of Ukraine No. 794-VIII[5], which limited the effective functioning of the pre-trial investigation body in cases of official crimes. The absence of a clear jurisdictional algorithm created a foundation for overlapping investigative powers between the SBI, NABU, SBU, and other law enforcement agencies, complicating cases involving multiple categories of public officials from different departments. On an empirical level,

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[2] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.
[3] Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18.
[4] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/4651-17#Text.
[5] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19.

there was a predominant occurrence of cases being closed before the completion of pre-trial investigations, particularly under Articles 364, 365, and 367 of the CCU[1]. This trend could be attributed to limited evidentiary capabilities as well as procedural obstacles. The identified trends regarding the transfer of criminal cases to other investigative bodies highlight gaps in institutional division of powers and insufficient normative detail regarding jurisdiction in cases involving corruption-related offenses. Moreover, the internal structure of the SBI provides an adequate level of operational support, which is implemented through the activities of the Main Operational Directorate, the Internal Control Department, and the operational units of the SBI's territorial offices, which support each other within criminal cases. Thus, the issue may not be a lack of autonomy but the need for further improvement of the normative support for the interaction between the central apparatus and territorial subdivisions. The combination of these circumstances calls for a revision of current regulations to eliminate fragmentation, simplify procedures, and enhance institutional effectiveness within the SBI's function.

The assessment of the implementation of procedural leadership in criminal proceedings for official crimes, based on statistical data, showed a significant level of closure of criminal cases under Articles 364, 365, and 367 of the CCU before their submission to court, indicating deep-rooted problems in the system of evidence gathering. A comparison of the results with A. Hendricks' (2021) research allowed the identification of similar barriers in several jurisdictions related to the inefficiency of tools for documenting offenses committed by public officials. The study emphasised difficulties in documenting misconduct by law enforcement personnel at the early stages of proceedings, which contributed to evading accountability. Similarly, the analysis of Ukrainian practices confirmed that a significant proportion of closed cases within the SBI were due to procedural flaws, aligning with A. Hendricks' conclusions regarding the vulnerability of response mechanisms to imperfect legal support.

A particular focus in academic literature has been placed on the issue of re-notification of suspicion after the court cancels the previous decision, especially in cases where such a notification is made without updating the evidence base. In the work of R. Lubis & H. Sulaiaman (2024), this practice is considered as violating the principle of legal certainty and conflicting with the criteria of proper procedural regulation. Summarising the approaches presented, it indicates the need for normative clarification of the procedures for re-notification of suspicion and strengthening the prosecutor's supervision over compliance with pre-trial investigation standards.

The analysis of the functional characteristics of the current model for proceeding with official crime cases revealed institutional dysfunctions related to the imperfect delineation of powers between bodies conducting pre-trial investigations and the limited level of procedural autonomy within the SBI. These issues were especially relevant in the context of investigating actions involving individuals in higher levels of public power or those with political sensitivity. Similar challenges were highlighted in A. Raza *et al.* (2021) study on transformative processes in Pakistan's criminal-legal environment. The authors noted that weak normative stability, limited participation of prosecutorial bodies in pre-trial case oversight, and lack of transparent procedural standards negatively affected the effectiveness of law enforcement. The results obtained within the Ukrainian context confirmed the relevance of these conclusions: the deficit in procedural control, the vagueness in defining jurisdictional competence, and the fragmentation of institutional architecture hindered the proper use of legal means in investigating official crimes.

The issue of interaction between investigators and prosecutors in criminal cases related to public service has become more pronounced amid growing societal attention to cases of official corruption. In the study by S. Lal *et al.* (2023), an analytical assessment was made of the impact of the prosecutor's role on the effectiveness of justice system functions, particularly within Pakistan's criminal justice system. The authors concluded that the insufficient level of procedural leadership and the passive position of prosecutors contributed to an increase in acquittals and a decline in public trust in justice institutions. The empirical data collected in this study aligned with these conclusions, as a lack of involvement by prosecutors in forming the evidence base was also observed, as evidenced by the prevalence of case closures for official offenses.

The evaluation of the level of digitalisation in anti-corruption investigation processes identified shortcomings in the infrastructure supporting investigative activities. In F. Odilla's (2023) study, the introduction of algorithmic solutions in the fight against corruption was analysed, and it was found that the effectiveness of such technologies directly depended on the level of digital integration of institutions. The authors emphasised that in the absence of legal oversight and inter-agency coordination, the implementation of digital solutions was limited. The findings of this study, which showed insufficient access for the SBI to centralised analytical platforms, coincided with F. Odilla's conclusions about the risks

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2341-14#Text.

of fragmented digital infrastructure in the area of corruption prevention. In C. Lum *et al.* (2021), the effectiveness of response by nine police agencies to citisen calls was analysed, and it was established that the lack of clear resource allocation algorithms, staff shortages, and insufficient planning reduced the quality of initial responses. Comparing these conclusions with the internal organisation of the SBI revealed similar problems, particularly the insufficient integration of operational-analytical groups into the structure of investigative units, which complicates ensuring the continuity of the investigative process in the face of limited time resources.

The interaction between the SBI and other criminal justice institutions remained complicated due to overlapping powers, the absence of standardised algorithms for joint actions, and the lack of alignment in digital infrastructure. In G. Onyango's (2025) study, the main social barriers to the implementation of joint inter-agency projects in the public sector were identified, including low levels of inter-institutional trust, differing objectives, and procedural misalignment. Identical factors were identified in the conducted study, confirming the need for the development of agreed-upon procedures for partnership interaction in anti-corruption criminal cases. The analysis of the institutional foundations for combating abuse of power confirmed the need for the functioning of an anti-corruption body within a stable legal environment and guaranteed investigative autonomy. This position was confirmed in M. Marona & F. Kerche's study (2021), which analysed the transformation of the anti-corruption institutional architecture in the context of the implementation of "Operation Lava Jato". The study substantiated that the ability of investigative bodies to uncover large-scale official abuses directly depended on the combination of a normatively regulated mandate and organisational independence. The empirical data gathered in this study confirmed the relevance of this thesis, as the influence of the SBI's limited autonomy and unclear procedural powers on the effectiveness of investigating complex criminal cases was recorded.

An evaluation of procedural difficulties in anti-corruption cases revealed systemic delays related to misaligned procedures and excessive requirements for evidence justification. J. Huang *et al.* (2024) presented a methodological approach to resolving the dilemma between material and procedural law in transnational anti-corruption regulation. The authors emphasised the need to balance the effectiveness of prosecution with the adherence to standards of evidence. The findings of this study regarding the duration of investigations and the difficulties in forming evidence bases for official crimes were consistent with the stated position. The evaluation of the effectiveness of procedural and organisational changes introduced within the reform revealed the limited impact of normative innovations on the effectiveness of anti-corruption activities. In Z. Guo's (2023) study, the consequences of the adoption of the Oversight Law in China were analysed, pointing out the formalism of reforms without actual provision of functional independence for empowered bodies. The author concluded that without autonomy in investigative actions, trust in anti-corruption policy remained limited. A similar trend was observed in this research: the structural changes introduced within the SBI's organisation did not provide the expected effect due to the preservation of hierarchical dependence and the limited tools for independent response.

J.W.C. Lee's (2023) study analysed the impact of an anti-corruption body's institutional status on its functional independence. The author noted that bodies integrated into the executive branch structure had reduced capabilities for prosecuting high-ranking officials. Comparing these conclusions with the characteristics of the SBI's activities pointed to organisational limitations, particularly in staffing policies and procedural leadership, which may limit the ability to effectively investigate politically sensitive cases. In N. Ardiansyah *et al.* (2025) study, the legal-political paradox that arose in Indonesia due to the transfer of jurisdiction for abuse of power cases to administrative courts was studied. The authors concluded that the unclear separation between political control and judicial oversight reduced the effectiveness of holding individuals accountable. These conclusions provide grounds for critically evaluating Ukrainian practices of judicial oversight over the SBI's actions, particularly in cases involving abuse of power. The analysis of institutional responsibility in investigating offenses related to abuse of office confirmed the need for normative clarity in determining the competence of pre-trial investigation bodies. In S. Biswas's (2024) study, dedicated to evaluating the law on the prevention of land offenses in Bangladesh, it was emphasised that legal certainty is a fundamental condition for the effectiveness of law enforcement. The study revealed that, in the national practice of the SBI, the uncertainty in criminal law formulations hindered the establishment of intent and the fact of harm, especially in the context of official crimes.

Summarising the results regarding the interaction between the SBI and prosecutor's offices highlighted a lack of cohesion in implementing procedural leadership, which affected the consistency of pre-trial investigations. In W. Wu & X. Lin's (2024) study, the reform of prosecutorial powers in China was analysed, particularly the expansion of its jurisdiction beyond classical criminal prosecution. The authors emphasised that the effectiveness of cooperation

depended on a balanced relationship between the prosecutor's autonomy and the mechanisms of procedural control. A similar problem was observed in the study, where difficulties in defining jurisdiction between the SBI and the prosecutor's office hindered the implementation of oversight functions. In the area of responding to complex offenses, limitations associated with the fragmentation of the institutional structure were identified. In the study by P. Suwannakart *et al.* (2025), the consequences of the lack of unified procedures for interaction between law enforcement agencies, which in Thailand led to duplication of functions and delays in proceedings, were analysed. Comparing these conclusions with Ukrainian judicial practices revealed similar challenges in the functioning of the SBI, particularly due to the parallel exercise of powers by the NABU and the SBU in cases requiring clear jurisdictional separation.

Conceptual risks of politicising law enforcement procedures were highlighted in S. Bian's (2023) study, where the concept of "official violations" was suggested as a tool for selective prosecution in a non-transparent oversight system. The study found that in the SBI's practice, in politically sensitive cases, ambiguous legal constructs were used, allowing for changes in qualifications and influencing the volume of the evidence base, thus reducing the objectivity of the process. Aspects of procedural autonomy of investigative bodies were related to S. Ruggeri's (2021) analytical positions, who, in his research on the prosecution institute, emphasised the need to separate investigative and supervisory functions. The study revealed that insufficient organisational independence within the SBI, staffing limitations, and limited access to analytical resources negatively impacted the full execution of investigative powers. These findings aligned with the need to review the institutional subordination model in the direction of strengthening functional independence.

The summary of the conducted analysis confirmed that the effectiveness of the SBI's activities in criminal proceedings related to official duties was determined by the level of normative certainty, institutional autonomy, coordination with other criminal justice bodies, and the ability to adapt to the challenges of digitalisation. The identified problems – ranging from vague jurisdictions and limited access to analytical resources to procedural fragmentation and political influence risks – pointed to the need for a comprehensive update of the organisational-legal model for the SBI's functioning to ensure effective law enforcement in the face of increasingly complex official offenses.

■ Conclusions

This study provided a comprehensive assessment of the SBI's institutional capacity in combating criminal offenses related to official duties, considering statistical, legal, and procedural aspects from 2021 to 2024. A generalised classification of institutional barriers that limited the full implementation of the SBI's powers was proposed, including overlapping jurisdictions, insufficient operational autonomy, and a lack of analytical support.

Based on the data presented in Table 2, it was established that the largest number of criminal cases related to abuse of power and official negligence. The most effective cases in terms of guilty verdicts were those regarding unlawful benefits, indicating relative evidentiary stability in this category. In contrast, cases of abuse of power remained ineffective, while cases of official negligence were marked by a high rate of closure. In all the analysed categories of offenses, there was a significant portion of cases being forwarded for jurisdictional determination, indicating unresolved institutional contradictions in the pre-trial investigation system. This trend negatively affected procedural predictability and investigation timelines. The results outlined typical formats for the SBI's organisational interaction with the prosecutor's office, anti-corruption bodies, and internal security units, highlighting the need for unification of procedures and algorithmisation of jurisdictional decisions.

It is recommended to strengthen the methodological support for investigating official offenses by developing unified protocols for documenting the actions of public officials, as well as creating a mechanism for independent analytical support during pre-trial investigations. Normative elimination of overlapping jurisdiction between the SBI, the NABU, and police units is also advisable. Key limitations of the study include limited access to the full dataset of closed criminal cases and the lack of open information regarding operational-search activities in cases with official characteristics. Some of the statistical data was fragmented due to differences in classification approaches at the inter-agency level. This limited the ability to fully compare with other specialised structures across countries. Future research should focus on comparative analysis of the effectiveness of anti-corruption and criminal prosecution institutions in Central and Eastern European countries to identify universal models of organisational optimisation.

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■ Conflict of Interest

None.

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Державне бюро розслідувань як суб'єкт протидії кримінальним правопорушенням у сфері службової діяльності

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■ **Анотація.** Актуальність дослідження зумовлена необхідністю усунення нормативних неузгодженостей і підвищення ефективності реалізації кримінального переслідування у справах, пов'язаних зі службовою діяльністю, в умовах реформування системи досудового розслідування в Україні. Дослідження охоплює період 2021–2024 років. Такий підхід дав змогу встановити співвідношення інституційної ефективності різних органів досудового розслідування та виявити актуальні проблемні зони юрисдикційного розмежування. Метою дослідження було оцінювання інституційної спроможності Державного бюро розслідувань у контексті протидії кримінальним правопорушенням службового характеру. Методологічну основу становила послідовна комбінація аналізу статистичних показників, нормативно-правової оцінки чинного регулювання та інституційного моделювання взаємодії між органами кримінальної юстиції. Результати кількісного аналізу продемонстрували, що найбільше кримінальних проваджень, підслідних Державному бюро розслідувань, стосувалися зловживання владою (3,955 2021 року) та службової недбалості (1,894 2024 року). Найвищу результативність у частині обвинувальних вироків мали справи про одержання неправомірної вигоди (99 вироків 2021 року), найменшу – провадження щодо перевищення влади (8 вироків 2024 року). Порівняльний аналіз із даними Національної поліції засвідчив, що 2025 року саме за статтею 367 Кримінального кодексу України («службова недбалість») найбільшою є частка закритих проваджень (527 справ), що підтверджує наявність складнощів у доказуванні умислу та кваліфікації діянь. Отримані результати виявили інституційні суперечності у визначенні компетенції органів досудового розслідування та колізій між положеннями Кримінального процесуального кодексу України та спеціальними законами. Проблемним залишається дублювання юрисдикції між Державним бюро розслідувань, Національним антикорупційним бюро України, Службою безпеки України й органами Національної поліції, що ускладнює розмежування повноважень і затягує процес розслідування. Це зумовлює необхідність удосконалення нормативного регулювання та оптимізації процедур документування службових злочинів. Результати дослідження можуть бути використані органами кримінальної юстиції, науковими установами та закладами вищої освіти під час розроблення освітніх і правозастосовних програм

■ **Ключові слова:** розслідування; слідчі підрозділи; процесуальне керівництво; службові злочини; корупційні правопорушення; зловживання службовим становищем; європейські стандарти

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Harmonisation of regulatory capital formation procedures for Ukrainian banks with EU law: Regulatory limits and legal discrepancies

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■ **Abstract.** The study aimed to assess the compliance of Ukrainian rules for capital recognition and adjustment with EU logic to identify the source of differences in actual capital outcomes. The methodology included regulatory and comparative legal analysis combined with functional comparison, structural-logical modelling (comparative matrix) and content analysis of public reporting, which established Ukrainian high convergence with the EU model in the own funds structure according to the prudential outcome criterion and outlined areas of divergence. The study established that the special legal regulation of the EU and Ukraine defines capital as the main safeguard that ensures the absorption of losses in the banking system. The European regulatory framework focuses on the quality of capital and ensuring equal risk measurement between different banks. The Ukrainian legal framework is undergoing active harmonisation with EU law to ensure comparable sustainability results. The analysis determined that Ukrainian banking law demonstrates a high degree of convergence with European law in terms of the distribution of capital between core and supplementary levels. The main differences between the European framework and Ukrainian rules lie in the technical calibration of thresholds and exemptions for capital deductions. Ukraine's regulatory framework for banking groups is less detailed than the corresponding standards in the EU. European legislation contains mechanisms that limit the ability of banks to understate capital requirements through internal models. The introduction of the European regulatory framework directly changes the risk behaviour and credit policy of banking institutions. Ukrainian legislation should focus on procedural convergence and the unification of reporting in line with EU standards. The practical significance is determined by the possible use of results by the National Bank of Ukraine, legislators and banks to improve regulatory procedures and reporting and to increase the comparability of prudential results with the EU regime

■ **Keywords**: Basel III; prudential outcome; own funds; calibration; output floor; procedures

■ Introduction

Regulatory capital acts as a basic safeguard against financial instability, as it ensures the absorption of losses and curbs excessive risk. After the global financial crisis, the focus of capital regulation shifted to capital quality and the comparability of risk measurement. In the finalisation of Basel III, this is implemented through restrictions on the variability of risk weights and "capital savings" from internal models (Basel Committee on Banking Supervision, 2010). In this context, Ukraine, in implementing the updated capital architecture, must ensure its alignment with the EU regime within the framework of European integration. Not only definitions, but also the calibration of thresholds/exceptions/transitional regimes,

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recognition procedures and reporting requirements, which can change the actual prudential outcome and regulatory incentives, are crucial. This justifies the need for a regulatory comparative assessment of convergence limits and key legal differences.

Modern academic discourse demonstrates that the impact of capital regulation is reflected not only in formal adequacy indicators but also in the behavioural responses of banks. D. Ehrenbergerová *et al.* (2022) determined that changes in capital-oriented regulation are reflected in banks' pricing, particularly in lending conditions and the cost of banking products. Hence, even legal and technical differences in the design of capital requirements can create different incentives and different actual prudential outcomes in comparable banking systems. A meta-analysis by S. Malovaná *et al.* (2024) confirmed a systemic link between stricter capital requirements and changes in lending, but showed that the effects depend on the institutional environment and the calibration of the rules. Formal similarity in regulatory design does not guarantee comparability of outcomes, and the assessment of harmonisation must account for the parameters of application (thresholds, exemptions, transitional regimes and procedures).

As shown by J.H. Lang & D. Menno (2025), the impact of changes in capital requirements on lending and bank balance sheets is state-dependent: reactions vary depending on the macro-financial regime and the bank's initial position (in particular, the existence/size of buffers). This approach means that the formal similarity of regulatory constructs does not guarantee a comparable prudential outcome, as this depends on how the rules work in a particular economic environment and what "buffer" conditions they create. J.R. Cummings & K.J. Durrani (2025) determined that banks do not only focus on minimum standards, but also set internal capital targets that determine their actual resilience and capital planning trajectory. In the context of harmonisation, this reinforces the argument that it is necessary to assess not only the legal structure of own funds, but also whether the regulatory regime creates similar incentives to accumulate/retain capital buffers, i.e., whether it ensures outcome comparability in practice.

In the context of Ukraine, O. Dudukalova & H. Matvienko (2024) emphasised that the implementation of Basel III in Ukraine is related not only to formal changes in capital structure but also to practical parameters of application and supervisory expectations. Therefore, comparability with the EU depends on the "operational" implementation of the rules (procedures, calibration, data), and not only on the names of capital levels. Based on data from Ukrainian banks, Y.A. Hladyshchuk (2025) demonstrated that the variability of financial stability and efficiency depends on the capital position and management decisions. This emphasises that harmonisation should be assessed through the ability of standards to produce comparable results in the sector, and not only through the formal convergence of definitions. The study by K. Shtogrīn (2021) notes that the harmonisation of Ukrainian banking legislation with EU law is complicated by the fragmentation of regulation and differences in legal and technical detail. Therefore, "technical" differences (thresholds, exceptions, recognition procedures, reporting) can determine the limits of convergence and influence the actual prudential outcome.

M. Antsyferova & I. Batko (2023) analysed the implementation of banking control/supervision in Ukraine from a legal and procedural perspective and where bottlenecks arise in implementation and adaptation to international standards. This serves as an argument that outcome comparability depends not only on the definitions of own funds, but also on supervisory procedures, enforcement mechanisms and institutional infrastructure. The implementation of the Basel Accords in Ukraine in the context of the financial security of the banking system is considered in the study by V.V. Brytan (2024), which justifies the logic of regulatory changes and outlines the elements of Basel that are relevant for integration into Ukrainian regulation. This approach provides scientific support for the context of Basel III finalisation and justifies the criticality not only of the formal capital structure, but also of the parameters/calibration that affect the prudential outcome. The study by L.Ya. Sloboda & V.M. Koval-Ignatyshina (2022), devoted to the management of Ukrainian banks' own capital in a state of martial law, outlined the challenges and priorities of capital management relevant to maintaining capital adequacy. This emphasises that the assessment of regulatory harmonisation should incorporate the institutional context and capital management practices, as they affect the outcome comparability of regulatory requirements.

However, the absence of a comprehensive legal assessment of the actual comparability of Ukrainian capital formation rules with the EU regime, specifically in terms of the "output" (actual prudential outcome), is still relevant, including calibration, recognition procedures, consolidation rules and reporting infrastructure. Therefore, the study aimed to establish the limits of comparability between Ukrainian capital regulation and EU law by analysing the impact of technical calibration on the amount of own funds and prudential incentives for banks. To achieve this goal, the following tasks were set: to systematise the regulatory framework of the EU and Ukraine that determines the composition/quality of own funds and prudential adjustments, with a focus on the legal and technical parameters that affect the actual result; operationalise the criterion of "equivalence of

prudential outcome" for assessing the comparability of regulatory regimes, identify "areas of potential non-comparability" and outline their practical implications for Ukraine.

Materials and Methods

The study was based on a comprehensive approach with functional comparison to assess the approximation of Ukrainian regulatory capital regulation to the EU model in the context of Basel III. The hierarchy of the regulatory capital model in the EU and Ukraine was reconstructed through regulatory and documentary analysis and comparative legal methods: the levels of regulation and legal force of acts were identified, norms were grouped by function in the own funds model, and the corresponding levels were compared to identify areas of convergence and sources of divergence. The EU was chosen as a jurisdiction with a codified and institutionally supported own funds model (Level 1-2 + reporting/interpretation), and Ukraine as a system with a legislative mandate and subordinate methodology of the National Bank of Ukraine, which can be used to assess convergence and differences at the level of norms and procedures. The EU regulatory framework was based on Regulation of the European Parliament and of the Council No. 575/2013 of 26 June 2013 "On Prudential Requirements for Credit Institutions and Investment Firms and Amending Regulation (EU) No. 648/2012"[1], Regulation of the European Parliament and of the Council No. 2024/1623 "Amending Regulation (EU) No. 575/2013 on Prudential Requirements for Credit Institutions and Investment Firms"[2], Directive of the European Parliament and Council No. 2024/1619 "Amending Directive 2013/36/EU as Regards Supervisory Powers, Sanctions, Third-Country Branches, and Environmental, Social and Governance Risks"[3]. Commission Delegated Regulation No. 241/2014 "Supplementing Regulation (EU) No. 575/2013 with Regard to Regulatory Technical Standards for Own Funds Requirements for Institutions"[4], European Banking Authority (2024), Basel Basel Committee on Banking Supervision. (2019A) were analysed. Basel Committee on Banking Supervision (2019b), European Banking Authority (2015) were also addressed. For analysis of Ukrainian context, Law of Ukraine No. 679-XIV "On the National Bank of Ukraine"[5], Law of Ukraine No. 2121-III "On Banks and Banking Activity"[6] were addressed. Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine"[7] and the official announcement of the National Bank of Ukraine (2024) was analysed. The choice of sources is determined by the coverage of the complete regulatory "chain" of regulatory capital formation, which was used for comparison of Ukraine with the EU in terms of technical detail and application/verification mechanisms. For empirical verification of implementation in Ukraine, a content analysis method was applied to the public reporting of OTP Bank Joint Stock Company (JSC) (2024) and PrivatBank Commercial Bank JSC (2024) to confirm the transition to the updated regulatory capital structure and its correspondence with adequacy standards. The fact/date of the transition, the availability of quantitative disclosures of capital and standards, as well as the format of disclosure, which determines the possibility of reconstructing the level structure of capital, were recorded. The OTP report was used as an example of parametric confirmation, while the PrivatBank report was used to identify process disclosure and its limitations for reconstructing the structure based on a single source. The year 2024 was selected due to the transition from 05.08.2024 to record the new structure in the annual reports, establish a link with adequacy standards, and verify the implementation of the reconstructed model in Ukraine.

[1] Regulation of the European Parliament and of the Council No. 575/2013 "On Prudential Requirements for Credit Institutions and Investment Firms and Amending Regulation (EU) No. 648/2012". (2013, June). Retrieved from https://op.europa.eu/en/publication-detail/-/publication/c7d371d1-9e7b-11e9-9d01-01aa75ed71a1.

[2] Regulation of the European Parliament and of the Council No. 2024/1623 "Amending Regulation (EU) No. 575/2013 on Prudential Requirements for Credit Institutions and Investment Firms". (2024, May). Retrieved from https://eur-lex.europa.eu/eli/reg/2024/1623/oj/eng.

[3] Directive of the European Parliament and Council No. 2024/1619 "Amending Directive 2013/36/EU as Regards Supervisory Powers, Sanctions, Third-Country Branches, and Environmental, Social and Governance Risks". (2024, May). Retrieved from https://eur-lex.europa.eu/eli/dir/2024/1619/oj/eng.

[4] Commission Delegated Regulation No. 241/2014 "Supplementing Regulation (EU) No. 575/2013 with Regard to Regulatory Technical Standards for Own Funds Requirements for Institutions". (2014, January). Retrieved from https://op.europa.eu/en/publication-detail/-/publication/9bcf2cc6-007a-11ee-87ec-01aa75ed71a1/.

[5] Law of Ukraine No. 679-XIV "On the National Bank of Ukraine". (1999, May). Retrieved from https://zakon.rada.gov.ua/laws/show/679-14.

[6] Law of Ukraine No. 2121-III "On Banks and Banking Activity". (2000, December). Retrieved from https://zakon.rada.gov.ua/laws/show/2121-14.

[7] Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine". (2023, December). Retrieved from https://bank.gov.ua/admin_uploads/law/28122023_196.pdf?v=12.

To assess the regulatory limits for harmonising Ukraine's regulatory capital with EU law, a comparative matrix was constructed using structural-logical modelling to compare the rules for formation of own funds by block: capital structure, quality/loss absorption, prudential deductions, inclusion of profits, consolidation and non-controlling interests, technical standards and supervisory reporting, as well as Basel III finalisation (output floor). The elements were included in the matrix based on their direct regulatory significance for the composition/quality of own funds, mechanisms for controlling the application and ensuring the comparability of RWA (output floor). This was done to structure the comparison of EU and Ukrainian regulations on own funds/regulatory capital and to identify points of convergence and limits of legal differences. Based on the results of the comparative matrix, a comparative legal and regulatory-documentary analysis was used to determine the degree of Ukraine's approximation to EU standards and typical legal differences. For each element of regulation (capital structure, quality/loss absorption, deductions, inclusion of profits, consolidation, technical standards and reporting, Basel III finalisation/output floor), EU regulations and Ukrainian acts were compared, with differences in material requirements, calibration and application procedures being noted. Next, the elements are assigned a level of approximation and type of divergence based on the criterion of prudential outcome equivalence ("high/medium-high/medium/partial-uncertain/low-absent"). These categories were developed by the author to categorise the degree of approximation and systematise the results of the comparative analysis. Its limits are determined by the criterion of prudential outcome equivalence: the level increases with the convergence of material definitions and the structure of own funds and comparable calibration, and decreases when the outcome depends on recognition/consolidation/reporting procedures or when a key comparability mechanism (in particular, the output floor) is missing. This identified areas of convergence and areas of divergence, and assessed the comparability of the prudential outcome with EU law in the context of Basel III (including the output floor).

The comparative legal method, combined with functional comparison, was used to systematise the EU and Ukrainian regulations on the formation of own funds, the calibration of adjustments/deductions (in particular software assets), consolidation rules and the availability of Basel III finalisation mechanisms (output floor), de jure and de facto differences have been distinguished and classified as procedural/calibration/legal-technical/structural-institutional. The source base consisted of the European Banking Authority (2020), Resolution of the Board of the National Bank of Ukraine No. 254 "On Approval of the Procedure for Regulating the Activities of Banking Groups"[1] and Resolution of the Board of the National Bank of Ukraine No. 64 "On Approval of the Regulation on the Risk Management System in Banks of Ukraine and Banking Group"[2], selected as acts of varying levels of regulatory detail, are critical for assessing the consolidation and calibration of prudential adjustments. This approach determined the degree of Ukraine's approximation to EU standards and outlined the limits of harmonisation through the criterion of comparability of prudential outcomes, forming the basis for recommendations on procedural and technical convergence.

Results

Legal regulation of bank capital formation in Ukraine and the EU. The theory of capital regulation is based on the assumption that prudential requirements are formed at the intersection of regulatory design and risk measurement methodologies, and that gaps between risk metrics and capital requirements can create conditions for regulatory arbitrage and incomparability of regulatory outcomes (McCullagh *et al.*, 2022). In this study, harmonisation is analysed in a narrow sense – as the convergence of rules for the formation of regulatory capital/own funds, i.e., requirements for the composition and quality of capital elements, as well as prudential adjustments and deductions (Torstensson, 2023). Capital buffers and supervisory add-ons (Pillar 2/(SREP) affect the overall level of capital required, but do not determine the order of own funds formation; they are considered only in context. Similarly, liquidity standards (LCR/(NSFR) and resolution mechanisms belong to related areas of prudential regulation and are outside the scope of this study. Given the criterion of equivalence of prudential outcomes, harmonisation should be viewed as a combination of regulatory convergence, supervisory implementation and market adaptation, with mechanisms to limit model variability, in particular the output floor (Pop & Pop, 2025), becoming particularly relevant in the context of the finalisation of Basel III.

[1] Resolution of the Board of the National Bank of Ukraine No. 254 "On Approval of the Procedure for Regulating the Activities of Banking Groups". (2012, June). Retrieved from https://kodeksy.com.ua/norm_akt/source-%D0%9F%D1%80%D0%B0%D0%B2%D0%BB%D1%96%D0%BD%D0%BD%D1%8F%20%D0%9D%D0%91%D0%A3/type-%D0%9F%D0%BE%D1%81%D1%82%D0%B0%D0%BD%D0%BE%D0%B2%D0%B0/254-20.06.2012.htm.

[2] Resolution of the Board of the National Bank of Ukraine No. 64 "On Approval of the Regulation on the Risk Management System in Banks of Ukraine and Banking Group". (2018, June). Retrieved from https://zakon.rada.gov.ua/laws/show/v0064500-18#Text.

Regulation of the European Parliament and of the Council No. 575/2013[1] is a key EU law that establishes a mandatory regulatory model for own funds for credit institutions and investment firms. The document's significance is not limited to a "list of components" of capital: it performs three interrelated regulatory functions. First, it codifies the qualitative structure of capital by distinguishing between levels of own funds (Common Equity Tier 1 (CET1)/ Additional Tier 1(AT1)/ (Tier 2(T2)), i.e., it establishes the legal architecture that determines the order and ability of capital instruments to absorb losses. Second, it legally separates regulatory capital from accounting equity by introducing prudential adjustments and deductions that exclude items that do not meet the criteria for inclusion in regulatory capital from own funds. Thirdly, it integrates capital into a risk-oriented system of requirements by linking it to risk-weighted assets and capital adequacy ratios, i.e., it determines capital requirements through indicators based on risk profile.

In 2024, the EU regulatory capital framework was amended by Regulation of the European Parliament and of the Council No. 2024/1623[2] and Directive of the European Parliament and Council No. 2024/1619[3]. The analysis of the European regulatory capital model should be based on the current version of the legal package, as amended in 2024, and not exclusively on the original version. Technical details of the requirements for own funds are provided by the European Commission[4], which is a secondary EU law adopted based on delegated powers and establishes regulatory technical standards for own funds requirements. The normative role of this act is to specify those aspects of own funds regulation that are of a framework nature in the European Parliament and Council, to ensure the uniform application of criteria and procedures within the EU. The European Commission functions as a Level 2 element in the EU capital regulation system and is part of the mandatory regulatory framework together with the European Parliament and Council.

A separate layer of regulatory support consists of acts regulating supervisory reporting as a tool for implementing and verifying compliance with capital requirements. In this context, the European Banking Authority (2024) is relevant as a document aimed at amending the implementing technical standards on supervisory reporting, its function being to establish (or clarify) the format and content of the reporting data required for supervisory control over the implementation of the updated requirements. Supervisory reporting in the EU is viewed as a regulated part of the system that makes sure the European Parliament and Council's substantive rules are applied in supervisory practice.

Apart from EU legislation, at the level of global standards, which are not directly legally binding in the EU, the Basel Committee on Banking Supervision (2019a) and the Basel Committee on Banking Supervision (2019b) summary document serve as sources of soft law that formulate functional criteria for capital adequacy, in particular concerning permanence, subordination, discretionary payments and loss absorption mechanisms. In legal terms, these standards do not create a direct obligation for institutions until their provisions are transposed into EU law through regulations, directives and subordinate legislation. At the same time, they serve as a reference conceptual basis for developing criteria for the acceptability of instruments for regulatory implementation in EU law. The European Banking Authority (2015), in terms of including interim profits and deducting losses, reflects the mechanism of institutional interpretation of the application of the Capital Requirements Regulation. Such an instrument is not an independent source of primary material obligations, but is used to harmonise the practice of application and clarify specific issues arising from the implementation of the regulation. Thus, regulatory capital in the EU is formally structured as a multi-level construct in which material requirements for the composition and structure of capital are combined with technical details, supervisory reporting requirements and institutional interpretation mechanisms that ensure uniform application. In this context, Basel III standards serve as a conceptual source of eligible capital criteria, while legally binding parameters and procedural requirements are formed by EU legislation and derivative technical standards.

The model of banking regulation in Ukraine is based on the institutional mandate of the National

[1] Regulation of the European Parliament and of the Council No. 575/2013 "On Prudential Requirements for Credit Institutions and Investment Firms and Amending Regulation (EU) No. 648/2012". (2013, June). Retrieved from https://op.europa.eu/en/publication-detail/-/publication/c7d371d1-9e7b-11e9-9d01-01aa75ed71a1.

[2] Regulation of the European Parliament and of the Council No. 2024/1623 "Amending Regulation (EU) No. 575/2013 on Prudential Requirements for Credit Institutions and Investment Firms". (2024, May). Retrieved from https://eur-lex.europa.eu/eli/reg/2024/1623/oj/eng.

[3] Directive of the European Parliament and Council No. 2024/1619 "Amending Directive 2013/36/EU as Regards Supervisory Powers, Sanctions, Third-Country Branches, and Environmental, Social and Governance Risks". (2024, May). Retrieved from https://eur-lex.europa.eu/eli/dir/2024/1619/oj/eng.

[4] Commission Delegated Regulation No. 241/2014 "Supplementing Regulation (EU) No. 575/2013 with Regard to Regulatory Technical Standards for Own Funds Requirements for Institutions". (2014, January). Retrieved from https://op.europa.eu/en/publication-detail/-/publication/9bcf2cc6-007a-11ee-87ec-01aa75ed71a1/.

Bank of Ukraine, which defines its functions in the field of monetary and banking policy, as well as its regulatory and supervisory powers. Law of Ukraine No. 679-XIV "On the National Bank of Ukraine"[1] is central for banking supervision, as it establishes the status of the National Bank of Ukraine as the central bank and defines its powers to manage the national economy. At the same time, Law of Ukraine No. 2121-III "On Banks and Banking Activity"[2] forms the basis for the functioning of the banking system, in particular, the capital requirements and the possibility of implementing prudential supervision through established standards that ensure the stability of banks. The legal and economic implications of this approach mean that harmonising regulatory capital with EU requirements requires the harmonisation of the National Bank of Ukraine's regulations with the powers enshrined in law. While in the EU some requirements are regulated through regulations that have direct effect, in Ukraine, subordinate acts of the National Bank of Ukraine are substantial, providing more flexibility in detailing requirements. At the same time, this means that the extent of harmonisation is determined by the extent to which the legislative mandate of the National Bank of Ukraine can be used to implement European approaches within the national system.

Resolution of the Board of the National Bank of Ukraine No. 196[3] is the main regulatory act that defines the procedure for calculating the regulatory capital of Ukrainian banks. The significance of the act lies in the fact that it functions as a mechanism for operationalising the requirements enshrined in legislation and translates general concepts of capital stability into specific methods and criteria for calculating capital. Analytically, the Resolution "translates" global and European approaches into the national regime: it defines how capital becomes a regulatory indicator rather than just an accounting category (National Bank of Ukraine, 2023). It is a subordinate act that is critical for detailing the criteria for inclusion/deductions and thus affects the measurement of capital adequacy. At the subordinate level, legal differences of a procedural nature may arise, since in the EU the criteria for adjustments and requirements for instruments are often described in detail in regulations and delegated acts, while in Ukraine most technical decisions are implemented in resolutions of the National Bank of Ukraine. This may lead to differences due to the specifics of national procedures (verification, approval, documentation), transitional regimes, and varying degrees of regulatory specificity in national regulations (National Bank of Ukraine, 2023).

The fact that the National Bank of Ukraine (2024) officially announced the successful transition of the banking system to a new capital structure, effective 5 August 2024, is special in the analysis of harmonisation. This announcement is not a normative act, but it has an evidential function, confirming that the changes did not remain only at the level of adoption of the resolution, but were implemented in practice. For a correct analysis of harmonisation, it is advisable to distinguish between three levels: legal approximation (adoption of a normative act), institutional implementation (enforcement of requirements through supervision), and market adaptation (actual implementation by banks). The National Bank of Ukraine (2024) press release confirms the existence of at least the second and third levels (implementation and enforcement), which provides additional grounds for assessing the harmonisation process as real rather than declarative. Empirical verification based on public reporting data shows that the transition to the updated regulatory capital structure is reflected in disclosure practices and linked to capital adequacy indicators. In particular, the annual report of OTP Bank JSC (2024) for 2024 records the transition to the updated regulatory capital structure as of 05.08.2024, and also provides indicators that correlate regulatory capital to capital adequacy ratios in the bank's reporting logic: the document contains the numerical value of regulatory capital as of 31 December 2024 and indicates the regulatory capital adequacy ratio (in particular, 39.4%). This disclosure format can be used to illustrate that the new regime functions not only as a regulatory construct, but also as a measurable prudential indicator in the bank's public reporting.

At the same time, PrivatBank's (2024) annual report demonstrates a different type of public disclosure, focused primarily on describing capital adequacy management processes. The document highlights elements of the internal capital adequacy assessment system, stress testing procedures and capital adequacy planning, which can be used for the identification of the existence of institutional capital management mechanisms within corporate governance. However, this report lacks a concentrated parametric presentation of regulatory capital (in particular, in the

[1] Law of Ukraine No. 679-XIV "On the National Bank of Ukraine". (1999, May). Retrieved from https://zakon.rada.gov.ua/laws/show/679-14.
[2] Law of Ukraine No. 2121-III "On Banks and Banking Activity". (2000, December). Retrieved from https://zakon.rada.gov.ua/laws/show/2121-14.
[3] Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine". (2023, December). Retrieved from https://bank.gov.ua/admin_uploads/law/28122023_196.pdf?v=12.

form of a table showing the structure of regulatory capital + adequacy ratios), which limits the possibility of reconstructing the composition and level structure of regulatory capital based solely on this source without additional disclosures. Thus, the institutional and legal prerequisites for the implementation of capital reform in Ukraine are determined by a combination of the legally established competence of the National Bank of Ukraine (2024) and the subordinate methodology for calculating regulatory capital established by Resolution of the Board of the National Bank of Ukraine No. 196[1], while official communication from the regulator confirms the introduction of a new capital structure into supervisory circulation in 2024. Collectively, this implies the existence of a complete "chain" of authority → regulatory instrument → implementation; however, the level of material convergence with the EU model should be determined not by the overall architecture, but by specific criteria for inclusion/exclusion and the procedural framework for their application, as enshrined in subordinate legislation.

Compliance of Ukraine's regulatory capital with EU and Basel III standards. However, to assess harmonisation with EU law, it is not the declarative architecture that is decisive, but rather the substantive parameters: the structure of own funds, the quality of instruments, adjustments/deductions, consolidation and reporting rules, as well as the presence of elements of Basel III finalisation. A comparative summary of these parameters is provided in Table 1.

Table 1. Regulatory limits for harmonisation of Ukrainian regulatory capital with EU law

Control element	EU	Ukraine
Regulatory capital structure	Division of capital into Tier 1 capital (core and supplementary) and Tier 2 capital	Division of regulatory capital into Tier 1 capital, Tier 2 capital and Tier 3 capital
Quality of capital and ability to absorb losses	Requirements for capital instruments: subordination, loss absorption, restrictions on payments/distributions	Requirements for regulatory capital instruments: write-down/conversion instruments, subordinated liabilities, payment restrictions
Prudential deductions from base capital	Prudential adjustments that reduce base capital (intangible assets, deferred tax assets, participations in financial institutions)	Similar prudential adjustments that reduce Tier 1 capital (in particular, intangible assets/ goodwill, deferred tax assets, etc.)
Inclusion of profit in capital during the year	Inclusion of profits in capital only after verification/validation and supervisory control	Inclusion of profits in capital under the confirmation and approval procedure
Consolidated capital and non-controlling interest	Detailed rules for capital formation at the banking group level, including conditions for taking into account the capital of subsidiary structures	Mostly less detailed in one document or included in other rules/procedures
Technical standards and supervisory reporting system	Uniform technical standards and a single supervisory reporting system for capital quality control	National reporting formats/procedures and transitional implementation mechanisms
Basel III finalisation: output floor (RWA comparability)	Regulatory output floor as a mandatory backstop to internal model results; phased implementation up to 72.5%	The output floor mechanism is not provided for in the national framework (within the scope of the acts under review).

Note: the terms "Tier 1 capital" and "Tier 2 capital" are generalised names for the regulatory classification of regulatory capital. In EU law, this classification is established by Regulation No. 575, as amended, and in Ukraine by the Procedure for Determining Regulatory Capital

Source: compiled by the author based on Regulation of the European Parliament and of the Council No. 575/2013 "On Prudential Requirements for Credit Institutions and Investment Firms and Amending Regulation (EU) No. 648/2012"[2], European Banking Authority (2019; 2024), Basel Committee on Banking Supervision (2019a), Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine"[3]

[1] Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine". (2023, December). Retrieved from https://bank.gov.ua/admin_uploads/law/28122023_196.pdf?v=12.

[2] Regulation of the European Parliament and of the Council No. 575/2013 "On Prudential Requirements for Credit Institutions and Investment Firms and Amending Regulation (EU) No. 648/2012". (2013, June). Retrieved from https://op.europa.eu/en/publication-detail/-/publication/c7d371d1-9e7b-11e9-9d01-01aa75ed71a1.

[3] Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine". (2023, December). Retrieved from https://bank.gov.ua/admin_uploads/law/28122023_196.pdf?v=12.

Table 1 summarises a comparison of key regulatory capital frameworks in the EU and Ukraine in the context of Basel III, with an emphasis on rules for the formation of own funds: capital structures, instrument quality requirements, prudential adjustments, profit recognition procedures, consolidation rules, and technical infrastructure for supervisory reporting. The convergence is mainly regulatory and institutional in nature: the Ukrainian model replicates the basic architecture of capital levels and key elements of capital "quality", which was used to assess the overall degree of harmonisation as high in terms of structure and profit inclusion and as medium-high in terms of instrument requirements and adjustments. At the same time, there are limits to harmonisation between the EU and Ukraine, which are evident not in the concept, but in the legal and technical formalities and law enforcement. The most typical differences are concentrated in the details: the wording of the terms and conditions of capital instruments (in particular, loss absorption mechanisms and payment restrictions), the procedure for their regulatory recognition, the parameters and methods of prudential deductions (thresholds, exceptions, transitional regimes), as well as in the varying "density" of technical standards and approaches to supervisory reporting. As an example, in terms of prudential deductions, EU law establishes an approach to excluding positions that do not have sufficient loss absorption capacity from regulatory capital (the logic of capital "cleansing"), while Ukrainian regulation reproduces this principle through a list of adjustments/deductions in the subordinate acts of the National Bank of Ukraine. The comparative differences shown in Table 1 can be summarised in an assessment of the degree of convergence and classification of the nature of legal differences, with the generalised result presented in Table 2.

Table 2. The degree of approximation and typology of legal differences in the formation of Ukraine's regulatory capital to EU standards

Control element	Degree of approximation	Typical legal discrepancy
Regulatory capital structure	High	In the EU – direct articles of Regulation (EU) No. 575/2013, in Ukraine – national structure through acts of the National Bank of Ukraine (possible differences in details of application)
Inclusion of profit in capital during the year		The differences are mainly procedural: list of documents, deadlines, intensity of supervision and confirmation practice
Quality of capital and ability to absorb losses	Average-high	Differences in the legal technique of instruments and in the procedure for approval/recognition, even with similar economic content
Prudential deductions from base capital		Thresholds, exceptions, transition modes, and assessment/measurement methods may vary
Consolidated capital and non-controlling interest	Partial/undefined	The consolidated level may differ from the individual level in terms of formulas, approaches and detail
Technical standards and supervisory reporting system	Average	Different "density" of technical regulation and pace of updating requirements and reporting forms
Basel III finalisation: output floor (RWA comparability)	Low/none	Different designs for ensuring comparability of prudential outcomes: in the EU – normative "quality" standards for a standardised outcome; in Ukraine – absence of such a mechanism

Note: The estimates of the degree of approximation reflect the regulatory convergence of own funds rules and the most material differences in their calibration and enforcement primarily; they are not an empirical assessment of the effective equivalence of capital requirements.
Source: compiled by the author based on European Banking Authority (2019; 2024), Basel Committee on Banking Supervision (2019a)

The summary in Table 2 shows that the most pronounced regulatory gap with EU law is not related to the structure of own funds, but to elements of the finalisation of Basel III aimed at ensuring the comparability of capital requirements. In this context, the output floor mechanism, which is mandatory, is decisive in EU law. In EU law, the final phase of Basel III implementation (Basel III finalisation) aims to reduce the variability of risk weights and limit the possibilities for model arbitrage within Pillar 1. The key tool for achieving this goal is the output floor mechanism, which sets the lower limit of capital requirements calculated using internal models at the level of requirements determined by standardised approaches. In accordance with Regulation of the European Parliament and of the Council No. 2024/1623[1], which

[1] Regulation of the European Parliament and of the Council No. 2024/1623 "Amending Regulation (EU) No. 575/2013 on Prudential Requirements for Credit Institutions and Investment Firms". (2024, May). Retrieved from https://eur-lex.europa.eu/eli/reg/2024/1623/oj/eng.

amended Regulation of the European Parliament and of the Council No. 575, the output floor functions as a regulatory backstop to the results of internal model calculations of risk-weighted assets and is being phased in to a level of 72.5% after the end of the transition period.

In Ukraine, the regulation of banks' capital adequacy is based on a standardised or minimally modified architecture for calculating risk components, while the use of full-fledged internal models within Pillar 1 is absent or extremely limited. Under such conditions, the output floor is operationally irrelevant, but in comparative legal terms, its absence constitutes a de jure discrepancy with the Basel III finalisation model implemented in the EU. At the same time, this discrepancy mainly concerns the block of minimum capital requirements (through RWA), while the subject of this study is the rules for the formation of own funds and the criteria for their recognition. Therefore, in terms of own funds formation, the level of approximation is assessed as high/medium-high, but in the context of Basel III finalisation, there is a separate regulatory gap regarding the mechanisms for comparability of prudential outcome (output floor).

At the same time, potential discrepancies with EU law are primarily manifested in "calibration" (thresholds, exceptions, transitional rules), which, under the same economic parameters, may affect the amount of recognised CET1/Total Capital. A telling example is the approach to intangible assets, in particular software: in EU law, the general logic of "cleaning up" CET1 involves deducting intangible assets, but a special technical solution enshrined in the European Banking Authority (2020) applies to software assets, which mitigates the immediate negative effect of such assets on CET1. In Ukraine, the Procedure for Determining the Amount of Regulatory Capital[1] reproduces the general principle of adjustments/deductions from Tier 1 capital (OK1, in EU terms – CET1), but the special regime of Regulatory Technical Standards for software is not specified in the current framework. Given the structural similarity of the approaches, differences in calibration may result in different prudential outcomes for banks with a high share of IT investments.

A separate area of partial/uncertain convergence is the consolidated level (banking groups): EU law traditionally provides for more detailed rules, while in Ukraine, the relevant regulation is "spread" across several acts of the National Bank of Ukraine. The perimeter of a banking group and the procedure for its recognition are determined by the Regulation on the Procedure for Identification and Recognition of Banking Groups, approved by Resolution of the Board of the National Bank of Ukraine No. 254 "On Approval of the Procedure for Regulating the Activities of Banking Groups"[2], and the procedural requirements for risk management at the group level are determined by the Regulation on the Risk Management System[3]. Under such conditions, comparability with EU law is determined not only by the general principle of consolidated supervision, but also by the details of the scope of consolidation, intra-group positions and prudential adjustments at the group level. Therefore, the consolidation block in Table 2 was highlighted as partially undefined: limited detail or other calibration of these elements can lead to material differences in the calculation of capital at the banking group level. In general, Ukrainian regulation of regulatory capital formation is institutionally close to the EU/Basel III model in terms of its basic structure and key requirements for own funds. At the same time, the main differences are concentrated in legal and technical details, regulatory recognition procedures, calibration of adjustments/deductions, consolidation rules and the technical infrastructure of supervisory reporting. In terms of prudential outcome equivalence, even if the structure of own funds is similar, differences in calibration and procedures can lead to different actual capital positions for a bank (or group) under comparable economic conditions.

The economic significance of harmonising regulatory capital requirements is determined not only by the convergence of definitions and structural categories, but also by the impact of regulations on banks' risk appetite and asset structure. In the context of the completion of Basel III in the EU, it is critical that the changes relate not only to the classification of capital, but also to the mechanisms that, through RWA, affect the actual amount of capital required to meet the standards. Empirical results confirm that changes under Basel III can adjust incentives for risk-taking and affect credit policy, so legal differences have not only a formal but also a behavioural dimension (Anguren *et al.*, 2024). The output floor mechanism within Basel III finalisation sets a lower limit for the aggregate result of risk-weighted exposures (the aggregate RWA/total risk exposure amount) calculated using internal models: the aggregate result under

[1] Resolution of the Board of the National Bank of Ukraine No. 196 "On Approval of the Procedure for Determining the Amount of Regulatory Capital of Banks in Ukraine National Bank of Ukraine". (2023, December). Retrieved from https://bank.gov.ua/admin_uploads/law/28122023_196.pdf?v=12.

[2] Resolution of the Board of the National Bank of Ukraine No. 254 "On Approval of the Procedure for Regulating the Activities of Banking Groups". (2012, June). Retrieved from https://surl.li/zibfhr.

[3] Resolution of the Board of the National Bank of Ukraine No. 64 "On Approval of the Regulation on the Risk Management System in Banks of Ukraine and Banking Group". (2018, June). Retrieved from https://zakon.rada.gov.ua/laws/show/v0064500-18#Text.

internal model approaches cannot be lower than a specified proportion of the corresponding result calculated using standardised approaches. In EU law, this backstop is implemented through Regulation (EU) No. 575, as amended by Regulation of the European Parliament and of the Council No. 2024/1623[1]: transitional coefficients are applied in stages – 50% in 2025, 55% in 2026, 60% in 2027, 65% in 2028, 70% in 2029 and 72.5% from 2030. Thus, EU law legally limits the possibility of reducing capital requirements through "model savings" and increases the comparability of prudential outcomes between institutions in the single market.

The economic and legal purpose of the output floor is to reduce the variability of RWA results between banks with similar portfolios and to narrow the scope for model arbitrage through the optimisation of internal models. Accordingly, assessment of Ukraine's progress towards EU compliance in the context of Basel III finalisation cannot be limited to comparing the composition of own funds (CET1/AT1/T2) but must consider the regulatory availability of mechanisms for comparing the results of minimum capital requirements, in particular backstop rules for internal models (Torstensson, 2023). Regarding Ukraine, within the regulatory framework of the National Bank of Ukraine under review, the rules for calculating capital adequacy ratios and the corresponding methodologies are based primarily on standardised/regulatory parameterised approaches to determining risk components. With this design, the output floor as a constraint on internal model RWAs is operationally irrelevant, as Pillar 1 calculations are based on regulatory weights and parameters, and a full-fledged internal model regime within this framework is either absent or of limited significance. At the same time, if the research objective is formulated as "assessing convergence in the context of Basel III implementation, including finalisation", then the absence of an explicit output floor mechanism and procedures for its application in the regulatory framework of the National Bank of Ukraine should be recorded as a de jure discrepancy with the EU approach. Therefore, Ukraine's approach in this block can be described as de facto conservative in terms of the risk of underestimating RWA (due to the dominance of standardised approaches), but de jure incomplete in terms of Basel III finalisation requirements. It is advisable to combine the recommendations for Ukraine with procedural and practical convergence: the approximation of evidence standards and regulatory procedures for the recognition of capital elements, as well as the unification of supervisory decisions on instruments, adjustments/deductions and the inclusion of profits. This reduces the risk of uneven enforcement and enhances the equivalence of prudential outcomes (Pihul *et al.*, 2023).

As a result, Ukraine's degree of convergence with EU standards can be classified as high in terms of the basic structure of own funds (CET1/AT1/T2) and the general logic of recognising financial results in capital, medium-high in terms of the criteria for the acceptability of instruments and prudential adjustments/deductions (given the importance of calibrating thresholds, exemptions and transitional regimes), medium/partially uncertain in terms of consolidation measurement and technical infrastructure for application. At the same time, in terms of Basel III finalisation (in particular, the output floor), compliance is incomplete, as prudential outcome comparability tools aimed at limiting model variability are normatively integrated into EU law, while they are not enshrined in the national framework. Therefore, Ukraine has a high level of harmonisation in the formation of domestic funds, but incomplete compliance with the requirements of Basel III finalisation due to the absence of an output floor.

Discussion

The results of the study established that the output floor is a key element of comparability of requirements, as it limits the "model effect" in RWA and potentially affects the actual level of capital burden and systemic stability. This is consistent with the study by C. Roussel (2025), where the output floor is assessed in an agent-based credit network and is seen as a tool capable of changing the distribution of capital charges and systemic stability channels. The common logic is that in both approaches, the output floor is treated not as a technical detail, but as a regulatory lever that increases the comparability of prudential outcomes and reduces the scope for model-driven understatement of requirements. At the same time, within the study, the output floor is identified as a potential area of divergence between Ukraine and the EU regime, requiring separate applied analysis based on national data, while C. Roussel provides a quantitative model test of the corresponding mechanism. Therefore, if the goal of harmonisation in Ukraine is prudential outcome equivalence with the EU, then without assessing the existence, parameters and phasing of the output floor implementation, the comparability of capital adequacy regimes may remain partial.

P. Bednarek *et al.* (2025) demonstrated that a sudden increase in capital requirements can significantly change the supply of credit, with different

[1] Regulation of the European Parliament and of the Council No. 2024/1623 "Amending Regulation (EU) No. 575/2013 on Prudential Requirements for Credit Institutions and Investment Firms". (2024, May). Retrieved from https://eur-lex.europa.eu/eli/reg/2024/1623/oj/eng.

responses among banks and non-bank financial institutions. This result is consistent with the presented study, according to which the Basel III reforms are not technical in nature, but can change risk appetite and credit policy, even though, at first glance, calibration parameters. In this logic, regulatory capital acts not only as a safety margin but also as an instrument that influences the volume and conditions of lending. The study demonstrated the corresponding mechanism using empirical data, while in this study, it is used as a basis for a normative conclusion: when harmonising, it is advisable to assess not the declarative similarity of rules, but the incentives they create and the actual prudential outcome. The practical emphasis is that the calibration of thresholds, exceptions, and procedures in law can be directly translated into credit decisions, therefore requiring further empirical testing in Ukraine. S. Bahaj & F. Malherbe (2024) emphasise that capital regulation has cross-border implications: changes in requirements in one jurisdiction can affect cross-border lending and capital allocation. This is consistent with the results of the current study, according to which the comparability of regimes is not limited to the formal structure of own funds, but depends on the calibration of requirements and related procedural and reporting mechanisms. Even with similar regulatory architecture, differences in calibration and implementation rates can create different incentives and lead to incomparable prudential outcomes. In this context, it is necessary to legally identify the elements of the design (calibration, procedures, reporting) that can be a source of incomparability even with common regulatory objectives.

The results of the presented study emphasise that formal similarity of capital rules does not guarantee comparable prudential outcomes, as technical calibration parameters (thresholds, exemptions, transition regimes) that alter banks' incentives and the actual amount of recognised capital may be decisive. In this context, S. Damen & S. Schildermans (2022) have shown that changes in capital requirements can be transmitted to the real sector through mortgage rates and house prices, i.e., go beyond purely prudential indicators. This is consistent with the logic of the presented study: point regulatory adjustments can have tangible practical consequences. At the same time, the authors empirically measure such effects, while the current study focuses on the normative-comparative identification of design elements that create the risk of an incomparable outcome. R. Gropp *et al.* (2024) emphasise the tension between supranational rules and national discretion, asking whether there is real capital accumulation or whether it is "inflated" due to the peculiarities of regulatory interpretation. This is consistent with the results of the presented study: outcome comparability depends not only on the text of the rules, but also on the practices of application and the scope of discretion provided. Harmonisation should include a procedural component (recognition, verification, deductions, reporting) and not be reduced to a formal reproduction of the CET1/AT1/T2 structure. It is advisable to identify areas of risk of non-comparability (calibration, exceptions, consolidation, reporting) where discretion is most often exercised. S. Cecchetti *et al.* (2025) addressed Basel Endgame as a stage that will influence the future of international standard setting, so the subject of discussion goes beyond purely technical parameters and covers the institutional foundations for the development and implementation of standards. This is consistent with the results of the presented study, according to which the analysis of harmonisation should be based on the current version of the EU legal package, formed by the 2024 amendments that integrate elements of Basel III finalisation. Harmonisation should be assessed not by the reproduction of definitions, but by the equivalence of the prudential outcome, with an emphasis on differences in national law and law enforcement that could alter the amount of recognised capital.

The results of the presented study show that differences in capital requirement calibration, risk measurement approaches, and enforcement can create incentives for regulatory arbitrage and complicate the comparability of prudential outcomes. R.M. Irani *et al.* (2021) found that tighter capital regulation may be accompanied by an increase in shadow banking and a partial shift of lending activity outside the banking perimeter. This is consistent with the conclusion on the significance of incentives created by the design of rules. Accordingly, when assessing harmonisation, it is advisable to incorporate possible incentives to shift risk or lending activity outside the more strictly regulated perimeter. The study by P.-R. Agénor *et al.* (2023) emphasises that financial spill overs arise in the context of global banking and that macroprudential policy has a coordination dimension. In this context, the results of the current study also emphasise that the comparability of regimes is determined not only by substantive rules, but also by procedural convergence, harmonisation of reporting and stability of law enforcement, which ensure the predictability and comparability of prudential outcomes. Risks of non-comparability should be linked to specific elements of the legal construct (in particular, consolidation rules, deductions, exceptions, and the intensity of verification procedures). Therefore, Ukraine's approximation to the EU regulatory framework should include not only regulatory convergence, but also convergence of procedures and data necessary for outcome equivalence.

A study by S. Mayordomo & M. Rodríguez-Moreno (2021) analyses how European banks are adapting to macroprudential capital requirements, i.e., how the regulatory burden is reflected in the practical behaviour of banks. This is consistent with the findings of the presented study, according to which the assessment of harmonisation should distinguish between regulatory design, supervisory implementation and behavioural adaptation, as these levels can produce different prudential outcomes. S. Mayordomo & M. Rodríguez-Moreno empirically describe the corresponding reactions of banks, while the presented study addressed the regulatory and procedural conditions that enable or constrain such reactions. Accordingly, harmonisation should be assessed not only based on the text of the requirements, but also on supervisory practices and the practical decisions of banks. M.-W. Wu *et al.* (2025) demonstrated that the impact of capital regulation is not limited to adequacy indicators and can influence the functioning of a bank as a financial intermediary, particularly in terms of liquidity. The presented study addressed the rules for the formation of own funds and prudential adjustments, but the conclusions are substantial as a remark: assessment of the consequences of harmonisation should incorporate possible additional channels of influence beyond the capital composition. Accordingly, the liquidity dimension should be considered separately as an area for further empirical testing, without replacing the normative and comparative analysis of own funds.

The results of the presented study show that the comparability of capital regulation regimes should be assessed based on the criterion of equivalence of prudential outcomes, since even with formal structural convergence, differences in calibration and recognition procedures can change the incentives and actual effects of regulation. K. Dempsey (2025) shows that in the presence of non-bank (direct) financing, capital requirements for banks affect the system through the redistribution of financing channels. This reinforces the conclusion that harmonisation should not be assessed based on definitions, as the behavioural and structural effects of rule design are decisive. In practice, this means that further empirical testing of behavioural and structural responses to harmonisation parameters is needed, in particular, possible changes in financing channels in the Ukrainian context.

Thus, it is advisable to assess the harmonisation of Ukraine's capital adequacy regime with that of the EU not by the formal similarity of definitions and the structure of own funds, but by the criterion of equivalence of the prudential result. The key factors for comparability are legal and technical settings (calibration, exceptions, transitional regimes, consolidation, deductions) and procedural and institutional mechanisms (verification, reporting, stability of law enforcement), which determine the incentives and the actual amount of recognised capital. The next step is to conduct an applied and empirical test of the relevant channels on national material.

Conclusions

The results of the study showed that in the EU regulatory framework, technical requirements for capital are largely detailed in regulatory/delegated acts, which set a high level of standardisation of application. In Ukrainian specialised legislation, some technical decisions regarding capital are implemented through subordinate regulation and acts of the central bank, which creates room for procedural differences. In the current study, harmonisation is considered in a narrow sense as the convergence of rules for the formation of own funds (composition/quality of capital and prudential adjustments/deductions), liquidity standards and resolution mechanisms are directly separated from the subject of analysis, not to mix different regulatory blocks. The key criterion for comparison between Ukraine and the EU is the equivalence of the prudential outcome, rather than the formal reproduction of definitions and the structure of indicators. Even with Ukraine's formal structural convergence with the EU, differences in calibration, exemptions and transitional regimes can alter incentives and the amount of recognised capital. In the context of finalising Basel III in the EU, the output floor mechanism has been identified as a key element of comparability of minimum requirements and as a potential area of divergence for comparison with Ukraine. The difference between risk metrics and capital requirements may create incentives for regulatory arbitrage and undermine outcome comparability between regimes. In the EU regulatory framework, prudential deductions are conceptually aimed at excluding items with weak loss absorption capacity from regulatory capital. In the Ukrainian legal field, this logic is reproduced through certain adjustments/deductions in subordinate legislation.

The results of the study show a high degree of convergence between Ukraine and the EU in terms of the overall structure of regulatory capital, but differences in the practical application remain. Requirements for capital quality and the ability of instruments to absorb losses are assessed as moderately to highly converged between Ukraine and the EU, but there may be differences in the legal technique of instruments and procedures for their recognition. Thresholds, exceptions, transitional regimes and assessment/measurement methodologies have been identified as sources of potential non-comparability for prudential deductions between Ukraine and the EU. At the consolidated level (banking groups), comparability is linked to the scope of consolidation,

intra-group positions and group adjustments, which may result in partial/uncertain convergence. The general conclusion is that Ukraine's convergence with the EU should cover not only substantive rules, but also procedural convergence, reporting infrastructure and stability of law enforcement, as these are what ensure a comparable prudential outcome. The limitation of the study is the normative and comparative nature of the research, without empirical validation of how differences in calibration, recognition procedures and law enforcement are translated into credit behaviour or the structure of financial intermediation. The subject of the analysis is deliberately limited to own funds and prudential adjustments, without an integrated assessment of related regulatory contours (e.g., liquidity or resolution). Future research should address applied and empirical verification of key "gaps" between the Ukrainian and European regulatory frameworks (primarily procedures for recognition/verification, consolidation, deductions, transitional regimes and the output floor mechanism) and their impact on the actual prudential outcome in the Ukrainian context.

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Conflict of Interest

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Гармонізація порядку формування регулятивного капіталу банків України з правом ЄС: нормативні межі та правові розбіжності

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■ **Анотація.** Метою дослідження було оцінювання відповідності українських правил визнання та коригування капіталу логіці Європейського Союзу для визначення джерела відмінностей у фактичному капітальному результаті. Методологія передбачала нормативно-документальний і порівняльно-правовий аналіз, поєднаний із функціональним зіставленням, структурно-логічне моделювання (порівняльну матрицю) і контент-аналіз публічної звітності, що дало змогу за критерієм prudential outcome встановити високу збіжність України з моделлю Європейського Союзу в структурі own funds й окреслити зони розбіжностей. Встановлено, що спеціальне правове регулювання Євросоюзу й України визначає капітал як основний запобіжник, що забезпечує поглинання збитків у банківській системі. Європейська нормативна база фокусується на якості капіталу та забезпеченні однакового вимірювання ризиків між різними банками. Українська правова рамка проходить етап активної гармонізації з правом Європейського Союзу для забезпечення порівнюваних результатів стійкості. З'ясовано, що українське банківсько-правове регулювання демонструє високу збіжність із європейським у питаннях розподілу капіталу на основний та додатковий рівні. Розбіжності між європейською рамкою та українськими правилами полягають у технічному калібруванні порогів і винятків для вирахувань з капіталу. Нормативна рамка України щодо банківських груп є менш деталізованою, ніж відповідні стандарти в Євросоюзі. Європейське законодавство передбачає механізми, які обмежують здатність банків занижувати вимоги до капіталу через власні внутрішні моделі. Упровадження європейської нормативної рамки безпосередньо змінює ризикову поведінку та кредитну політику банківських установ. Українське законодавство доцільно зосередити на процедурній конвергенції та уніфікуванні звітності за стандартами Євросоюзу. Практична значущість полягає в тому, що результати можуть бути використані Національним банком України, законодавцем і банками для вдосконалення регуляторних процедур і звітності й підвищення зіставності пруденційного результату з режимом Європейського Союзу

■ **Ключові слова:** Базель III; пруденційний результат; власні кошти; калібрування; output floor; процедури

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Investigation of crimes by joint investigation teams: New opportunities for ensuring law and order

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■ **Abstract.** In modern conditions, crime acquires new transnational characteristics and requires adaptation to innovative methods of crime investigation. This specificity actualises the need to create joint investigation teams. The relevance of the topic is due to the tendency to improve the functioning of one of the forms of international cooperation in criminal proceedings – the joint investigation team. The purpose of the study was to address key issues of crime investigation by joint investigation teams and demonstrate their place in law enforcement activities. The primary methods employed in the study were comparative law, formal legal analysis, case studies, terminological analysis, legal hermeneutics, along with other general methods of inquiry, including induction and deduction, forecasting and abstraction, analysis, and synthesis. When solving the tasks of criminal proceedings on the facts of investigation of international crimes and crimes of an international nature, the competent authorities of states interact in various forms of international cooperation. There should be a growing awareness of the need for progressive tools for enhanced police and judicial cooperation to achieve the objectives of pre-trial investigation of crimes. The tasks of the competent authorities of different states in the joint investigation of international crimes and international crimes were reviewed. It was proven that ensuring law and order in the field of investigation of transnational crime directly depends on the functioning of a special form of international cooperation – the creation of joint investigation teams. It was recommended to concentrate on the specifics of conducting investigative procedural actions, applying tactical techniques, considering forensic innovations and algorithms for using joint methods in the investigation of crimes in national and international dimensions

■ **Keywords:** international cooperation; organisation of investigation; criminal proceedings; international organisations; law enforcement agencies

■ Introduction

In the modern period of global transformational changes, crime has acquired a global scale. This makes it necessary to form joint investigation teams (hereinafter referred to as JITs) to investigate crimes. The study of this topic is important as of 2025 from a theoretical and practical point of view, since the study of the organisation of JIT activities in the investigation of crimes is an integral element of law enforcement activities. Thus, the examination of certain provisions of the legislation of foreign countries, clear algorithms of actions, and instructions on measures to counteract transnational crime, along with the specifics of the formation and functioning of various law enforcement systems in the investigation of crime, are relevant issues that require ways to solve problematic aspects. The activities of the JIT during the investigation of crimes are appropriate since this form of international cooperation is able to

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ensure the effectiveness of the investigation, specifically, in collecting evidence and establishing all the circumstances of the crime.

The society's efforts to counter transnational crime consist of the development of measures of destructive influence on the criminogenic phenomenon. National and foreign researchers explored the issues of international cooperation in general and JIT in particular. For example, O. Chernetska (2025) focused on the specifics of the investigation of war crimes through the prism of international cooperation, while rightly noting that the investigation of these crimes is characterised by complexity and increased resource intensity, in addition to cooperation between different states. The author concluded that one of the key aspects of providing assistance to Ukraine from foreign countries is legal expertise, technical support, and participation in JIT. In addition to the above, O. Dufenyuk & R. Kelman (2025) pointed out in their paper that there are problematic issues in the work of JIT. Thus, overcoming legal and procedural differences is identified as the main problem, as evidenced by Eurojust in the report on the assessment of JIT, which was published by the network of EU national experts on JIT issues based on 67 assessments of JIT specialists during 2022-2024 (Fifth Joint Investigation Teams, 2025). The study concludes that forensic support for JIT activities is unique and requires additional study, accounting for a number of issues related to the use of forensic innovations.

The problematic aspects in the legal regulation of the JIT's activities are highlighted by I. Hloviuk (2023), who conducted a comparative analysis of individual provisions of the legislation. For example, unlike the Ljubljana-Hague Convention[1], in the Criminal Procedure Code of Ukraine[2], there is no explicit need to conclude an agreement on the creation of a JIT, despite the fact that agreements are concluded in practical terms. Within the framework of national legislation, the distribution of responsibilities among members of the JIT is succinctly spelt out, particularly regarding the implementation of investigative actions, aspects of internal interaction, and strategies for exchanging information during pre-trial investigations. In turn, I. Tataryn & O. Markhevka (2025) paid closer attention to the active use of the JIT mechanism by EU countries. Of particular importance is the activity of investigators who are representatives of the competent authorities of different countries during joint investigations of crimes, for example, when exchanging evidence and conducting specific investigative actions. The researchers conclude that the formation of JIT contributes to the effective conduct of International Special Operations to investigate crimes. Firstly, Ukraine should ensure international cooperation through cooperation with Interpol and Europol.

In turn, P. Yepryntsev (2023) offered a unique understanding of interaction in the investigation of international crime. Thus, the specifics of joint activities of independent units with a combination of opportunities, forces, means, and methods for the successful implementation of events and actions to search for information about criminal organisations are emphasised. Furthermore, the main procedural forms of interaction in international cooperation in the prevention of organised crime are analysed, among which the creation of the JIT occupies a prominent place. Notably, the issue of crime investigation occupies a prominent place in ensuring international justice. This opinion is held by O. Pchelina & V. Pchelin (2025), who state that the fundamental principles of interaction are consistency, efficiency, constant information exchange, mutual assistance, along with modern technologies and international standards. The experience of investigating war crimes demonstrates the unification of efforts of national and international bodies, primarily in the JIT format. In addition, the ability to quickly respond to circumstances in modern conditions, using innovative approaches and involving new participants in the investigation of crimes, is the key to the effectiveness of the investigation of complex criminal offences.

In the context of the philosophical, methodological, and praxeological foundations of law enforcement activities, a monographic study by M. Tsutskiridse (2020) is remarkable, as it highlights that the priority component of the organisation of pre-trial investigation is the cognitive activity of the investigator, their interaction with participants in the criminal process, along with their methodological, cognitive, and competence characteristics. In addition to the above-mentioned research of practical scientists, in particular, their opinions on issues related to the subject of the study, attention should be paid to the publications of foreign authors, highlighting practical scientific positions on the activities of JIT in the investigation of crimes. Thus, A. Furger (2024) considered JITs as practical cooperation mechanisms established between two or more states for joint criminal investigations. JIT are most often deployed to investigate transnational crime, but they have not been sufficiently examined in the field of international criminal law. The researcher assessed the level of

[1] Ljubljana – Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes Against Humanity, War Crimes and Other International Crimes. (2023, May). Retrieved from https://www.gov.si/assets/ministrstva/MZEZ/projekti/MLA-pobuda/The-Ljubljana-The-Hague-MLA-Convention.pdf.
[2] Criminal Procedural Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

response of the JIT to the challenges of modern investigations of international crimes.

In turn, M. Caianiello (2022) noted the effectiveness of the JIT in investigating crimes and highlights the advantages of the method of mutual recognition on non-EU entities, as it allows several police or judicial authorities from different countries to work together in investigating crimes and collecting evidence in criminal proceedings. The special value of JIT, according to the author, is to promote spontaneous exchange of information through the practice of parallel investigations of identical or related criminal facts. In view of the above-mentioned opinions on the mechanism of international cooperation in the form of the JIT, attention should be paid to each outlined aspect, starting with the legal regulation of their activities and ending with the specifics of the investigation of international crimes and crimes of an international character. There is no doubt that the JIT should be highlighted as the highest form of organisation for international cooperation between different states in the investigation of crimes. Given the multi-functional nature of the investigation of transnational crime, it is necessary to comprehensively review the activities of the JIT for the investigation of crimes.

The study aimed to evaluate the effectiveness of the investigation of crimes by such groups, and the impact of the mechanism of a special form of international cooperation on the fight against crime in international discourse. The objectives were to establish the process of interaction between members, seconded members, and other subjects during the activities of the JIT; determine the key components of the creation of the JIT during the investigation of crimes; identify the aspects of cooperation between the JIT and international partners during the investigation of crimes.

Materials and Methods

When discussing methodology in academic research, one should not only adopt a philosophical approach to addressing problematic issues but also focus on socio-cultural discourse. Examining the aspects of the creation and operation of JIT in the investigation of crimes, comparative-legal, terminological, formal-legal, and case study methods were applied. Using the comparative method, the legal norms and principles of creating JIT in different states were compared to identify patterns to improve national legislation. Due to the formal-legal method, the legal aspects of the functioning of the JIT in the investigation of crimes were revealed. The case-study method provided examples of the investigation of crimes by JIT involving Europol and Eurojust, the creation of the JIT of France and Belgium during the investigation of a robbery committed by an organised group, and the creation of the JIT to investigate drug trafficking. The terminological method allowed focusing on the conceptual framework of JIT.

The results of Europol's reporting activities on the analysis of financial and economic crimes in the EU (European Union Agency for Law Enforcement Cooperation, 2023), implementation of SOCTA methodology in the field of combating organised crime, which was used in its activities by the National Police of Ukraine (EU Serious and Organised Crime Threat Assessment, 2021), were analysed. The analysis of these materials helped conduct a more detailed review of individual crimes investigated by the JIT, to form an idea of the specifics of the JIT's activities as a form of international cooperation in the investigation of transnational crime. The distinctive feature of the source material examined lied in identifying not only the national characteristics of the establishment and operations of the JIT during criminal investigations but also in developing a methodology for applying international best practice in the context of international cooperation in criminal proceedings.

Results

First and foremost, it is worth emphasising the importance of implementing international standards within the state's law enforcement sector; consequently, the JIT bases its activities on the experience of other countries and best international practice in the field of justice[1]. The driver of JIT activity in the legal field is the Criminal Procedure Code of Ukraine[2], international normative legal acts and treaties that form the synergy of international and national legislation for the sole purpose of solving the problems of criminal proceedings.

When examining aspects of the interpretation of the JIT, it is necessary to focus on the definition of the JIT as a group of representatives of law enforcement agencies and judges of two or more states who direct their activities to investigate crimes on the territory of one or more states (Guidelines on the use..., n.d.). Therefore, the issues of JIT activities are considered in two planes – through the prism of legal (legislative) certainty and scientific justification.

The investigation of crimes by JIT takes place through the interaction of members, seconded members, and other entities. The following key features characteristic of the process of cooperation during criminal investigations should be highlighted: composition (competent state authorities, international

[1] Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters. (2001, November). Retrieved from https://zakon.rada.gov.ua/laws/show/994_518#Text.
[2] Criminal Procedural Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.

organisations, institutions, etc.); comprehensiveness – involving a wide range of participants in the pre-trial investigation to analyse the circumstances of the criminal proceedings and avoid gaps in the investigation; a common objective (primarily – ensuring an effective pre-trial investigation, establishing the circumstances of the criminal proceedings, and gathering criminally relevant information which may form the evidential basis during the investigation); division of competences; consistency in the actions of the participants in the cooperation, coordinated and consistent actions. In this context, the creation of a JIT within the framework of international cooperation in criminal proceedings becomes important. Other key indicators of cooperation include the exchange of information and operational efficiency; scientific-technological progress; flexibility and the ability to adapt to current internal and external challenges – such as new forms and types of criminal offences, crime rates, and the digitisation of evidence; and compliance with international standards (Pchelina & Pchelin, 2025). Considering the above, it is necessary to emphasise the use of these signs of interaction in the activities of the JIT during the investigation of crimes since members/seconded members, and other subjects of interaction are guided in their activities by the above components aimed at solving common tasks of crime investigation.

It is also necessary to cite several characteristic features inherent in JIT during the investigation of crimes. Firstly, the JIT is created in accordance with the current legislation of the state in which it operates. Secondly, seconded members of the JIT may be involved in the investigation of the offence, unless the team leader decides otherwise, based on the relevant grounds. Thirdly, the head of the JIT may instruct the seconded members of the team to conduct investigative actions with the consent of the member states. Fourthly, seconded members of the JIT can exchange information with other members of the group, act as initiators of the investigation of a crime at the level of the national legislation of the host state (Krasnoborova, 2019).

Thereby, attention should be focused on the following elements inherent in JIT:

1) a component that certifies the international level, for example, joint actions of several states aimed at investigating crimes;

2) a specific criminal offence;

3) use of various investigative methods: reactive (complaint–response principle); destructive (actions to obstruct the activities of organised gangs); financial (identification and seizure of assets); intelligence operation (exclusively for the exchange of information and intelligence);

4) limited validity period;

5) agreement on the establishment and operation of the JIT;

6) ability to participate in operational activities in all covered jurisdictions (Guidelines on the use..., 2016).

The first step towards creating a JIT is to collect and analyse available information about crime, which will confirm the need to create a JIT through coordinated and coordinated actions in the states involved. It is necessary to define the legal basis under which the JIT agreement will be drawn up, for example, a bilateral/multilateral agreement, an international legal document, or national legislation. After receiving informal consent to the creation of the JIT from all the countries involved, the prosecutor's office prepares an official request for the creation of the JIT. It is recommended that investigators, prosecutors, and/or judges from states considering the establishment of the JIT meet with Eurojust and Europol officials to discuss the functioning of the above-mentioned Institute for international cooperation. The next step in establishing a JIT to investigate crimes is to draw up a formal agreement between at least two or more states for a specific purpose and for a well-defined period of time set up for a joint investigation. Important elements of the JIT agreement are the purpose, legal possibilities and/or restrictions, the definition of the head of the JIT, its members and participants, the financing, and possible support of Europol and Eurojust. In turn, it is not necessary to specify the validity period of the JIT in the agreement, but it is recommended to set it for 12 months, with the possibility of extending this period. After the approval of the draft agreement by all the states parties, the procedure for signing the agreement, which is an international treaty, begins. It should be remembered that the content of the JIT agreement may be the subject of a disclosure procedure in certain jurisdictions. In addition to the above-mentioned aspects, an operational action plan is drawn up – a document that provides for the progress of the work of the JIT, practical and operational aspects of the agreement, for example, a description of the purpose of the JIT; a description of the role of members and participants of the JIT; a list of special operations/intelligence investigation methods; a description of communication and information exchange methods; decisions on criminal prosecution, etc. The content of the plan can be adjusted in accordance with changes in the circumstances of the investigation of crimes (Guidelines on the use..., 2016). The creation of the JIT can be initiated by both the Ukrainian and foreign sides, and therefore, the subjects need to be separated. In the context of the creation of a JIT in Ukraine, the initiative may come from an investigator or prosecutor, while if there is an interest in

this foreign state – from the authorised competent authority of the latter (Lapkin, 2022).

Legal and procedural differences are identified as one of the biggest problems, as evidenced by the reporting materials of Eurojust on the assessment of JIT. An example of disagreements is the periodisation aspect of updating a court decision. Thus, one of the parties to the case argued that the continuation of wiretapping should be decided by the court every four weeks, while the other party had its own period – every three months. This difference has created a certain imbalance in the procedure for collecting sufficient evidence. Notably, similar disagreements arise regarding the timing of searches, arrests, and forensic support for crime investigations (Fifth Joint Investigation Teams, 2025). The view presented by O. Baeva (2024) that a JIT has an absolute synergistic character is valid since the work of this form of international cooperation is aimed at a single result, which simultaneously increases the result of each of the subjects both simultaneously and separately. For example, in Ukraine, as of August 15, 2024, 37 JITs with 24 states were created. However, problematic aspects of the interaction between the competent authorities of states in the joint investigation of crimes remain on the periphery of the study.

An example of exposing an organised group during an attempt to commit a robbery on cash collectors was the creation of the JIT of France and Belgium. This group comprises the Specialised Interregional Court (JIRS PARIS), the Organised Crime Unit (OCCLO), the Federal Public Prosecutor's Office of the Kingdom of Belgium, and specialised units of the Belgian Federal Police (PJF Bruxelles, DSU) (Suspected bank robbers…, 2025). Another example of the activities of the JIT of Switzerland and Romania was the investigation of human trafficking. This team included the Public Prosecutor's Office attached to the High Court of Cassation and Justice of Romania, specifically the Directorate for Investigating Organised Crime and Terrorism (DIICOT), a specialised unit of the Romanian police responsible for investigating organised crime, drug trafficking, and other serious offences, the Bacău Territorial Service, the Neamț County Gendarmerie Inspectorate, and the Bacău County Gendarmerie Inspectorate (Romania), the Iași Organised Crime Police Brigade, the Bacău Mobile Gendarmerie Unit, and the Cantonal Public Prosecutor's Office and the Zurich City Police (Switzerland) (Eurojust supports successful…, 2025). In addition, the JIT was established to investigate drug trafficking. The JIT includes the Competent Authorities of Denmark, namely the unit for particularly serious crimes (NSK) and the prosecutor's office, as well as the Norwegian National Criminal Police Service. During the investigation, several types of narcotic drugs, firearms, cash, and cryptocurrencies were seized in Denmark and Norway, in addition to several apartments and real estate. As a result of the investigation, 152 drug traffickers were sentenced (Dufenyuk & Kelman, 2025; Cooperation via Eurojust leads to..., 2025).

During the investigation of crimes, JITs cooperate with international partners, in particular, international organisations, for example, the European Union Mission for Security and Defence Policy, the European Office for the Prevention of Abuse and Fraud, the European Commission, etc. In this context, the JIT's cooperation with international police organisations also plays a key role, namely: the European Union Agency for Law Enforcement Cooperation (hereinafter – Europol) and the International Criminal Police Organisation (hereinafter – Interpol). The formation of international law enforcement organisations at the regional level is becoming a global trend because the deepening of various areas of regional cooperation requires the creation of similar organisations in other territories (Zhuravel, 2022).

Since crimes go beyond state borders, Europol is designed to strengthen the interaction of two or more member states in conducting joint procedural actions aimed at solving specific goals and with the aim of effectively investigating crimes. Consequently, the main goal of Europol is to fight organised crime, because its scale, complexity of structure, and impact require coordinated actions of all member states of the Council of Europe (Lehan, 2021). In light of the findings of Europol's report on the analysis of financial and economic crime in the EU, in July 2023, during an operation carried out by officers of the Spanish National Police, with the support of Europol, 17 individuals were arrested on suspicion of manipulating the results of football matches through corrupt schemes (European Union Agency for Law Enforcement Cooperation, 2023). One example of the activities of the JIT is an international operation involving law enforcement and judicial authorities in 10 countries, conducted to stop the activities of the criminal group "Kompania Bello" in the cocaine trade in Europe. Thus, the JIT was created between Italy and the Netherlands with the assistance and funding of Eurojust and Europol (Europol, n.d.). A striking example of the success of the JIT and ensuring international justice is the downing of flight MH17, which demonstrates the importance of careful collection of evidence, interstate coordination, and compliance with legal standards even in difficult circumstances (Chernetska, 2024). Thus, the involvement of Europol and Interpol in conducting joint procedural actions with the JIT ensures careful planning of the investigation stages, rapid exchange of evidentiary information and data of operational significance. In addition to the above, one of the examples of investigating crimes by JIT with the participation of

Eurojust was the formation of an international JIT in Ukraine under martial law. The corresponding group included several countries, for example, Lithuania, Poland, Latvia, Estonia, Slovakia, and Romania. In turn, there is a positive experience in implementing the SOCTA methodology in the field of combating organised crime, which is used in its activities by the National Police of Ukraine. This method ensures the effectiveness of international cooperation at the national level (Movchan & Sozansky, 2023). According to the results of the use of SOCTA, 80% of criminal activity by organised criminal groups is committed in the field of drug trafficking, fraud, and human trafficking (EU Serious and Organised Crime Threat Assessment, 2021).

In view of the above, the activities of the JIT in the investigation of crimes are formed on the basis of scientific research and practical implementation of international standards in national legislation in the field of international cooperation. A prominent place in the process of creating a JIT belongs to the specific features of interaction between members and seconded members of relevant international teams, both among themselves and with other subjects of criminal proceedings. In the course of the research, a list of signs that are characteristic of interaction during the investigation of crimes by JIT is given. It is also necessary to highlight several key aspects of the creation of the JIT, namely: the legal framework, the preparation of a formal agreement between at least two or more states for a joint investigation of the crime and the development of an operational action plan. During the investigation of crimes by JIT, problematic issues arise, particularly legal and procedural differences that require further discussion.

Discussion

In the context of the review, attention should be paid to the position of Yu. Chornous (2017) on promising areas of cooperation between the JIT and Europol, Eurojust and Interpol in solving crime investigation tasks. Thus, the organisation and tactics of functioning of the JIT in law enforcement activities need to be improved, and transformational changes at the legislative level can improve the quality of crime investigation. The conclusions made by the researcher are quite appropriate since during the investigation of crimes, the JIT interacts with international police organisations and other international institutions during the implementation of procedural actions. This interaction of subjects is designed to create an effective mechanism for combating transnational crime, and, in turn, is aimed at solving common tasks of criminal proceedings and achieving a single result on the way to international justice. As indicated by B. Rostami & A. Jooj (2021), Europol helps share data, analyse information, compile expert reports, and conduct training. The international organisations, together with the law enforcement agencies of the member states, fights transnational crime (human trafficking, terrorism, money laundering and forgery, illegal immigration, financial criminal offences, cybercrime). The above review and analysis of the organisation's successful actions confirm positive assessments of its activities. Eurojust operates a Secretariat of the Network of Experts on the JIT to provide support to the JIT and offer methodological assistance, whose representatives provide practical and financial support to the JIT; for example, they analyse legislation and issue relevant recommendations regarding the prosecution of those involved in criminal offences. It should also be underlined that the meeting of the JIT at the Eurojust headquarters and the use of the coordination centre are among the key organisational aspects of the JIT's activities in the investigation of crimes (Krasnoborova, 2020).

In this context, the aspect of activating the complex process of standardisation and unification of approaches should be emphasised to minimise the above-mentioned discrepancies (Dufenyuk & Kelman, 2025). Participation in the work of the JIT allows for improving national institutions, expanding the boundaries of knowledge and technologies, primarily forensic ones. Considering foreign experience in the field of combating transnational crime, JIT use a hybrid approach in the methodology of crime investigation (Dufenyuk & Kelman, 2025). In turn, forensic algorithms of actions of the investigator, prosecutor, and other participants in the criminal process in a separate investigative situation and the corresponding investigation programmes form a separate forensic methodology, which is a kind of means of formalising methodological and forensic recommendations (Bondar, 2022). The above analysis demonstrates the need to apply a unified approach to the creation and operation of JITs to reduce the risks of disagreements in certain jurisdictions during the investigation of crimes. Notably, a special form of international cooperation forms a unique investigation methodology, accounting for the experience of international partners in the field of combating crime in the international space. Thus, it is necessary to focus on the formation of a separate methodology for investigating crimes, which is used in their practical activities by JIT.

M.I. Pashkovsky (2024) presented the opinion that it is important to use the EU's usual tool, the JIT, to unite and coordinate national efforts. In light of the findings of this study, it is possible to consider the activities of the JIT as a well-established practice in the investigation of international crimes and crimes of an international nature. This approach actualises the practice of creating a JIT at the national level with the introduction of the experience of foreign countries. It makes sense to interpret the

category "interaction" as the activity of an investigator (inquirer) and operational units in the investigation of criminal offences with agreed goals and conditioned by the tasks of criminal proceedings under a single leadership, which has a normative form (Bondar, 2022). O.S. Tarasenko *et al.* (2024) note that in practical terms, it is not uncommon for JIT to create multiple parties, which in turn facilitates the exchange of evidence-based information. The establishment and organisation of the activities of the JIT are performed in accordance with international treaties and national criminal procedure legislation. Interaction covers the efforts of various units in the detection and pre-trial investigation of crimes, the consistency of actions of each participant in criminal proceedings, and observing the rule of law. The conclusions made by the researchers are quite appropriate, as members and seconded members of the JIT, in particular, interacting with international organisations, perform investigations in accordance with the drawn-up plan (in the context of organisational, legal, and tactical principles) regarding the sequence of procedural actions.

Conclusions

Thus, globalisation and the level of transnational crime create the need for international coordination. Firstly, through forms of international cooperation in the investigation of criminal offences, for example, the creation of the JIT, it is possible to form effective international justice. The analysis of legislation and scientific literature helped to establish problematic issues of standards in international agreements to avoid legal gaps, problematic aspects of determining jurisdiction, and complications in the execution of court decisions. Thus, international cooperation has a specific legal nature and occupies a prominent place in the implementation of justice at the international level. Regularities of improving national legislation were identified, considering the comparison of legal norms and principles of creating a JIT for the investigation of crimes.

The results of the study demonstrated a positive trend in the activity of JIT in the investigation of international crimes and crimes of an international nature. Thus, several practical cases of investigating crimes by JIT and their interaction with Europol and Eurost are presented, which allow asserting the effectiveness of the investigation in the context of collecting evidence and establishing all the circumstances of the crime. In addition, the examination of the materials of Europol's reporting activities indicates interaction with the JIT under the investigation of organised crime in the field of drug trafficking, fraud and human trafficking. The results obtained allow stating that the activities of the JIT as a special form of international cooperation are a powerful mechanism for ensuring international justice. The functioning of the JIT was a kind of challenge in the framework of law enforcement activities. Attention was focused on the conceptual framework of JIT and its structural elements. The effectiveness of the investigation of crimes by JIT was analysed, and the influence of the mechanism of a special form of international cooperation on the fight against crime in international discourse was investigated. Conceptually, the above indicates the need for a process of interaction between members, seconded members, and other entities during the activities of the JIT. The dynamics of integration processes and globalisation challenges require international regulation, establishing the specifics of the relationship between international and national law, and developing new conceptual approaches to examine their interaction.

Improving the results of the above-mentioned activities of the JIT in the investigation of crimes requires improving the regulatory framework, the development of methodology and forensic support in the investigation of criminal offences in accordance with the best international practices. A comprehensive examination of the activities of JIT, combining national and international experience, can become a promising area for understanding the aspect of investigation crimes by JIT.

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Розслідування злочинів спільними слідчими групами: нові можливості забезпечення правопорядку

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■ **Анотація.** У сучасних умовах злочинність набуває нових транснаціональних ознак, постійно пристосовуючись до інноваційних прийомів розслідування злочинів. З огляду на це, виникла потреба в створенні спільних слідчих груп. Актуальність теми зумовлено тенденцією до вдосконалення функціонування однієї з форм міжнародного співробітництва в кримінальному провадженні – спільної слідчої групи. Мета статті полягала у визначенні ключових питань розслідування злочинів спільними слідчими групами та їх значення в правоохоронній діяльності. Пріоритетними методами в дослідженні стали порівняльно-правовий (компаративістський), формально-правовий, кейс-стаді, термінологічний, юридичної герменевтики, а також інші загальні методи пізнання, зокрема, індукції та дедукції, прогнозування й абстрагування, аналізу й синтезу. Під час виконання завдань кримінального провадження за фактами розслідування міжнародних злочинів і злочинів міжнародного характеру відбувається взаємодія компетентних органів держав у різних формах міжнародного співробітництва. Встановлено, що реалізація завдань досудового розслідування злочинів потребує використання прогресивних інструментів посиленої поліцейської та судової співпраці. Досліджено завдання компетентних органів різних держав під час спільного розслідування злочинів міжнародного характеру та міжнародних злочинів. Доведено, що забезпечення правопорядку у сфері розслідування транснаціональної злочинності безпосередньо залежить від функціонування особливої форми міжнародного співробітництва – створення спільних слідчих груп. Рекомендовано зосередити увагу на особливостях проведення слідчих процесуальних дій, застосуванні тактичних прийомів з урахуванням криміналістичних інновацій та алгоритмів використання спільних методик під час розслідування злочинів у національному та міжнародному вимірах

■ **Ключові слова:** міжнародне співробітництво; організація розслідування; кримінальне провадження; міжнародні організації; правоохоронні органи

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Comparative analysis of international and regional treaties on combating human trafficking in countries of Europe and Central Asia

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■ **Abstract.** The aim of the study was to identify the similarities and differences of the legal and institutional frameworks for the response to trafficking in human beings in Europe and Central Asia. The use of a comparative legal analysis enabled the study to be conducted in a rigorous manner, and enabled rigorous comparisons both between national criminal law provisions, and both between legislation that was specialised, as well as institutional coordination and monitoring mechanisms. This ensured that differences between jurisdictions were found both in the harmonisation of international standards, as well as in the implementation of these standards in practice. The results indicated that in the majority of cases, international standards are incorporated more comprehensively into EU member State domestic legislations. There are established robust interagency cooperation mechanisms, there are well-developed monitoring and reporting mechanisms, and there is substantial engagement of civil society organisations, and comprehensive victim assistance that is provided by these organisations. These elements combine to form a model that has an unwavering focus on the victim-centred approach to addressing the problem of trafficking in human beings. In contrast, the study found systemic shortcomings with regard to Central Asian States in relation to their fragmented implementation of international commitments, their insufficient protection of victims of trafficking, and their lack of interagency cooperation and the insufficiently developed independent monitoring mechanisms. It is this which impact significantly upon the effective operation of domestic national anti-trafficking mechanisms. The differences also therefore point to directions for the adaptation of the most effective European practices in strengthening monitoring mechanisms and digital readiness, and also in relation to other Central Asian States

■ **Keywords**: international law; human rights; law enforcement; migration; regional cooperation

■ Introduction

This research is important because human trafficking is the most dangerous transnational crime, devastating human rights, social order and security. Human trafficking is changing in the climate of heightened migration, warfare and economic disparity, and it needs to be addressed in an integrated fashion. While many EU countries show a systematic approach integrating international standards, transparent monitoring and the primacy of victim rights, Central Asian countries show a systematic approach that is non-systematic, with fragmented legislation and no inter-agency cooperation.

The research question is that fundamental problems of implementing anti-human trafficking norms remain unanswered in Central Asia: there is no effective monitoring of law enforcement, a limited role for civil society, and an emphasis on the punishment of crime instead of prevention and assistance

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to victims. Difficulties are further exacerbated by the lack of regional information exchange, insufficient professional training and a low level of victim confidence in law enforcement agencies. These considerations highlight the need for a comprehensive and comparative study of legal and institutional practice to identify models of good practice for implementation in Central Asia and connected regions.

A number of different areas are being covered by current research on the fight against human trafficking, and from legal, social, institutional, and technological perspectives. Researchers are examining the efficiency of international and national efforts, and of the implementation of these efforts in practice in different regions of the world, including Europe and Central Asia. The Article by A. Bekmagambetov *et al.* (2024), for example, provides a detailed coverage of the topic of anti-trafficking efforts at the international and national level, enabling an overview of the similarities or differences between the two. The study reveals the gap between promising commitment to international treaties, and their enactment in the state's legal system and institutional practice; it highlights the difference between words and action. The study by O. Yara *et al.* (2021) investigates the legal framework of the public administration bodies that can prevent violence. This includes types of exploitation linked to human trafficking. The authors highlight the need for comprehensive inter-agency collaboration. They also highlight the need for applying human rights protection concepts to public policy.

The study by A. Khamzin *et al.* (2022) investigates legal and institutional mechanisms intended to combat human trafficking in Kazakhstan and other Central Asian nations. The authors highlight incomplete implementation of international obligations, lack of coordination among state bodies, and a shortage of rehabilitation options for victims.

A. Al-Tammemi *et al.* (2023) made a valuable contribution to our understanding of global trends in human trafficking by conducting a retrospective analysis of the CTDC database for the period 2010-2020. A steady increase in recorded cases of human trafficking was identified by the authors, especially in the context of labour and sexual exploitation, using quantitative methods. The study reveals hidden aspects of the problem inaccessible through official statistics, highlighting the need for unified monitoring systems. A. Borovyk (2025) explores the socio-legal and psychological aspects of the problem in their studies. The author analyses human trafficking as a socio-legal phenomenon that affects individual rights and state functioning, drawing attention to the need to develop a legal culture of victim protection. It is made possible for human trafficking to be considered from both a legal and a humanitarian perspective by these publications, which is particularly relevant for the development of the "victim-centred" approach that has been adopted in European countries.

Research within this field is also linked to the role of digitalisation and digital platforms in the human trafficking trade, and the implications this has for the structure and operation of human trafficking networks. For example, N. Kubanova *et al.* (2025) investigate the legal tools for combating cybercrime in Kazakhstan and emphasise how legislation has to adapt in order to combat new forms of exploitation in the digital realm. T. Kownacki's (2021) investigation examines international cooperation mechanisms in the battle against human trafficking within the parameters of sustainable development. The author highlights that only effective combat of the issue occurs when nation-states and supranational institutions cooperate, as well as when harmonised mechanisms for information sharing and control are employed. R. Zablotska & O. Shepel (2022) examine the regulation of international labour migration in the context of regional integration agreements. The text demonstrates how the regulation of migration in some or other way is connected to the potential exposure of populations to human trafficking. This is crucial for Central Asian and Eastern European States since they are wholly dependent on migration for numerous socio-economic reasons.

Despite the existence of such regulatory measures and the regional states being signatories to international treaties, there is a discrepancy between the adoption of these norms at the level of practice, resulting in low levels of victim protection and cooperation at the transnational level. The objective of the research was a thorough review and comparison of European and Central Asian approaches to legal regulation and organisation in the fight against human trafficking:

1) to review in comparative aspect international, regional and national legal documents regulating the crime of human trafficking;

2) to identify the features of institutional implementation of anti-crisis measures and the level of coordination of state and non-state actors;

3) to propose recommendations for the adaptation of best practices in Europe to Central Asian countries.

■ Materials and Methods

The method of comparative legal analysis will be used. Comparative legal analysis involves comparing the laws of different countries. It looks at how the obligations to fight human trafficking vary across Europe and Central Asia. This approach facilitates not only a comparison of the formal content of international instruments and national legal systems, but also an assessment of their practical effectiveness, institutional sustainability, and degree of

compliance with international human rights protection standards.

The sample of countries was selected based on the extent to which international anti-trafficking legal norms have been implemented and institutionalised within national regulatory systems. The analysis included European countries. These were Poland, Germany and Ukraine. In these countries, international standards have largely been transposed into criminal and administrative legislation. Inter-agency coordination and monitoring mechanisms also operate. In Central Asia, the following legislative acts were examined Law of the Republic of Kazakhstan No. 110-VIII ZRK[1], Law of the Kyrgyz Republic No. 55[2], Law of the Republic of Uzbekistan No. ZRU-633[3], Law of the Republic of Tajikistan No. 1096[4], and Law of Turkmenistan No. 454-V[5]. These are characterised by gradual development of the legal framework against a background of persistent institutional constraints and insufficient regional coordination. As a perspective for enhancing cooperation in combating human trafficking, interstate agreements were also examined, including the Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues[6], Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on Cooperation in Combating Crime[7], Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime[8], Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime[9].

The analysis of national legislation would be incomplete without verification against international instruments, including Palermo Protocol[10], Council of Europe Convention on Action against Trafficking in Human Beings[11], Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues (2005). For quantitative assessment, the following international and regional statistical sources were used: International Labour Organisation (2022) and U.S. Department of State (2023; 2024), reports of United Nations Office on Drugs and Crime (2022; 2023) – containing data on detected cases of human trafficking in Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, and Turkmenistan (number of victims, proportion of women and children, types of exploitation); the International Organisation for Migration (2021), providing statistics and qualitative reports on labour migration from Central Asian countries, including the scale of outward migration, migration flow indicators, levels of illegal employment, and data on repatriated victims; and the Organisation for Security and Co-operation in Europe (2015; 2023), offering qualitative indicators such as inter-agency coordination, participation of non-governmental organisations, and the existence of national referral mechanisms.

The data were analysed with a contextual perspective highlighting the socio-political characteristics of the territories, and an institutional perspective highlighting the supranational and national bodies' role in ensuring the compliance with the obligations. This methodological and source triangulation enabled to obtain a comprehensive result of the assessment of the legal anti-trafficking regulation in the studied countries, the understanding of the prevailing patterns, and the suggestions for improvements of their regulation and institutional framework.

[1] Law of the Republic of Kazakhstan No. 110-VIII ZRK "On Combating Human Trafficking". (2024, July). Retrieved from https://adilet.zan.kz/rus/docs/Z2400000110.

[2] Law of the Kyrgyz Republic No. 55 "On the Prevention of and Fight against Human Trafficking". (2005, March). Retrieved from https://cbd.minjust.gov.kg/1650/edition/1213498/ru.

[3] Law of the Republic of Uzbekistan No. ZRU-633 "On Combating Human Trafficking". (2020, August). Retrieved from https://lex.uz/ru/docs/4953319.

[4] Law of the Republic of Tajikistan No. 1096 "On Combating Human Trafficking and Assisting Victims". (2019, January). Retrieved from https://surl.li/mmzfsz.

[5] Law of Turkmenistan No. 454-V "On Combating Human Trafficking". (2016, October). Retrieved from https://www.warnathgroup.com/wp-content/uploads/2024/09/F-1970736619_454.pdf.

[6] Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues. (2005, November). Retrieved from https://cis-legislation.com/document.fwx?rgn=14410.

[7] Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on Cooperation in Combating Crime. (2024, October). Retrieved from https://adilet.zan.kz/rus/docs/Z2500000234#z6.

[8] Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime. (1998, October). Retrieved from https://cis-legislation.com/document.fwx?rgn=8593.

[9] Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime. (1999, July). Retrieved from https://cis-legislation.com/document.fwx?rgn=5010.

[10] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

[11] Council of Europe Convention on Action against Trafficking in Human Beings. (2005, May). Retrieved from https://rm.coe.int/168008371d.

Results

The results of the analysis show that the general features of international and regional human trafficking treaties are features of a developed system of multilevel legal regulation: universal, regional and subregional. Each of these levels developed in its own specific historical and political-legal contexts, which accounts for the differences that can be observed in the content of the norms, their priorities and the implementation processes.

At the international level, the treaty that is seen as the core document is the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The instrument provided a universal definition of human trafficking that has three components: acts (recruitment, transportation, transfer), means (force, threat, deception, abuse of vulnerability, and others), and purpose of exploitation (sexual, labour, criminal exploitation, and organ removal). It was the first universal instrument that combined a criminal law aspect with a human rights aspect, and that placed obligations on State Parties to criminalise human trafficking, assist victims and develop international cooperation in the investigation of the crimes. Its adoption marked the transition from fragmented regulation to a comprehensive international system of counteraction based on the concept of the "three P" – prevention, protection, and prosecution.

The regional level in Europe is primarily represented by the Council of Europe Convention on Action against Trafficking in Human Beings[1], which became a logical continuation and development of the provisions of the Palermo Protocol[2], while at the same time introducing important innovations. Its key feature is its humanitarian orientation and the recognition of human trafficking not only as a crime but also as a serious violation of human rights. The Convention defined the States' obligations to identify victims, grant them temporary resident status, and ensure medical, psychological and legal support, as well as compensation for damages. An integral part of the implementation monitoring system – the Group of Experts on Action against Trafficking in Human Beings (GRETA), which regularly assesses States' compliance with the Convention and makes recommendations. Thanks to this mechanism, Europe has a system for monitoring in a continuous manner the appropriate balance between the prosecution of offenders and the protection of victims' rights.

Within the European Union, a significant role is played by Directive of the European Parliament and of the Council No. 2011/36/EU[3]. This instrument is aimed at harmonising the legislation of EU Member States and strengthens the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings, by introducing more specific requirements regarding criminal liability, minimum standards for victim protection, and inter-agency coordination. The Directive offers a common definition of human trafficking in all forms of exploitation of the victim, including sexual exploitation, labour exploitation, forced begging, removal of organs, and use in criminal activities. It takes a strict stance regarding criminal liability and sets down minimum standards regarding the protection and assistance of victims. Victims will be entitled to medical, psychological and legal assistance, housing and compensation. The Directive also requires EU Member States to train law enforcement officers, judges and social workers to enhance the effectiveness of investigations, prevention of trafficking, as well as to promote co-operation and exchange of information between national and international institutions.

In Central Asia, the legal framework for the fight against human trafficking is based on international obligations, on the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. All Central Asian Republics – Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan and Turkmenistan – are contracting parties to this instrument; in varying degrees of implementation in national jurisdictions.

In Kazakhstan, a specialised Law of the Republic of Kazakhstan No. 110-VIII ZRK[4]. is in force. However, according to the annual report of Times of Central Asia (Danayeva, 2025), the key problem remains insufficient inter-agency coordination: out of 1,891 registered cases, only a limited number were accompanied by comprehensive social assistance for victims, and the participation of non-governmental organisations remains restricted. In Kyrgyzstan, regulation is concentrated in the Law of the Kyrgyz Republic "On the Prevention and Combating of Human

[1] Council of Europe Convention on Action against Trafficking in Human Beings. (2005, May). Retrieved from https://rm.coe.int/168008371d.

[2] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

[3] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.

[4] Law of the Republic of Kazakhstan No. 110-VIII ZRK "On Combating Human Trafficking". (2024, July). Retrieved from https://adilet.zan.kz/rus/docs/Z2400000110.

Trafficking"[1]. Despite the existing legislative framework, challenges remain in the effective investigation and prosecution of trafficking crimes. According to the U.S. Department of State (2024), Kyrgyzstan continues to face difficulties in identifying victims and ensuring consistent prosecution of traffickers. In Uzbekistan Law of the Republic of Uzbekistan No. ZRU-633[2] is in force. According to data from International Labour Organisation (2022) and U.S. Department of State (2024), between 2020-2023 the rate of victim identification increased by 42%. However, experts emphasise the need to enhance transparency, particularly with regard to cooperation with independent non-governmental organisations. In Turkmenistan, the legal framework formally includes the Law of Turkmenistan "On Combating Human Trafficking"[3], yet reporting remains closed. According to the U.S. Department of State (2023), the country continues to be classified as Tier 3: no data on victim identification are available, investigation indicators are not published, and cooperation with international organisations is limited. In Tajikistan, the basic regulatory act is the Law of the Republic of Tajikistan No. 1096[4]. According to the U.S. Department of State (2025), Tajik authorities registered 57 criminal cases and increased the identification of victims, including those of labour exploitation. However, a significant portion of cases remains unclassified or not reflected in national statistics under Article 130.1 of the Criminal Code of the Republic of Tajikistan[5], which exacerbates the problem of underreporting and complicates the full implementation of international obligations.

In contrast to Europe, where there is a supranational mechanism for monitoring (the Council of Europe Group of Experts on Action against Trafficking in Human Beings) the countries of Central Asia have no system of independent oversight. This reduces the effectiveness of control over the implementation of obligations and hinders harmonisation of approaches within the region. The absence of a mandatory supranational monitoring mechanism analogous to GRETA weakens compliance monitoring.

At the subregional level, the formation of platforms and framework agreements is evident. For example, within the Commonwealth of Independent States (CIS), Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues[6] is in force. Within the Organisation for Security and Co-operation in Europe and the Shanghai Cooperation Organisation, programmes are implemented to strengthen the capacity of law enforcement bodies, while the Regional Information and Coordination Centre for Combating Illicit Drug Trafficking facilitates the exchange of operational information, including data on human trafficking. These initiatives are cooperative and largely political-declaratory in nature, aimed at promoting cooperation, but they do not establish binding legal mechanisms for victim protection.

Alongside multilateral cooperation mechanisms, bilateral interstate agreements aimed at combating transnational crime, illegal migration, and related forms of exploitation play an important role in Central Asia. Such agreements provide a legal basis for interaction between competent authorities but are generally of a broad framework character. A significant example is the Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on Cooperation in Combating Crime[7]. This document provides for cooperation between law enforcement bodies in combating organised crime, terrorism, drug trafficking, illegal migration, and human trafficking, as well as the exchange of operational information and the conduct of joint activities. Between the Republic of Kazakhstan and the Republic of Uzbekistan, the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime[8], which entered into force in 2005, is in effect. It establishes mechanisms for cooperation between competent authorities, including information exchange and assistance in the investigation of transnational crimes, including those related to human trafficking. The legal basis for

[1] Law of the Kyrgyz Republic No. 55 "On the Prevention and Combating of Human Trafficking". (2005, March). Retrieved from https://cbd.minjust.gov.kg/1650/edition/1213498/ru.
[2] Law of the Republic of Uzbekistan No. ZRU-633 "On Combating Human Trafficking". (2020, August). Retrieved from https://lex.uz/ru/docs/4953319.
[3] Law of Turkmenistan No. 454-V "On Combating Human Trafficking". (2016, October). Retrieved from https://www.warnathgroup.com/wp-content/uploads/2024/09/F-1970736619_454.pdf.
[4] Law of the Republic of Tajikistan No. 1096 "On Combating Human Trafficking and Assisting Victims". (2019, January). Retrieved from https://surl.li/rhvvfl.
[5] Criminal Code of the Republic of Tajikistan. (1998, May). Retrieved from https://continent-online.com/Document/?doc_id=30397325.
[6] Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues. (2005, November). Retrieved from https://cis-legislation.com/document.fwx?rgn=14410.
[7] Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on Cooperation in Combating Crime. (2024, October). Retrieved from https://adilet.zan.kz/rus/docs/Z2500000234#z6.
[8] Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime. (1998, October). Retrieved from https://cis-legislation.com/document.fwx?rgn=8593.

bilateral cooperation between the Kyrgyz Republic and the Republic of Uzbekistan is the Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime[1]. This document aims to coordinate law enforcement actions, exchange information, and provide mutual assistance in the investigation of crimes, including cross-border offences.

No public bilateral agreement dedicated specifically to combating human trafficking has been identified between Kazakhstan and Kyrgyzstan in open sources. Cooperation between the two countries is mainly carried out on the basis of treaties on legal assistance and extradition, as well as within the framework of CIS multilateral mechanisms and inter-agency agreements between law enforcement bodies. Similarly, no specialised bilateral agreement on combating human trafficking has been identified between Kyrgyzstan and Tajikistan in public sources. Cooperation is implemented through participation in the CIS Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues[2], through CIS coordination bodies, and via inter-agency contacts.

To identify the common and distinctive features of legal regulation for combating human trafficking across Europe and Central Asia, a comparative analysis is appropriate. This analysis should cover the international, regional and bilateral treaties. The relevant states should be parties to these treaties. This approach enables us to evaluate the extent to which international standards are implemented, the nature of states' obligations, and the existence of effective victim protection mechanisms. Table 1 presents the key universal instruments. It also presents the EU and Council of Europe regional treaties. And it presents the regional and bilateral agreements of Central Asian states. All of this form the regulatory basis for interstate cooperation in this field. The research focuses on the comparison of European (Poland and Germany) and Central Asian (Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan and Kyrgyzstan) countries, through which it is possible to identify the different types of treaty-based legal regulation of anti-trafficking.

Comparative analysis of international and regional treaties on human trafficking legislation reveals significant discrepancies between European and Central Asian nations. These discrepancies relate to the scope of legal obligations. They also refer to the implementation mechanisms involved. European nations such as Poland and Germany, for example, are parties to the Council of Europe Convention on Action against Trafficking in Human Beings and EU legal instruments. These provide for a comprehensive approach, not only criminalising relevant acts, but also protecting victims' rights, rehabilitating them, and ensuring the functioning of independent monitoring mechanisms. At the same time, Central Asian states mainly rely on universal UN instruments and regional framework agreements within the CIS, as well as on bilateral treaties on cooperation in combating crime. These instruments are mainly about police cooperation, exchange of information and the fight against irregular migration, while the provisions on identification, assistance and protection of victims of human trafficking are still undeveloped or merely declarative.

In Central Asia compliance with international legal documents for the fight against human trafficking takes place in the form almost exclusively of the Palermo Protocol itself and in the cooperation between regional inter-State organisations such as the CIS, the OSCE, the SCO or the Regional Information and Coordination Centre for the fight against narcotic drug trafficking. This format exhibits a regional modification of the Protocols oriented towards information sharing, setting up joint investigation efforts, and capacity building of the law enforcement agency rather than legal harmonisation with regard to victim protection. Unlike European countries such as Poland and Germany, where a comprehensive system of legal and institutional measures operates (including the implementation of Directive of the European Parliament and of the Council No. 2011/36/EU[3] and participation in the GRETA monitoring mechanism under the 2005 Council of Europe Convention), Central Asian states – Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, and Turkmenistan – are not parties to the Council of Europe Convention and therefore do not fall under GRETA's jurisdiction. The explanation for this situation is multifactorial. These states are not members of the Council of Europe, and this precludes their accession to its conventions. In a number of states (for example, Turkmenistan and Tajikistan), there remain institutional and political-legal barriers to this, linked to the closed nature of their legal systems and their unpreparedness to monitor compliance with international obligations in the field of

[1] Agreement between the Government of the Kyrgyz Republic and the Government of the Republic of Uzbekistan on Cooperation in Combating Crime. (1999, July). Retrieved from https://cis-legislation.com/document.fwx?rgn=5010.

[2] Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues. (2005, November). Retrieved from https://cis-legislation.com/document.fwx?rgn=14410.

[3] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.

human rights. Instruments of interstate cooperation in the framework of the CIS and the Shanghai Cooperation Organisation are consultative and do not contemplate binding monitoring and evaluation. It is possible to identify a "bilevel model" of the fight against human trafficking. This model has two levels. The first is a thoroughgoingly European level, based on supranational legal regulation and monitoring. The second is a Central Asian, regionally oriented infrastructure, where interstate cooperation is coordinative. This makes it possible to see the need to further harmonise norms and institutions and to create common standards for victim protection at the level of the Eurasian region.

That there is weak coordination among states in the field of human trafficking in Central Asia is corroborated by data from international organisations and reports from the states themselves. In their report, the United Nations Office on Drugs and Crime (2022) state that Central Asian states still show low rates of detection of transnational criminal organisations and a low number of joint investigations, which points to the absence of stable channels for operational information exchange. The Organisation for Security and Co-operation in Europe report (2023), "Combating Human Trafficking: Central Asia", states that instruments of interstate cooperation are fragmented and do not provide for the regular exchange of analytical data, joint investigative teams or unified procedures for the return of victims to their country of origin. OSCE materials and analytical reports for 2023-2025 indicate that joint regional operations are conducted sporadically. Mainly in the form of seminars and training sessions, which do not ensure full operational coordination. Official statistics also confirm this problem. For example, in Kazakhstan, during the first six months of 2025, 134 criminal cases related to human trafficking were initiated; however, reports of the Ministry of Internal Affairs emphasise that a significant proportion of offences remain latent, especially in the sphere of domestic labour exploitation, and that data on joint investigations with other regional countries are virtually absent (Hasan & Gorshnikov, 2025). Studies by independent analytical centres have reached similar conclusions. These studies indicate that the lack of harmonised legal definitions, the incompatibility of national information systems and the absence of a unified regional database hinder the monitoring of migration routes and systematic registration of victims (Dost, 2023). Thus, conclusions about weak interstate coordination are based on an analysis of official statistics and comparisons of national and international reports. They are also based on materials from the Organisation for Security and Cooperation in Europe (OSCE) and the International Organisation for Migration (IOM) (2021), as well as a comparative study of legislative and institutional mechanisms in the region. This allows us to assert that cooperation remains declaratory and insufficiently institutionalised.

Comparing the content of international and regional treaties on combating human trafficking across key areas enables us to identify not only the general legal response framework, but also significant differences in emphasis, regulatory depth and states' practical obligations. The purpose of such analysis is to determine how norms define the elements of the offence. It also examines the rights and guarantees granted to victims. In addition, it examines what preventive measures are provided. Finally, it examines how thoroughly the mechanisms of criminal prosecution and international cooperation are regulated.

With regard to the definition and elements of the offence, the concept enshrined in the Palermo Protocol[1] has become the universal standard. This document established the classical "triad" of elements – act, means, and purpose – that enabled the unification of understanding of human trafficking in international law. European instruments, in particular the Council of Europe Convention on Action against Trafficking in Human Beings[2] and Directive No. 2011/36/EU[3], develop and specify this definition, strengthening the emphasis on victims' rights and contemporary forms of exploitation. The Council of Europe Convention stresses the need to take vulnerability factors into account and recognises as invalid any consent given under deception, threats, or abuse of position. In turn, the EU Directive supplements the definition with provisions on labour exploitation and new digital forms of control, effectively extending its scope to exploitation carried out through online environments.

Differences are most evident in the sphere of victims' rights and protection. The Palermo Protocol[4]

[1] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

[2] Council of Europe Convention on Action against Trafficking in Human Beings. (2005, May). Retrieved from https://rm.coe.int/168008371d.

[3] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.

[4] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

establishes only general guidelines, namely the need to provide assistance and support to victims, including their physical, psychological, and social recovery, but does not contain specific implementation mechanisms. In contrast, the Council of Europe Convention and Directive 2011/36/EU impose specific obligations on Member States, including the mandatory identification of victims, the provision of free medical and legal assistance, temporary accommodation, witness protection and compensation mechanisms. An institutional component is also included in the European system – the GRETA expert body. This body is responsible for monitoring compliance and evaluating the effectiveness of national measures. The practical results of these instruments are particularly evident in several European countries. In Germany and Poland, for example, victim compensation schemes have been improved, and specialised shelters have been financed by national and EU funds. The result is that the European system has shown a high level of coherence between criminal law and social and administrative mechanisms, which has improved victim protection and social reintegration.

In Central Asia, compensation mechanisms and sustainable state funding for assistance are limited and uneven; a significant share of services is provided by non-governmental and international organisations. Despite the existence of basic provisions on victim support in national legislation, systematic, state-funded compensation mechanisms are virtually absent. Assistance programmes are most often implemented with the support of international organisations such as the OSCE, the International Organisation for Migration, and the United Nations Office on Drugs and Crime, confirming the region's dependence on external donor initiatives.

In the field of preventive measures, the European regulatory framework demonstrates consistency and sustainability. Directive No. 2011/36/EU[1] establishes requirements for states to conduct awareness campaigns, train law enforcement and migration officials, monitor private employment agencies, and appoint national anti-trafficking coordinators. These measures are embedded in national strategies and financed from state budgets and EU funds. The Council of Europe Convention on Action against Trafficking in Human Beings[2] also establishes obligations to prevent trafficking through social policy, educational initiatives, and partnerships with civil society. In Central Asia, prevention is less institutionalised: regional agreements such as the Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues[3] and Agreement on Cooperation in Combating Illicit Traffic of Narcotic Drugs, Psychotropic Substances, and Precursors between the Member States of the Shanghai Cooperation Organisation[4], proclaim the need for information exchange and staff training, but actual implementation is sporadic.

With regard to criminal prosecution and international cooperation, the Palermo Protocol[5] sets general principles of mutual legal assistance, extradition, and information exchange, leaving specifics to national systems. In contrast, the Council of Europe Convention imposes more detailed obligations regarding investigation, protection, confiscation, and police cooperation. The European approach is aimed at harmonisation of criminal laws and harmonisation of an acquis for police powers. In Central Asia, cooperation is political and declarative: OSCE memoranda and CIS treaties do not envisage any acquisitive operational exchange mechanisms, and they do not use cross-border investigations. All in all, the Palermo Protocol is universal and sets standards for what should be seen as the minimum. The European legal system forms a supranational level of regulation with institutional monitoring mechanisms and guarantees of victims' rights, whereas Central Asian regional initiatives remain largely declaratory and require further development in order to ensure genuine implementation of obligations and alignment of national measures with international standards[6].

The effectiveness of international and regional treaties relating to human trafficking is not in their norms but in their processes for implementation and enforcement. In this respect, a significant difference can be observed between the European and Central Asian systems. At the European level, oversight is

[1] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.

[2] Council of Europe Convention on Action against Trafficking in Human Beings. (2005, May). Retrieved from https://rm.coe.int/168008371d.

[3] Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues. (2005, November). Retrieved from https://cis-legislation.com/document.fwx?rgn=14410.

[4] Agreement on Cooperation in Combating Illicit Traffic of Narcotic Drugs, Psychotropic Substances, and Precursors between the Member States of the Shanghai Cooperation Organisation. (2004, June). Retrieved from https://eng.sectsco.org/20040617/1627620.html.

[5] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

[6] Agreement on Cooperation in Combating Illicit Traffic of Narcotic Drugs, Psychotropic Substances, and Precursors between the Member States of the Shanghai Cooperation Organisation. (2004, June). Retrieved from https://eng.sectsco.org/20040617/1627620.html.

institutional. Council of Europe Convention on Action against Trafficking in Human Beings[1] created GRETA – an independent body responsible for regularly assessing States Parties' compliance with the obligations set out in the Convention. GRETA conducts monitoring on a cyclical basis. Periodic reports are submitted by states, and are then subjected to expert analysis. On-site visits, consultations with non-governmental organisations, and subsequent public reports accompany this process. The Committee of Ministers of the Council of Europe approves the final recommendations, and failure to implement them may result in political pressure or requests for additional measures. This transparent, regular and expert-driven mechanism is one of the most effective international instruments for combating human trafficking.

Within the EU, supranational mechanisms are implemented through Directive No. 2011/36/EU[2], which requires Member States to report regularly to the European Commission and to cooperate with the EU Anti-Trafficking Coordinator. The European Commission publishes consolidated progress reports and may initiate infringement procedures in cases of non-compliance or delayed transposition of norms. This ensures the legal binding force of monitoring and enables legal enforcement within EU mechanisms.

In contrast, Central Asian countries mainly follow a political and declaratory approach. Despite Kyrgyzstan's participation in the UN Protocol against Trafficking in Persons (2000) and in the Agreement on Cooperation of the Member States of the Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues[3], no permanent supranational supervisory body exists. Monitoring of compliance is carried out through sporadic reporting within projects of the United Nations Office on Drugs and Crime (2023) and the International Organisation for Migration (2021), as well as at the intergovernmental level through donor-driven initiatives. Regional platforms are primarily oriented towards the exchange of operational information on drug trafficking and only indirectly address human trafficking. The absence of institutionalised monitoring and sanctioning procedures reduces states' accountability for fulfilling their obligations and leads to significant disparities in the level of implementation of norms in national legislation (Organisation for Security and Co-operation in Europe, 2003).

An analysis of the institutional aspects of tackling human trafficking reveals significant disparities between European and Central Asian countries. While EU states have independent national coordinators and supervisory bodies to monitor, evaluate, and coordinate victim support measures, such mechanisms are either absent or have limited powers and resources in most Central Asian countries. This reduces the effectiveness of international obligations and restricts victims' access to protection and compensation. Comparative data enable us to determine which countries have fully functioning oversight structures and to assess their effectiveness (Table 1).

Table 1. Existence and effectiveness of monitoring mechanisms

Instrument/Level	Existence of Independent Body	Mandatory Reporting	Sanctions for Non-Compliance
UN Protocol against Trafficking	No	Voluntary reporting to UNODC	Not provided
Council of Europe Convention on Action against Trafficking in Human Beings	Yes – GRETA (independent expert group)	Mandatory – reporting cycles, public reports	Political sanctions (recommendations of the Committee of Ministers)
Directive No. 2011/36/EU	EU Coordinator, European Commission supervision	Mandatory regular reporting by states	Legal sanctions (infringement procedures before the Court of Justice of the EU)

[1] Council of Europe Convention on Action against Trafficking in Human Beings. (2005, May). Retrieved from https://rm.coe.int/168008371d.
[2] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.
[3] Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues. (2005, November). Retrieved from https://cis-legislation.com/document.fwx?rgn=14410.

Table 1. Continued

Instrument/Level	Existence of Independent Body	Mandatory Reporting	Sanctions for Non-Compliance
CIS Agreement on Combating Trafficking	No (voluntary coordination)	Non-mandatory	None
OSCE Initiatives	No (project-based monitoring)	Voluntary reporting within programmes	None

Source: compiled by the author based on the Palermo Protocol[1], Council of Europe Convention on Action against Trafficking in Human Beings[2], Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision"[3], Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues[4], Organisation for Security and Co-operation in Europe (2003)

It can be concluded that the effectiveness of international treaties depends on two things. First, there must be institutionalised monitoring mechanisms. Second, there must be legal consequences for non-compliance. The European system is more transparent and accountable thanks to the work of GRETA and the European Commission. In comparison, Central Asian supervision mechanisms are mostly declaratory. This emphasises the necessity to reinforce regional collaboration and to set up specialised monitoring entities similar to European structures to improve the effectiveness of the efforts to combat human trafficking in Central Asian countries.

Poland demonstrates a high level of harmonisation of national criminal legislation with EU law. Article 189a of the Criminal Code contains a comprehensive and structured definition of human trafficking covering acts, means, and purposes of exploitation, fully in line with Directive No. 2011/36/EU[5]. A significant advantage of the Polish model is its developed system of victim protection, including medical, psychological, and legal assistance, as well as mechanisms for compensation and social reintegration. The effectiveness of legal regulation is reinforced by the functioning of a national coordinator, inter-agency working groups, and regular reporting, which ensures the institutional sustainability of the system[6].

Germany is among the states with the most comprehensive and modern approaches to combating human trafficking. Sections §§232-233a Criminal Code of Germany[7] not only implement the provisions of the Council of Europe Convention and EU directives, but also extend them to cover new forms of exploitation. German legislation is oriented towards a victim-centred model providing a wide range of guarantees, from shelter and compensation to access to specialised crisis centres[8]. Monitoring mechanisms are characterised by a high degree of formalisation. A coordinating council within the Federal Ministry of the Interior oversees this. There is also mandatory reporting to Parliament. This ensures transparency and oversight of policy implementation.

[1] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

[2] Council of Europe Convention on Action against Trafficking in Human Beings. (2005, May). Retrieved from https://rm.coe.int/168008371d.

[3] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.

[4] Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Trafficking in Human Beings, Organs and Tissues. (2005, November). Retrieved from https://cis-legislation.com/document.fwx?rgn=14410.

[5] Directive of the European Parliament and of the Council No. 2011/36/EU "On Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision". (2011, April). Retrieved from https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng.

[6] Regulation of the Minister of Health of Poland No. 149 "On the Types of Medical Documentation of Occupational Health Services, the Manner of Its Maintenance and Storage, and the Templates of Documents Used". (2010, July). Retrieved from https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20101491002.

[7] Criminal Code of Germany. (1872, January). Retrieved from https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html.

[8] Act of Germany on the United Nations Convention Against Transnational Organised Crime and the Related Protocols. (2006, June). Retrieved from https://ris.bka.gv.at/eli/bgbl/III/2006/96.

Ukraine has largely implemented international standards in the field of combating human trafficking. Article 149 Criminal Code of Ukraine[1] corresponds to the UN Protocol and the Council of Europe Convention, covering all key elements of the offence. Law of Ukraine No. 3739-VI "On Combating Human Trafficking"[2] establishes the legal basis for victim protection, including temporary shelter, assistance, and reintegration measures. At the same time, the effectiveness of implementation largely depends on the state's institutional and financial capacities, especially under wartime conditions. The supervision mechanism has a national president and regional commissions so there are some formal coordination arrangements. The way they operate varies, however.

In the Kyrgyz Republic, there is weaker legal regulation. While Criminal Code sets the crime of human trafficking and Law No. 55[3] is in force, definitions and coverage for all forms of exploitation are still narrower than in the international instruments. The victim protection system is patchy. There is no guaranteed compensation, no provision for any long-term assistance programme; it is left to NGOs. There is a state commission under the commission of the government for monitoring purposes, but the lack of independent monitoring and the sometimes-sporadic nature of the state's reporting from time to time makes a considerable impact on the effectiveness of state policy.

Kazakhstan has taken significant steps to develop a regulatory framework for combating human trafficking, yet conceptual gaps remain. Article 128 of the Criminal Code of the Republic of Kazakhstan[4] includes a definition of human trafficking but does not clearly differentiate forms of exploitation or emphasise coercive means, which complicates law enforcement. Law of the Republic of Kazakhstan No. 110-VIII ZRK[5] provides for social assistance and temporary shelter for victims, but compensation mechanisms remain limited. Coordination is carried out through an inter-agency commission under the Ministry of Internal Affairs and national action plans; however, the absence of independent monitoring reduces system transparency.

Turkmenistan has a low level of regulatory complexity in the area of anti-human trafficking efforts. Article 129(1) Criminal Code of Turkmenistan[6] only partially corresponds to the UN Protocol and does not fully elaborate elements of coercion and means of exploitation. Victim protection lacks a stable legislative basis and is limited to temporary measures, such as shelter provision. The institutional monitoring model is effectively centralised within the Ministry of Internal Affairs, in the absence of a specialised body and regular public reporting, which complicates the assessment of the effectiveness of adopted measures.

In Tajikistan, Article 130(1) Criminal Code of the Republic of Tajikistan[7] formally complies with the UN Protocol; however, it does not take into account contemporary forms of exploitation, including digital means of recruitment and abuses in the field of labour intermediation. The Law of the Republic of Tajikistan No. 1096 "On Combating Human Trafficking and Assisting Victims"[8] provides for temporary assistance and witness-protection measures, but does not establish standalone state mechanisms for compensating victims for harm suffered. The coordination mechanism consists of an inter-departmental commission under the Government, but irregular reporting and limited monitoring indicate that this commission only has the appearance of a body that is functioning.

Uzbekistan demonstrates one of the most dynamic legislative reform models in Central Asia. Article 135 Criminal Code of Uzbekistan[9] contains an expanded definition of human trafficking, and the adoption of a new law in 2020 significantly strengthened the human-rights component of state policy. The assistance mechanism provides for rehabilitation, temporary accommodation, legal assistance, and it has shelters, but it depends on non-governmental organisations for its operation. The National Commission on Combating Human Trafficking and Forced Labour is associated with regular reporting, and with its links to the ILO, it has some credibility in international terms. A review of the systems in the European Union and in those that are members of the European legal area, such as Poland or Germany, show that they have an expansive, victim-centred approach to anti-human trafficking efforts and they have developed monitoring systems. The regulation

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[2] Law of Ukraine No. 3739-VI "On Combating Human Trafficking". (2011, September). Retrieved from https://zakon.rada.gov.ua/laws/show/3739-17.
[3] Law of the Kyrgyz Republic No. 55 "On the Prevention of and Fight against Human Trafficking". (2005, March). Retrieved from https://cbd.minjust.gov.kg/1650/edition/1213498/ru.
[4] Criminal Code of the Republic of Kazakhstan. (2014, July). Retrieved from https://adilet.zan.kz/rus/docs/K1400000226.
[5] Law of the Republic of Kazakhstan No. 110-VIII ZRK "On Combating Human Trafficking". (2024, July). Retrieved from https://adilet.zan.kz/rus/docs/Z2400000110.
[6] Criminal Code of Turkmenistan. (1998, January). Retrieved from https://legislationline.org/ru/taxonomy/term/16467.
[7] Criminal Code of the Republic of Tajikistan. (1998, May). Retrieved from https://continent-online.com/Document/?doc_id=30397325.
[8] Law of the Republic of Tajikistan No. 1096 "On Combating Human Trafficking and Assisting Victims". (2019, January). Retrieved from https://surli.cc/nvxuns.
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of anti-human trafficking efforts in Central Asian countries, on the other hand, is aimed at criminal acts and agency coordination, there are no systems that are developed for the protection of victims and no independent monitoring. This necessitates further harmonisation with international standards.

Overall, the analysis indicates that the European approach to implementing international norms is grounded in institutional resilience, the primacy of human rights, and multi-level monitoring. In contrast, law enforcement in Central Asia remains dependent on external support and political factors. To improve the effectiveness of implementing international standards, independent oversight mechanisms must be strengthened, legal guarantees for victim protection must be expanded, and regional forms of cooperation must be developed.

■ Discussion

Researchers argue that the formal implementation of international obligations does not automatically improve the effectiveness of victim protection, and the reasons for this are unclear. The comparison demonstrated full consistency with this thesis. An analysis of Central Asian legislation confirms that functioning mechanisms are not guaranteed by the existence of laws and strategies if institutional and financial resources remain insufficient. These results complement those of M. Denysovskyi *et al.* (2020), showing that effectiveness remains limited in the absence of independent monitoring and sustained inter-agency cooperation, even in countries with modernised legislation (e.g., Kazakhstan).

N. Tsikarishvili (2022) emphasises that the same basic international obligations lead to different outcomes depending on the quality of national institutions. The analysis conducted confirms this conclusion: EU countries demonstrate consistent implementation of standards due to stable institutions, whereas Central Asia shows considerable variability. However, the results add an aspect less emphasised by N. Tsikarishvili – namely, the impact of uneven resource distribution between regions within individual states (for example, Ukraine and Uzbekistan).

A study by S. Zhang & R. Kato Price (2024) shows that Poland and Germany effectively transform international norms into comprehensive assistance mechanisms, ranging from shelter networks to compensation programmes. The comparison confirms a high degree of alignment, with the results indicating a higher completion rate in criminal proceedings than in a number of Central Asian states. At the same time, however, the data extend the authors' conclusions by showing that the sustainability of these models is also linked to the existence of independent audits and structural monitoring, an aspect that was less developed in their work.

In contrast, R. Broad & N. Turnbull (2024) highlight the challenges of transposing international norms in Central Asian countries. Their conclusions are fully confirmed by the results: even when national commissions and action plans exist on paper, ineffectiveness is the result of institutional frailty and dependence on a donor programme. Their conclusions are also confirmed regarding their classification of Tajikistan and Turkmenistan as states having lows of independent monitoring, lacking digital monitoring infrastructure and data exchange between agencies, although a dimension which the authors only partially address.

The conclusions of Y. Gunawan *et al.* (2022) are that the protection of trafficking victims in Kyrgyzstan depends on NGO's. The comparative analysis confirms this conclusion, but provides a more nuanced interpretation: NGO's are not entrenched in the state apparatus, which results in fragmented data and delays in dealing with law enforcement. K. Tanwar & S. Mishra (2025) conclude that external monitoring and public reporting are necessary, indeed the key determinants of effectiveness. Their conclusions are fully verified by the results. European states involved in GRETA mechanisms show higher institutional consistency and transparency in the fulfilment of their obligations. Yet the analysis also brings to light a dimension which the authors did not develop: that the monitoring deficit in Central Asia is aggravated by bureaucratic verticalisation, which constrains local initiative and autonomy.

From a migration perspective, A. González Arias & O.A. Araluce (2021) conclude that intensified migration generates pressure on mechanisms for preventing exploitation. The analysis confirms this conclusion in that it shows European states diffuse this pressure by means of extensive institutional resources. It also makes clear that in Central Asia the danger signals are not only external migration but also a massive internal labour market – for which the authors investigated less thoroughly. Likewise, S. Khan *et al.* (2023) establish a correlation between labour migration, lack of transparency in migration corridors, and risk of exploitation. The comparative analysis supports this conclusion but brings to light a dimension which the authors only partially examined: in Central Asian states the problem is not only opacity of corridors, but also weak cross-border coordination. This opens up "white zones" in transnational chains of human movement.

Regarding the digital threat, M. Bermeo *et al.* (2023) stress the necessity of monitoring online risk with algorithms. Their findings are consistent with the authors' conclusions, showing that algorithmic instruments for monitoring online risk have already been implemented in several European Union states, while Central Asian states show a low level of digital infrastructure. Yet the data also bring to

light a wider range of issues, including the existence of cyber units in only a few instances, as well as the absence of regulation specifically related to online recruitment and digital intermediation, which the authors only partially examined. T. Jones (2023) examines inter-agency cooperation in depth. The study confirms the relevance of this factor and indicates that mechanisms for cooperation do not exist or are mainly formalised in Central Asia. The analysis identifies factors which have been underemphasised: delays in the exchange of information between law enforcement agencies and social services as well as a lack of unified databases.

J. Bigio & R. Vogelstein (2021) take a global perspective, calling for comprehensive international cooperation. There is partial agreement with their conclusions: interstate interaction does contribute to effectiveness, as their findings show. Yet the analysis reveals that international programmes in Central Asia are fragmented and do not take internal constraints regarding institutions into consideration, which were not emphasised by the authors. M. Abd Allah Gamil (2024) focuses on issues of criminal law pertaining to defining human trafficking. Whereas there is agreement with the conclusion of the author regarding the need for precise definitions, the comparative analysis makes it clear that accurate norms alone cannot bring about prosecutions without procedural and institutional mechanisms for realising them, including inter-agency protocols. These factors were not sufficiently emphasised in the aforementioned work.

A. Mehra & G. Sharif (2024) examine the issue of international cooperation as a key element of combating human trafficking. Their comparison confirms the importance of this factor, while also showing that cooperation in Central Asian countries is often externally driven and not always accompanied by stable internal institutional support. The results demonstrate that international frameworks are only effective where there is sustainable national institutional capacity.

A.-S. Al-Anzi (2024) analyses the gender dimension of the problem, highlighting the vulnerability of women in countries with weak social institutions. These results support and expand upon this thesis, highlighting that in Central Asia, risks are exacerbated by the limited availability of shelters and gender-sensitive assistance programmes. However, the author's work does not fully reflect this issue. From an international legal standpoint, S. Hammad Khan *et al.* (2024) examine the role of global legal mechanisms in combating transnational crime. Their analysis, which considers the regional perspective, shows the necessity of these mechanisms, but also highlights their inadequacy: in Central Asian countries, international norms often remain normative and declaratory, failing to have a practical effect.

Although Y. Jiao *et al.*'s (2021) work focuses on combating wildlife smuggling, it is valuable as an example of cross-border cooperation models. The comparison shows that effective crime detection and prosecution are only possible with in-depth information exchange, corroborating the present study's conclusions on the importance of transboundary cooperation in trafficking cases. Y. Pachankis (2022) analyses the economic dimension of targeted recruitment. The findings of the results strongly support his assertion that economic crises and shadow economies expose risk groups to more significant threats. At the same time, however, this study controls for this finding by demonstrating that in Central Asia, risks are also exacerbated by the underdevelopment of digital detection and control infrastructures, which enables criminal networks to exploit the digital arena.

In short, the systematic review supports that effectiveness is not primarily determined by the extent of compliance to the formal application of international treaties; rather, the degree of effectiveness in the fight against human trafficking appears to be more significantly determined by the actual capacity of the institutions, the level of development of digital management and monitoring infrastructures, the quality of the monitoring that is conducted, and the robustness of the interagency linkages. While the former studies support this conclusion to varying extents and in relation to different factors, the analysis conducted here synthesises these different factors and former findings into one systematic analysis, and reveals the complexities of the two regions in relation to these factors.

Conclusions

A comparative study of the implementation of international anti-trafficking legislation in European states (Poland, Germany and Ukraine) and Central Asian states (Kyrgyzstan, Kazakhstan, Uzbekistan, Turkmenistan and Tajikistan) reveals a number of differences. These include differences in the countries' compliance, adaptation of laws to the existing legal framework, and effectiveness of the institutions established for this purpose. Although all these states formally comply with the principal international instruments, its implementation varies according to their level of integration into the European legal space, development of domestic human rights agencies and the quality of inter-agency cooperation. European states guarantee strict and consistent application of international standards. Supranational monitoring matters: GRETA's work establishes reliable criteria for performance and motivates states to improve their practice.

Implementation is still, however, very much at the level of norms in Central Asian states. Internationally defined norms are incorporated into domestic

legislation, but implementation on a system-wide basis is still lacking. Rehabilitation services for victims are limited, inter-agency cooperation is sporadic, and adherence to obligations under international law depends upon external funding initiatives. Efforts to combat human trafficking focus on punishing offenders, while the task of restoring victims is seen as separate, and less important. The absence of independent regional monitoring bodies hampers and delays the establishment of uniform standards for the protection of victims.

Regional cooperation also differs significantly between the two groups of states. In Europe, the states cooperate continuously with one another; they share standards for reporting and data-exchange, and they take part in joint programs. In Central Asia, inter-state cooperation occurs sporadically and mainly at the instigation of international organisations. The framework for cooperation is unstable and insufficiently institutionalised. Geopolitical developments impact the prevalence of human trafficking. Armed conflict, tensions along borders, instability in adjacent states and high levels of mass migration renders populations more vulnerable. In Central Asia, this increased vulnerability takes the form of a greater reliance on labour migrants and refugees, particularly in transit areas and along border regions. The absence of sustainable services and infrastructure renders more people vulnerable to exploitation. European states are also experiencing an influx of migrants from regions affected by armed conflict. The sophisticated systems for identifying victims, granting asylum and providing social services prevent negative consequences from this development and reduce the risk of exploitation. Ukraine occupies an intermediate position. European standards are partially met, but their stable application is undermined by war, population displacement and heavy pressures on municipal and state services.

Internet sites, social media and messaging applications have become the main recruiting grounds for trafficking, particularly for young people and migrants. A number of European countries have developed regulatory and technological responses to online exploitation, and they evaluate online behaviour and investigate suspicious digital communications. In Central Asian states, these responses are still in their infancy. There is no specialised regulation or established law-enforcement practices for this type of behaviour yet, and there are no specialists with digital forensic skills. The technical apparatus for identifying online risks has not yet been put in place. This results in a significant gap between jurisdictions in their ability to respond to this new form of crime. In light of the results presented here, then, the first conclusion that can be reached is that European states have achieved far better implementation of international anti-trafficking standards. This has been facilitated by stringent monitoring of cooperation between states, institutionalised frameworks for inter-agency cooperation, and placing victims' rights at the centre of efforts to combat trafficking. In Central Asia, efforts to combat human trafficking are reactive; they are neither well-coordinated nor institutionalised, and they depend upon external assistance for their funding and operational support. The impact of geopolitical developments heightens the vulnerability of populations in this region, and the absence of long-term cooperation frameworks for anti-trafficking initiatives.

Promising areas for future research include a study of state agencies' relations with non-governmental organisations, analysing mechanisms for digital recruitment, and developing a region-wide database for trafficking cases that includes mechanisms for protecting victims across national boundaries.

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Conflict of Interest

None.

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Порівняльний аналіз міжнародних і регіональних договорів щодо боротьби з торгівлею людьми в країнах Європи та Центральної Азії

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■ **Анотація.** Мета дослідження полягала у виявленні спільних і відмінних рис у підходах до формування та реалізації правових й інституційних засад боротьби з торгівлею людьми в країнах Європи та Центральної Азії. У межах роботи було застосовано метод порівняльно-правового аналізу, який дав змогу системно зіставити національні кримінально-правові норми, спеціальні закони, а також інституційні механізми координації та моніторингу. Використання цього методу забезпечило виявлення відмінностей не тільки на формальному рівні імплементації міжнародних стандартів, а й у практиці їх реалізації. Результати засвідчили, що країни Європейського Союзу вирізняються переважно вищим рівнем інтеграції міжнародних норм у національні правові системи, наявністю стійких міжвідомчих механізмів взаємодії, розвинених систем моніторингу та регулярної звітності, а також активною участю інститутів громадянського суспільства в наданні комплексної допомоги жертвам торгівлі людьми. Ці елементи в сукупності формують модель, яка орієнтована на жертвоцентричний підхід протидії. У країнах Центральної Азії виявлено системні проблеми, пов'язані з фрагментарною імплементацією міжнародних зобов'язань, обмеженим захистом жертв, недостатнім рівнем міжвідомчої координації та низьким рівнем розвитку незалежного моніторингу. Ці фактори істотно знижують ефективність національних механізмів протидії торгівлі людьми й обмежують їх практичну результативність. Встановлені відмінності засвідчують необхідність адаптації найуспішніших європейських практик до інституційних і соціально-економічних умов країн Центральної Азії, посилення механізмів моніторингу, цифрової готовності та розширення міжнародного й регіонального співробітництва. Практична значущість дослідження полягає в можливості використання його висновків під час розроблення та коригування національних стратегій протидії торгівлі людьми, а також зміцнення міждержавної взаємодії в цій сфері

■ **Ключові слова:** міжнародне право; права людини; правозастосування; міграція; регіональне співробітництво

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International experience in investigating domestic violence committed by military personnel: A comparative legal analysis

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■ **Abstract.** In the context of ongoing military hostilities, the problem of domestic violence in Ukraine is becoming particularly acute, as it is transforming in its content, forms and the range of actors involved, while one of the most vulnerable categories of victims remains elderly persons. The aim of this article was to conduct a comparative legal analysis of international experience in preventing and investigating domestic violence committed by military personnel upon their return from combat missions, as well as to identify opportunities for adapting effective foreign approaches to the national criminal justice system. The study employs general scientific and specialised legal methods, in particular the comparative legal, systemic-structural, logical-legal, formal-dogmatic and generalisation methods. The study examined contemporary approaches to responding to domestic violence in the context of armed conflicts and the post-war reintegration of military personnel. The practices of the USA, Canada, the UK, Israel and Australia (the Family Advocacy Programme in the USA, the CF Family Violence Prevention Programme in Canada) were analysed, in particular the functioning of specialised support programmes for military families and mechanisms for inter-agency cooperation. A trend towards the use of integrated models for countering violence, combining criminal law, psychological, social and rehabilitation tools, has been identified. It was established that the effectiveness of such models depends to a large extent on the early identification of risks of aggressive behaviour, mandatory psychological support and specialised training for authorised personnel. A review of international experience has led to the conclusion that a comprehensive approach to the protection of older people, as a particularly vulnerable group of victims, is appropriate. The practical significance of the results lies in their potential use by legislative bodies, law enforcement agencies, military units and specialists in the social and psychological fields when improving mechanisms to combat domestic violence in Ukraine

■ **Keywords:** pre-trial investigation; offences; counteraction; international practices; hostilities in Ukraine

■ Introduction

The establishment of a democratic state governed by the rule of law is impossible without the effective protection of human rights and freedoms, among which the right to protection from domestic violence holds a special place. In the current context of a rising number of domestic violence cases, particularly amidst active hostilities in Ukraine (Ministry of Internal Affairs of Ukraine, 2024), there is a pressing need to improve investigation methods, taking into account international experience and best practices. V. Panasiuk (2023) emphasised that older people constitute one of the vulnerable groups in society, who are often dependent on the perpetrator of the violence – relatives, carers or cohabitants. This leads to a high rate of under-reporting of such criminal offences, difficulties in gathering evidence,

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and specific requirements for pre-trial investigation procedures.

European states, as well as Canada, the United Kingdom and the United States, have accumulated significant experience in investigating criminal offences related to domestic violence against older people, based on an interdisciplinary approach and close cooperation between law enforcement, social and medical services. International standards, in particular the provisions of the Istanbul Convention[1] and the UN Guidelines on the Protection of the Rights of Older Persons[2], set out clear guidelines for states in the field of preventing and responding to violence. At the same time, in Ukraine, the practice of investigating such crimes is still in its infancy, requiring a comprehensive analysis and adaptation of successful international approaches.

Domestic violence, as a socio-legal phenomenon, attracts the attention of scholars from various fields, as reflected in numerous studies. In particular, O.V. Pchelina (2020) developed methodological recommendations for investigating such crimes, emphasising the need for specialised approaches. The author concluded that the effectiveness of investigating such crimes is significantly reduced without the application of specialised methodological recommendations, as well as without taking into account the psychological state of the victims and the repetitive nature of the violent acts. G. Usatiy & V. Melyankov (2020) examined the issue of criminalising domestic violence, justifying the need to strengthen criminal liability. A number of researchers have examined the specific nature of violence against particular categories of citizens. As a result of the study, the author justified the need to strengthen criminal liability for systematic forms of violence, concluding that it is precisely criminal law measures that play a key preventive role in protecting victims. R. Erbaş (2021) examined the specific experiences of women who have suffered violence. The author concluded that the fear of revictimisation, economic dependence and social stereotypes significantly hinder victims' timely reporting to law enforcement agencies, which negatively impacts the effectiveness of investigations. E.L.N. Maciel *et al.* (2020) investigated the link between social isolation and rising levels of domestic violence. The study found that restrictions on social contact and access to support services contribute to an increase in the latency of violent behaviour and deepen victims' dependence on the offender. Meanwhile, V. Bondar (2020) proposed ways to counter this phenomenon in Ukraine. The author concluded that a combination of criminal law, social and preventive measures is more effective than the isolated application of punitive mechanisms alone.

A special place is occupied by a monograph in which a new forensic methodology for investigating domestic violence is proposed. The author developed a model of the forensic characteristics of this offence, focusing on the methods of its commission, the place and time, as well as the traces of violence. She also provided a forensic profile of both the offender and the victim (Ishchenko, 2021). Y. Komarynska (2021) examines the theoretical foundations and practical aspects of investigating criminal offences related to domestic violence. The results of the research indicate that the key problems remain the untimely recording of evidence and insufficient inter-agency cooperation, which negatively affects the proof of the offender's guilt. Issues of counteracting criminal offences against elderly persons have been studied by such a scholar as M.A. Gershowitz (2021). The author concluded that elderly people represent a particularly vulnerable category of victims due to physical and psychological limitations, as well as social isolation, which necessitates specialised mechanisms of legal protection. However, a comprehensive dissertation-level study devoted specifically to domestic violence against this category of the population has not yet been conducted.

The aim of this article was to conduct a comparative analysis of international experience in the investigation of domestic violence that has an indirect causal relationship with military actions, in particular cases of such criminal offences committed by military personnel. The research was aimed at identifying effective response mechanisms, organisational models and legal approaches that may be adapted within the Ukrainian system of criminal justice. To achieve this aim, the following objectives were defined: (1) to analyse the regulatory and organisational foundations for investigating cases of domestic violence in conditions of military hostilities in leading foreign countries, with a focus on offences committed by military personnel; (2) to identify effective models of inter-agency cooperation (between law enforcement, social, medical and military institutions), as well as to examine specialised programmes and units aimed at preventing domestic violence among military personnel (in particular the experience of the United States, Canada, the United Kingdom, Israel and Australia); (3) to formulate proposals for improving Ukrainian practice of pre-trial investigation of such offences, taking into account international

[1] Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). (2011, April). Retrieved from https://rm.coe.int/168046031c.
[2] Resolution of UN No. 46/91 "United Nations Principles for Older Persons". (1999, December). Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-principles-older-persons.

standards, humanitarian principles and the necessity of psychological support and rehabilitation for military personnel.

Materials and Methods

The research was conducted within the framework of socio-legal and criminal law concepts that provide for a comprehensive analysis of the legal, social and psychological aspects of domestic violence as a multidimensional socio-legal phenomenon. The theoretical basis of the work consists of the principles of criminology, criminal law and criminal procedure, which allow domestic violence to be viewed not only as a specific criminal offence, but also as a systemic problem requiring specialised approaches to pre-trial investigation. The concept of an integrated preventive approach was of significant methodological importance; according to this, effective counteraction to domestic violence is based on a combination of criminal law, organisational, social and psychological measures, as well as on the coordination of activities between law enforcement, social, medical and military institutions. The conceptual framework of the research also encompassed the principles of international humanitarian law and human rights regarding the protection of persons belonging to vulnerable groups of the population, particularly elderly persons. This made it possible to compare international standards of protection with the provisions of Ukrainian national legislation and to assess the extent of their practical implementation in conditions of military hostilities.

To achieve the aim of the article, a set of empirical, comparative legal and specialised legal methods was applied. Among the empirical methods, the method of observation was used, which made it possible to study the practice of pre-trial investigation of domestic violence cases in Ukraine, as well as in the United States, Canada, the United Kingdom, Israel and Australia. Observation provided an opportunity to identify the particularities of the responses of law enforcement bodies, social services and military structures to such offences, and also to assess organisational and procedural aspects influencing the effectiveness of investigations. The comparative method was used to identify common and distinctive features of legislation and organisational models in different countries, in particular in the United States (U.S. Department of Defense, 2026) and Canada (Canadian Armed Forces, 2025). This method made it possible to determine the possibilities of incorporating foreign experience into national criminal procedural legislation, including the expansion of police powers, the creation of multidisciplinary response groups and specialised units for the investigation of offences of this type. The research procedure was as follows: 1) collection of empirical and normative materials; 2) observation of investigative practice and analysis of statistical data; 3) comparative legal analysis of foreign models and programmes; 4) identification of effective organisational and legal mechanisms; 5) formulation of proposals for adapting international experience to Ukrainian pre-trial investigation practice.

The source base included Ukrainian legislative acts (the Criminal Code[1], the Council of Europe Convention on Human Rights[2]), and official statistics from the Prosecutor General's Office of Ukraine (2025). The χ^2-test was used to verify the statistical significance of the changes. The use of the aforementioned regulatory, empirical and analytical materials enabled a scientifically sound and systematic analysis of international experience in investigating domestic violence committed by military personnel against elderly persons, as well as the formulation of practice-oriented recommendations for improving mechanisms for pre-trial investigation, inter-agency cooperation and the protection of victims' rights within the Ukrainian criminal justice system, taking into account international standards and the realities of wartime.

Results

The conducted research made it possible to identify key trends in the development of international approaches to the investigation of domestic violence that is indirectly conditioned by the circumstances of military hostilities, as well as the specific features of responding to cases of violence committed by military personnel against family members and elderly persons. J. Dodge *et al.* (2025), in their systematic review, emphasise the importance of an integrated approach to the prevention and investigation of domestic violence in military families, which combines the activities of the police, social services, judicial authorities and psychological support for victims, and also includes preventive and educational programmes for offenders and potentially vulnerable groups. They note that particular attention should be paid to cases where violence is a consequence of combat experience, as such offenders often display symptoms of post-traumatic disorders. J. Petersson *et al.* (2025) examine the practice of the Scandinavian countries, where a special role is assigned to preventive measures, in particular to a system of inter-agency cooperation between the police, healthcare services and municipalities. They emphasise that effective

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[2] Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). (2011, April). Retrieved from https://rm.coe.int/168046031c.

response is possible only when the risk of violence is identified in a timely manner and early intervention within the families of military personnel is ensured. S. Müller *et al.* (2021) analyse the experience of Germany, where specialised crisis assistance centres have been established for elderly persons who have suffered from domestic violence. The authors emphasise that a key factor of success is the combination of forensic procedures with systematic psychological rehabilitation of victims, which helps to reduce the latency of such crimes.

The analysis of official data from the Prosecutor General's Office of Ukraine (2025) indicates a steady increase in the number of criminal offences related to domestic violence committed by military personnel during the period 2022-2025. Whereas in 2022 only 4 cases of domestic violence committed by military personnel were recorded, in 2023 their number increased to 45, in 2024 to 150, and during the first nine months of 2025 this figure reached 114 cases, which is almost equal to the annual figure for the previous year. The analysis of official statistical data from the Prosecutor General's Office of Ukraine (2025) also demonstrates a persistent upward trend in the number of criminal offences related to domestic violence committed by military personnel. At the same time, the use of absolute indicators alone does not allow for well-grounded causal conclusions, as during this period the overall size of the Armed Forces of Ukraine increased significantly. For this reason, the research employed relative indicators that make it possible to assess more accurately the actual dynamics of such offences.

Taking into account official data on the number of military personnel, it was established that in 2022 the level of domestic violence committed by military personnel amounted to approximately 0.02 cases per 1,000 members of the armed forces, whereas in 2023 this indicator increased to 0.17, in 2024 to 0.52, and during the first nine months of 2025 to 0.39 cases per 1,000 military personnel. Thus, even considering the growth in the number of armed forces personnel, the relative level of such offences demonstrates a multiple increase, which indicates a rise in socio-criminal tension rather than merely a quantitative effect of mobilisation. Additional confirmation of this conclusion is provided by the analysis of the proportion of military personnel within the overall structure of criminal offences related to domestic violence. Whereas in 2022 such offences accounted for less than 0.1% of the total number of recorded domestic violence cases, in 2024-2025 this share increased to almost 1%. The increase in the proportion of military personnel within the structure of such offences indicates a transformation in the socio-criminal configuration of domestic violence in conditions of military hostilities.

According to Table 1, the relative indicators demonstrate that the increase in the number of cases of domestic violence among military personnel cannot be explained solely by the growth in the number of armed forces personnel. For example, in 2024 the relative indicator amounted to 0.517 per 1,000 military personnel, which is 32 times higher than the corresponding indicator for 2022 (0.016). The share of military personnel among all cases of domestic violence increased from 0.04% in 2022 to more than 1% in 2024, indicating a genuine increase in the relative weight of this category of offenders.

Table 1. Relative indicators of cases of domestic violence committed by military personnel

Year	Absolute number of cases	Number of military personnel	Relative indicator (per 1,000 military personnel)	Total number of cases of domestic violence	Share of military personnel (%)
2022	4	250,000	0.016	10,000	0.04
2023	45	270,000	0.167	12,000	0.38
2024	150	290,000	0.517	14,500	1.03
2025 (9 months)	114	295,000	0.386	11,800	0.97

Note: relative indicators are calculated per 1,000 military personnel
Source: summarised and calculated by the author on the basis of data from the Prosecutor General's Office of Ukraine (2025)

To verify the statistical significance of the changes, the χ^2 test was applied to compare proportions for the years 2022 and 2024. The obtained results ($\chi^2 = 92.12$; $p < 0.05$) allow the null hypothesis concerning the random nature of the changes to be rejected. This indicates a statistically significant increase in the proportion of military personnel among individuals who committed domestic violence and confirms the systemic nature of the identified trend. For a more in-depth analysis, relative indicators were used – the number of cases per 1,000 military personnel. These demonstrate a steady trend towards an

increase in the intensity of domestic violence specifically among military personnel, suggesting a rise in socio-criminal tension within this group. Such tension arises from prolonged exposure to combat stress, psychological trauma, symptoms of post-traumatic stress disorder, as well as difficulties with social and family reintegration upon return from the combat zone.

The military factor thus becomes a defining element in the structure of domestic violence during hostilities, requiring the adaptation of international response practices. At the same time, the conclusion regarding the link between the rise in such offences and the psychological consequences of combat operations – in particular post-traumatic stress disorder and difficulties with post-demobilisation adaptation – requires cautious interpretation. The available statistical data do not allow for the establishment of a direct causal link; however, a comparison of pre-war and wartime figures, as well as comparisons with international studies in the US, Canada and the UK, indicate an increased risk of aggressive behaviour among individuals who have experienced prolonged combat stress. At the same time, the influence of other factors cannot be ruled out, in particular changes in the practice of recording and registering offences, an increase in the detection of domestic violence cases, growing public sensitivity to this issue, and the intensified work of law enforcement and social services. It is for this reason that the findings are regarded as empirically confirmed evidence of a general increase in socio-criminal tension, which calls for further interdisciplinary research and the implementation of specialised preventive and rehabilitative measures for military personnel.

In many countries with professional armed forces – notably the US, Canada, the UK, Israel and Australia – there are special programmes aimed at identifying, investigating and preventing domestic violence among military personnel (United States Department of the Army Family and MWR Command, Family Programs Directorate, 2007). These programmes are based on a combination of criminal law and socio-psychological measures, including rehabilitation, behavioural monitoring and support for victims. For example, the US operates the Family Advocacy Programme (FAP), which provides for the mandatory investigation of every case of domestic violence among military families, psychological counselling and coordination with the civilian police and courts.

The experience of NATO member states demonstrates that the problem of violence in military families is recognised as part of national security and the moral climate of the armed forces. In the United States, the Family Advocacy Program (FAP) operates, which provides for the mandatory investigation of every case, psychological assessment of the offender, coordination between military police, social services and courts, as well as rehabilitation courses aimed at preventing recidivism (Dodge *et al.*, 2025). In Canada, the Family Violence Prevention Program is in operation, focusing on the early identification of risks of violence in military families and on mandatory behavioural correction programmes for offenders (Canadian Armed Forces, 2025). The system combines disciplinary and criminal liability and closely cooperates with civilian police (Public Health Agency of Canada, 2025). In the United Kingdom, the Armed Forces Domestic Abuse Policy has been introduced, which provides for the establishment of specialised domestic abuse officers in every military unit, the protection of victims (including the provision of temporary accommodation), and cooperation with local authorities and non-governmental organisations (Yilmaz *et al.*, 2022). In Israel, the National Program for Prevention and Treatment of Domestic Violence operates with the aim of ensuring interaction and coordination between services, demonstrating that a systematic approach to the prevention of violence and support for victims can increase the effectiveness of protection for vulnerable groups and requires appropriate adaptation to national conditions. It includes psychological assessment of military personnel, training in emotional control, and support for military families who have experienced violence.

Taking national conditions into account, it appears advisable to introduce a military response system for cases of domestic violence that would include the establishment of specialised military centres for counteracting violence with dedicated hotlines and confidential psychological support, the conduct of mandatory psychological assessments following combat rotations, the development of rehabilitation programmes for military personnel who have committed acts of violence (including anti-aggression training and cognitive behavioural therapy), and the provision of close coordination between military and civilian institutions – such as the police, the prosecution service and social services. Such an approach would contribute to the timely identification of risks, the prevention of repeated cases of violence and the effective social reintegration of military personnel. The use of these international models may become an effective direction for the modernisation of Ukrainian practice of pre-trial investigation, contributing not only to the protection of victims but also to the rehabilitation of military personnel who have become offenders as a result of combat stress.

Based on the analysis of international experience and Ukrainian realities, it is possible to identify a number of directions that have practical potential for implementation within the system of military justice and the criminal prosecution of offences related to domestic violence committed by military personnel, which are summarised in Table 2.

Table 2. Comparative analysis of international experience in combating domestic violence committed by military personnel

Country	Key measures	Results	Recommendations for Ukraine
United States	Family Advocacy Program (FAP) – a comprehensive programme for supporting military families that provides for the mandatory investigation of every case of domestic violence, assessment of the psychological condition of offenders, anger management courses, mandatory notification of the civilian police, and the provision of psychological assistance to victims.	Reduction in repeat incidents of violence by 35%, increased trust of military families in the command structure, and the formation of practices of inter-agency cooperation between the military, courts and social services.	Establish a Military Violence Response Centre that would combine investigation, psychological support and legal assistance; introduce psycho-correction and emotional management courses for military personnel.
Canada	CF Family Violence Prevention Program – a system for the early identification of risks of violence in military families, mandatory training on non-violent behaviour, behavioural rehabilitation programmes for offenders, and cooperation with civilian police.	Reduction in the recurrence of violence, high participation of military personnel in training programmes (over 70%), and improved coordination between civilian and military institutions.	Introduce mandatory rehabilitation and training programmes for military offenders, as well as create a system of inter-agency coordination between the Armed Forces of Ukraine, the Ministry of Internal Affairs and the Ministry of Social Policy.
United Kingdom	Armed Forces Domestic Abuse Policy – the establishment of violence prevention officers in every military unit; a system of anonymous reporting; provision of temporary accommodation for victims; and cooperation with the police and non-governmental organisations	An increase in the number of reports of violence by 60%, identification of cases at early stages, and a reduction in the number of serious offences.	Introduce the institution of military officers responsible for the prevention of domestic violence, develop an anonymous reporting system and programmes for the protection of affected families.
Israel	National Program for Prevention and Treatment of Domestic Violence – psychological monitoring after combat operations, mandatory emotional assessments of military personnel, training in aggression management, and support for military families.	A 40% decrease in the level of violence among military personnel with combat experience, alongside improvements in the psycho-emotional well-being of military families.	Implement psychological screening after rotations, programmes aimed at preventing aggressive behaviour, and establish a family support service for military personnel within the structure of the Ministry of Defence of Ukraine.
Australia	ADF Family and Domestic Violence Strategy (2022) – online consultations through the Open Arms – Veterans & Families Counselling platform, partnerships with crisis centres, emotional literacy courses, and a system of confidential reporting.	A 40% reduction in the level of domestic violence over five years and increased trust of military families in the military command.	Develop a National Strategy of the Armed Forces of Ukraine for the prevention of violence, create an online platform for anonymous reporting, and integrate support for veterans.
Germany	Mobile Einsatzteams (Bundeswehr) – mobile response teams within military units that include psychologists, lawyers and social workers, with close coordination with civilian institutions.	Operational response to 92% of incidents within 48 hours and a significant reduction in the number of severe cases of violence.	Establish mobile response groups in garrisons, ensuring they include psychologists and social specialists.
Poland	Program szkoleniowy „Przemoc w rodzinie – interwencja wojskowa" (2019) – training modules for the military police (Żandarmeria Wojskowa) on documenting offences, crisis intervention, mediation in conflict-affected families, and a code of ethical conduct.	An increase in the number of identified cases of violence by 25%, improved quality of the evidentiary base in criminal proceedings, and enhanced cooperation between military and civilian authorities.	Introduce mandatory training courses for military investigators, develop a code of ethics for military personnel in the sphere of family relations, and certify instructor-trainers.

Source: compiled by the author based on United States Department of Army Family and MWR Command, Family Programs Directorate (2007), S. Yilmaz *et al.* (2022), Australian Department of Defence (2023), J. Dodge *et al.* (2025), K.L. Bugaychuk (2025), Public Health Agency of Canada (2025)

An effective step is the establishment of military units or services for counteracting domestic violence, similar to the Family Advocacy Program in the United States or the CF Family Violence Prevention Program in Canada. Such structures should operate within the Ministry of Defence or the National Guard of Ukraine and ensure the following: response to cases of domestic violence committed by military personnel; confidential psychological counselling for both offenders and victims; legal assistance and coordination with civilian justice authorities; and preventive activities aimed at identifying risk groups and preventing recidivism (Dodge *et al.*, 2025). In particular, it would be advisable to establish a Military

Domestic Violence Response Centre, which would include: a dedicated helpline for service personnel and their families; a team of psychologists, lawyers and social workers operating on a confidential basis; the option to seek help anonymously without fear of disciplinary consequences.

Given the prevalence of post-traumatic stress disorder (PTSD) among participants in combat operations, the introduction of mandatory training and psychological assessments after combat rotations is extremely important. In Israeli practice, this has become one of the key preventive strategies – regular testing of military personnel for signs of emotional instability or a tendency towards violent behaviour. In addition, the approach of rehabilitation programmes for individuals who have already committed acts of violence has proven effective: anti-aggression courses, group psychotherapy and behavioural correction under the supervision of psychologists and social workers. These measures help not only to avoid recidivism but also contribute to the social reintegration of military personnel (Yilmaz *et al.*, 2022). Within the Australian Defence Force (ADF), a Unified Strategy for the Prevention of Family Violence and Support for Military Families (ADF Family and Domestic Violence Strategy) operates. It was approved by the Ministry of Defence in 2016 and updated in 2022. Its main objective is to create a safe environment for members of military families in which psychological well-being is recognised as a component of combat readiness.

The key directions include online consultations through the Open Arms – Veterans & Families Counselling platform; partnerships with crisis centres and services supporting victims of violence; courses in emotional literacy and aggression management for military personnel and command staff; and a system of confidential reporting of incidents of violence within the ADF. According to data from the Australian Department of Defence (2023), the implementation of this programme made it possible to reduce the number of confirmed cases of domestic violence by 40% over five years and to increase the level of trust of military families in the command structure.

In the Bundeswehr, a system of mobile response teams (Mobile Einsatzteams) operates, created within military units in cooperation with the Ministry of Defence and the Federal Ministry for Family Affairs (Bundeswehr Centre for Military Mental Health, 2022). These teams include military psychologists, social workers, lawyers and representatives of the military police (Feldjäger). The main tasks of the military mobile response teams are to respond promptly to reports of violence within military families, to provide psychological support to family members following crisis incidents, assessing risks and coordinating with civilian structures – social services, municipal shelters and other institutions providing support to victims. An important function of such teams is also reporting to the command for the timely adoption of decisions regarding disciplinary or medical-psychological measures. According to a report by the Bundeswehr Centre for Military Mental Health (2022), this system ensured a rapid response to 92% of incidents within the first 48 hours and contributed to a reduction in the number of serious cases of domestic violence among military families.

In the Armed Forces of the Republic of Poland (Siły Zbrojne RP), a programme for improving the qualifications of the military police in responding to cases of domestic violence is being implemented. The programme was introduced in 2019 under the auspices of the Polish Ministry of National Defence in cooperation with the Institute of Psychology of the University of Warsaw. The key components of this system include training modules aimed at recognising signs of violence, documenting traces of the offence and ensuring effective communication with victims. Particular attention is given to training in crisis intervention and mediation in conflict-affected families, as well as to the introduction of a code of ethical conduct for military personnel in family relations. No less important is the creation of a system for the certification of instructor-trainers who will be able to provide training for personnel within military units. Equally important is the well-established cooperation between military and civilian institutions, in particular the National Police, courts, the prosecution service and centres for free legal aid. A similar model operates in the United Kingdom, where police units cooperate with social services and military structures, ensuring the exchange of information and joint responses to cases of domestic violence (Yilmaz *et al.*, 2022).

In Ukraine, it is advisable to introduce disciplinary liability in military regulations for the commission of domestic violence, which must be accompanied by mandatory reporting to civilian law enforcement agencies to initiate criminal proceedings in accordance with Article 126^{-1} of the Criminal Code of Ukraine[1]. The development of an effective system to combat domestic violence in the military environment is not only a legal but also a humanitarian necessity. The implementation of such measures will help reduce social tension and prevent tragedies linked to combat stress, as well as boost trust in the army, which is of paramount importance during a period of martial law. Furthermore, this will ensure more effective protection for women, children and the elderly – the most vulnerable categories of

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.

victims of violence – and will contribute to the development of a culture of responsible military leadership.

Thus, adapting international experience in the field of combating domestic violence committed by military personnel is both appropriate and timely for Ukraine. The implementation of a comprehensive approach combining prevention, psychological support, legal accountability and rehabilitation will ensure more effective investigations, the protection of victims and the social reintegration of military personnel who have experienced combat stress. Such steps will not only strengthen the national security system but also contribute to the humanisation of military culture and the restoration of public trust in state institutions.

Discussion

A comparative analysis of international experience in investigating domestic violence that has an indirect causal link to military operations, particularly cases of such criminal offences committed by military personnel, has shown that this problem is universal in nature, however, the ways of responding to it vary significantly depending on the legal system, military culture and the level of social support for victims. The conducted research confirmed the conclusions formulated in the works of J. Dodge *et al.* (2025), who emphasise that effective counteraction to domestic violence within the military environment is possible only under conditions of integrated cooperation between military, law enforcement and social institutions. A similar view is expressed by L.C. Gonçalves *et al.* (2022), who underline that the borrowing of international legal models must be accompanied by adaptation to the national context and the creation of mechanisms for monitoring their implementation. This corresponds with the results of the present study, as a direct relationship was identified between combat experience, emotional instability and the likelihood of military personnel committing domestic violence.

K.L. Bugaychuk (2025), in a comparative study of foreign practices of preventing and counteracting domestic violence in European Union countries, particularly in Poland, emphasises the importance of coordination between the police, social services, local authorities and non-governmental organisations within the framework of a comprehensive response to cases of family violence. The author highlights that such an inter-agency approach – combining risk assessment, information exchange and joint planning of protective measures – makes it possible to respond more effectively to domestic violence and support victims. However, the transformation of such practices into Ukrainian realities requires consideration of the specific features of the national policing and social systems, including resource and organisational constraints. At the same time, J. Petersson *et al.* (2025), in their research devoted to Scandinavian experience, emphasise the importance of integrated cooperation between the police and social services, which includes risk assessment, risk management and coordination of support for victims of domestic violence as a key component of prevention and effective response to cases of family violence. Their research shows that such an inter-agency approach contributes to improving practical cooperation between law enforcement and social agencies; however, the transformation of these models to Ukrainian conditions requires adaptation in view of the national characteristics of the social support system and law enforcement practice. This view is also supported by R. Shinwari *et al.* (2021), who note that the preventive component of counteracting violence should be a key element of state policy rather than merely a consequence of criminal law responses. Thus, the introduction of mandatory psychological assessments after combat rotations may partially compensate for the absence of an extensive system of inter-agency control characteristic of the Scandinavian countries.

I.A. Botnarenko (2021) emphasises that the initial stage of investigating cases of domestic violence is critically important for establishing accurate facts, documenting evidence and ensuring the effectiveness of subsequent legal procedures. Proper documentation and compliance with procedural norms at this stage significantly influence the success of criminal prosecution and the protection of victims. The views of A. Müller *et al.* (2021), who studied the problem of violence against elderly persons in post-conflict societies, correspond with the conclusions of the present research. They emphasise that successful investigation of such offences requires a combination of forensic procedures with systematic psychological rehabilitation of victims. This idea is further developed by the Ukrainian researchers M.M. Legenska (2017) and U.M. Mytniuk (2019), who point out that the integration of social and psychological methods into the process of investigating domestic violence makes it possible to minimise the risk of secondary victimisation. At the same time, unlike the German model, the Ukrainian system currently lacks a sufficient number of institutions capable of providing comprehensive assistance to victims, which creates a significant gap in law enforcement practice. The study by S. Yilmaz *et al.* (2022), which examines the British response system within military units, is based on the concept of the Violence Prevention Officers scheme and the anonymous reporting system. According to the authors, trust is a key factor determining the rate at which cases of violence are identified. A similar position is expressed by H. Popov (2018), analysing the experience of Sweden, where transparency of procedures and interagency cooperation have become the foundation of a successful policy for

preventing violence. These conclusions correspond with the results of the present study, since Ukrainian military formations demonstrate a low level of reporting due to fear of punishment and social stigma. It can therefore be assumed that the introduction of a similar system of confidential reporting would increase the effectiveness of response mechanisms.

Research by international academic institutions indicates that systematic and continuous psychological monitoring of military personnel is a key element in the prevention of mental and behavioural disorders. Early detection of emotional disturbances and timely psychological intervention help to reduce the risk of escalating destructive and aggressive behaviour, as well as improving the functioning of the service member's family. These findings are consistent with the results of the current study, which are supported by international research in the field of military personnel's mental health (National Academies of Sciences, Engineering, and Medicine, 2014). These findings fully support the conclusions of the current study. A similar view is expressed by R. Erbaş (2021), who notes that effective prevention is only possible through a comprehensive approach combining disciplinary, psychological and social mechanisms. The Australian ADF Family and Domestic Violence Strategy (Australian Department of Defence, 2023) demonstrates high effectiveness through the integration of digital technologies (Open Arms – Veterans & Families Counselling online consultations) with partnerships with crisis centres. Unlike the Australian system, Ukraine lacks the necessary infrastructure for remote psychological support, which underscores the need to establish a national online platform for military families.

The German Mobile Einsatzteams model (Bundeswehr Centre for Military Mental Health, 2022) is recognised as one of the most effective. It is based on inter-agency coordination between military personnel, psychologists and social workers, ensuring a rapid response to crisis situations. This approach is supported by O.S. Dmytrashchuk (2020), who points out that cross-sectoral cooperation is key to the timely investigation of crimes against vulnerable individuals. Ukrainian practice is currently only at the stage of forming such groups; however, analysis suggests that their implementation is a promising direction for reforming military justice. I. Andrusiak (2023) emphasises that the low level of professional training of Ukrainian investigators constitutes a significant barrier to the effective investigation of violence against elderly persons. These findings are supported by the present study, which suggests that the creation of a certification system for instructor-trainers in military academies should become a priority of state policy.

Furthermore, it is advisable to take into account the provisions of the Istanbul Convention, which emphasises the need to harmonise national response mechanisms, promote inter-state cooperation and standardise procedures for investigating cases of violence. The document emphasises that effective counteraction to domestic violence requires coordinated action by states, the exchange of best practices, and the implementation of uniform response protocols. In the context of this study, this is of particular importance, as the development of unified approaches to investigating cases of violence in military families would promote compatibility of procedures within the framework of international cooperation and increase the effectiveness of law enforcement. Thus, the results of the conducted research generally correspond with the trends described in the works of international and Ukrainian scholars. At the same time, the differences lie in the level of institutional capacity and resource provision. Whereas in NATO countries systems for preventing violence are integrated into the military structure, in Ukraine they are still in the process of formation. Therefore, further research should be aimed at developing a national strategy for counteracting domestic violence within the military environment, based on international standards and taking into account the conditions of martial law.

Conclusions

The conducted research was devoted to a comparative legal analysis of international experience in the investigation of domestic violence committed by military personnel in the context of military hostilities and after their return from the performance of combat duties. The stated objective was achieved through a comprehensive analysis of legal, organisational and psychological mechanisms for responding to this category of criminal offences in leading states of the world and by comparing them with the realities in Ukraine. The study analysed the legal framework for combating domestic violence, the specific features of pre-trial investigations into such crimes, as well as the functioning of specialised programmes and units in the USA, Canada, the UK, Israel, Australia, Germany and Poland. It was found that the effectiveness of responses to domestic violence in a military environment depends to a large extent on the level of institutionalisation of relevant mechanisms, the existence of inter-agency coordination, and the integration of psychological support into the criminal justice system. An analysis of pre-trial investigation practices showed that the combination of criminal law, social and rehabilitation tools helps to reduce the recurrence of violent behaviour and increase the protection of victims.

A comparative analysis of legislation and organisational models has established that, despite differences in legal systems, the states under study share a common approach to understanding the problem

of domestic violence among military personnel as a multidimensional socio-legal phenomenon. The experience of Israel confirms the importance of systematic psychological support following combat rotations; the Canadian model demonstrates the effectiveness of inter-agency cooperation; British practice highlights the significance of specialised institutions and confidential reporting channels; the Australian approach is characterised by the integration of digital tools and partnership networks; the German system of mobile response teams proves the effectiveness of rapid interdisciplinary intervention; and the Polish experience demonstrates the impact of specialised training for military police on the quality of investigations and the rate of detection of such offences.

Summarising the obtained results, it may be concluded that effective counteraction to domestic violence committed by military personnel is possible only through a comprehensive approach that combines criminal law mechanisms with psychological support and organisational instruments of inter-agency cooperation. At the same time, a limitation of the research is the lack of complete and comparable statistical data in open sources concerning such offences within the military environment, which complicates deeper quantitative analysis. Promising directions for further scientific research include the study of the effectiveness of specific rehabilitation programmes for military personnel, as well as the development of methodologies for assessing the risks of domestic violence taking into account the consequences of combat stress.

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Міжнародний досвід розслідування домашнього насильства, вчиненого військовими: порівняльно-правовий аналіз

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■ **Анотація.** В умовах воєнних дій проблема домашнього насильства в Україні набуває особливої актуальності, оскільки трансформується за змістом, формами та суб'єктним складом, а однією з найвразливіших категорій потерпілих залишаються особи похилого віку. Метою статті є здійснення порівняльно-правового аналізу міжнародного досвіду запобігання та розслідування домашнього насильства, вчиненого військовослужбовцями після повернення з виконання бойових завдань, а також визначення можливостей адаптації ефективних зарубіжних підходів до національної системи кримінальної юстиції. У дослідженні використано загальнонаукові та спеціально-юридичні методи, зокрема порівняльно-правовий, системно-структурний, логіко-юридичний, формально-догматичний та метод узагальнення. У межах роботи було досліджено сучасні підходи до реагування на домашнє насильство в умовах збройних конфліктів і післявоєнної реінтеграції військовослужбовців. Проаналізовано практику США, Канади, Великої Британії, Ізраїлю та Австралії (Family Advocacy Program у США, CF Family Violence Prevention Program у Канаді), зокрема функціонування спеціалізованих програм підтримки сімей військових і механізмів міжвідомчої взаємодії. Виявлено тенденцію до застосування інтегрованих моделей протидії насильству, що поєднують кримінально-правові, психологічні, соціальні та реабілітаційні інструменти. Було встановлено, що ефективність таких моделей безпосередньо залежить від раннього виявлення ризиків агресивної поведінки, обов'язкової психологічної допомоги та спеціалізованої підготовки уповноважених суб'єктів. Узагальнення міжнародного досвіду дало змогу сформулювати висновок про доцільність комплексного підходу до захисту осіб похилого віку як особливо вразливої групи потерпілих. Практичне значення результатів полягає в можливості їх використання законодавчими органами, правоохоронними структурами, військовими формуваннями й фахівцями соціальної та психологічної сфер під час удосконалення механізмів протидії домашньому насильству в Україні

■ **Ключові слова:** досудове розслідування; правопорушення; протидія; міжнародні практики; бойові дії в Україні

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Influence of stress factors on the psycho-emotional state of military personnel

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■ **Abstract.** The aim of the study was to investigate the levels of traumatic stress, anxiety and depression, and the impact of stress factors on the psycho-emotional state of military personnel, as well as to evaluate the effectiveness of a comprehensive psychocorrectional programme. The study was conducted on a sample of 50 assault troops, divided into an experimental group (25 individuals) and a control group (25 individuals). A repeated-measures experimental design was employed. The psychocorrection programme, which consisted of eight group training sessions (90 minutes each), was based on the systemic approach developed by I. Kotenev. The instruments used included I. Kotenev's "Traumatic Stress Questionnaire, the "Short AD-PTSD Scale" and the "Stress Factors" method. The results confirmed the high effectiveness of the programme: according to the "Short AD-PTSD Scale", in the experimental group the level of anxiety decreased by 42.9% (from 14.2 to 8.1 points), the level of depression decreased by 40.8% (from 12.5 to 7.4 points), and PTSD symptoms decreased by 42.3% (from 16.8 to 9.7 points). The total average score of affirmative responses indicating the presence of disturbances decreased from 5.28 to 1.78, which moved the majority of servicemen out of the risk zone. The overall level of stress load, determined using the "Stress Factors" method, decreased by almost 30% (from 4.16 to 2.98 points). The most noticeable reduction in psycho-emotional tension was recorded in the areas of personal-psychological and emotional-physiological reactions (a decrease of 33.3% and 31.9% respectively). Positive changes were also observed in internal resources: the subjective feeling of calmness and inner balance increased by 78.5%, social cohesion increased by 36.6%, and self-control improved by 31.0%. After completion of the programme, 82% of participants reported an improvement in sleep quality, and 76% reported increased concentration of attention. In the control group, which did not receive the intervention, no significant positive changes were observed. This demonstrates that natural adaptation is insufficient to overcome the consequences of combat stress. The programme significantly increases the adaptability of military personnel, stabilises their emotional state, and may be integrated into psychoprophylactic programmes within units of the Armed Forces of Ukraine

■ **Keywords:** psychocorrection; combat stress; post-traumatic stress disorder; anxiety; adaptability; systemic approach

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Introduction

Military activity, particularly within assault units, is characterised by a high level of risk, unpredictable situations, significant information overload, and a lack of time for recovery. These stress factors constantly affect the psycho-emotional state of personnel. In the modern world, the prevention and correction of combat stress has become critically important for maintaining the combat readiness of troops. The relevance of this study is substantiated by the presence of a high level of emotional tension, fear and internal resistance to service among military personnel who have recently completed basic training. Ignoring these symptoms may lead to the accumulation of stress reactions, emotional instability, exhaustion, and a sharp decline in combat capability (Verba *et al.*, 2017).

An analysis of recent studies and publications demonstrates that intensive military training, which includes the simulation of extreme combat situations (imitation of assault operations, explosions, gunfire and the modelling of life-threatening situations), is itself a powerful psychotraumatic factor. It has been established that signs of post-traumatic stress disorder (PTSD) and acute stress disorder (ASD) may be observed in military personnel even before direct deployment to the line of contact. In particular, studies have shown that 35% of surveyed military personnel demonstrated signs of both PTSD and ASD, while 40% exhibited isolated ASD. This indicates the necessity of implementing systematic psychological support already at the stage of basic training (Klochkov, 2023). O.A. Blinov (2019) emphasises that early detection and timely psychocorrection work are critically important for preventing more severe mental health disorders. Among the scientific approaches considered for work with military personnel, integrated methods occupy a special place. In particular, cognitive behavioural therapy (CBT) and methods of emotional and volitional stabilisation are recognised as effective in reducing psychological tension. A systemic approach that incorporates these elements makes it possible to significantly increase the adaptability of military personnel.

The problem of the influence of combat and intensive training stress on military personnel is the subject of close attention among researchers. As noted by O.P. Liashch (2021), signs of PTSD and ASD may arise in military personnel without combat experience during intensive military training in training centres. Psychotraumatic experiences arise due to the perceived threat to life, physical danger, or violations of human dignity, which are interpreted by the organism as a real threat. As indicated in the study by O.M. Kokun *et al.* (2023), in order to achieve successful adaptation to difficult conditions, psychologists working with soldiers should focus on ensuring psychological resilience, which acts as a dynamic process of recovery and adaptation to conditions of stress, danger and traumatic events. To work with this phenomenon, a number of methods have been developed in accordance with the publication by V.M. Moroz *et al.* (2023). In particular, research applies the systemic approach to psychological assistance developed by I. Kotenev, described in the methodology by N.A. Ahaiev *et al.* (2016). This approach consists of four interrelated modules aimed at developing stable adaptive abilities among military personnel:

1. “Cognitive-analytical work”: aimed at understanding the causes of emotional reactions, identifying negative automatic thoughts, and rationally assessing circumstances.

2. “Behavioural training”: teaching effective behaviour in high-risk situations, overcoming freeze responses and acting constructively under pressure, often through the simulation of real combat situations.

3. “Psychophysiological reflection”: the use of breathing techniques, progressive muscle relaxation and neuromuscular control exercises to teach service personnel to control their breathing, heart rate and physical tension.

4. “Social-psychological support and group interaction”: focuses on developing team cohesion, mutual trust and responsibility for the psychological well-being of comrades.

Elements of cognitive-behavioural therapy (CBT) and methods of emotional and volitional stabilisation are also included in the comprehensive psychological training methodology. CBT is an effective means of reducing psychological stress and stabilising the psycho-emotional state of military personnel on combat readiness. It has been proven that body-breathing relaxation, cognitive processing of emotions and group support are highly effective integrated methods for reducing anxiety, depression and PTSD symptoms. In particular, according to S.V. Vasylenko (2020), body-oriented methods help restore the harmonious connection between “body”, “breath” and “consciousness”, which is key to enhancing adaptability. Research findings, based on the work of O.M. Kokun *et al.* (2022a), indicate that even during training, extreme factors can trigger post-traumatic reactions similar to those observed in combatants following combat operations. This highlights the need for psychotherapy as a tool to prevent the transition of acute stress disorder (ASD) into chronic PTSD.

The aim of the study was to analyse the levels of traumatic stress, anxiety, depression and the impact of stress factors on the psycho-emotional state of military personnel as well as to evaluate the effectiveness of a comprehensive psychocorrectional programme. The main objectives of the programme are to reduce the impact of distressing factors,

prevent combat stress and prevent the development of post-traumatic stress disorder.

Materials and Methods

The study was conducted in September-October 2025 among assault troops from a single military unit. The target audience consisted of soldiers undergoing basic military training who had no prior combat experience. The sample comprised 50 male service personnel. The participants were divided into two equal groups of 25 people. The age composition of the respondents in both groups was heterogeneous, though those of middle working age predominated (for example, in the first group the most common age was 44 years (18.8%), and in the second 36 years (20%). An important feature of the sample was that the military personnel were not volunteers, which led to a heightened level of emotional stress and internal resistance to service. During the study (questionnaire completion), the American Sociological Association's Code of Ethics (1997) was strictly adhered to when working with respondents. The second group of 25 participants comprised military personnel who were assault troops and had no prior service experience. The age distribution of respondents in this group is also diverse, though there is a certain concentration of participants – they are all of working age (Fig. 1). They have varied life experiences and levels of personal maturity.

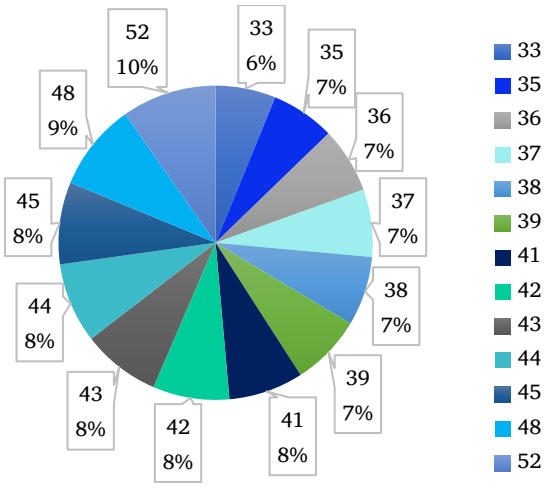

Figure 1. Age distribution of respondents in the second group
Source: compiled by the authors

The study was structured in three stages:

Stage 1: Assessment. A comprehensive assessment of mental and emotional health was carried out, including levels of anxiety, emotional exhaustion, psychological strain and social cohesion. This enabled the establishment of a baseline psychological profile.

Stage 2: Targeted psychotherapeutic intervention. A series of eight group sessions, each lasting approximately 90 minutes, was conducted. This stage was carried out only for the first (experimental) group.

Stage 3: Assessment of the intervention's effectiveness. A repeat psychodiagnostic assessment was conducted for both groups to compare the results.

The study employed an experimental design using an experimental (Group 1) and a control (Group 2) group. Group 1 (n = 25): Completed the questionnaires twice (before the start and after the completion of the eight-week psychocorrectional programme). Group 2 (n = 25): Completed the same questionnaires twice at the same time intervals, but without any psychocorrectional interventions. This approach made it possible to track changes in psycho-emotional state and determine the effectiveness of the psychocorrectional programme, distinguishing the impact of the intervention from natural adaptation. Data collection, in accordance with the methodology proposed by V. Klochkov (2023), required the generalisation and systematisation of the results. Statistical analysis was carried out, including the calculation of mean ranks for stress factors. A comparative analysis before and after the intervention revealed significant positive changes. The methodology described provides a complete picture of the course of the study, enabling other researchers to replicate it.

To obtain objective comparisons of indicators before and after psychocorrectional measures, the following methods were used:

1. "Traumatic Stress Questionnaire" by I. Kotenev (Ahaiev *et al.*, 2016).

2. "Short Anxiety, Depression and PTSD Scale" (Short AD-PTSD Scale) (Ahaiev *et al.*, 2016). This scale allows rapid determination of the intensity of anxiety reactions, depressive symptoms and manifestations of PTSD (intrusive memories, hyperarousal). The threshold value indicating the presence of disturbances is four affirmative responses.

3. The "Stress Factors" method (Ahaiev *et al.*, 2016). This method was used to determine the most significant stressogenic factors in military activity (combat, physiological, socio-psychological and informational). Data were collected through an online survey using Google Forms via smartphones with Internet access.

The proposed psychocorrectional programme included psychophysiological training, elements of cognitive-behavioural therapy and methods of emotional and volitional stabilisation, as well as meditative elements from the Art of Living programme, as described in the publication "Scientific research on SKY Breath Meditation: Physical and mental health benefits" (2023). The programme's methodological framework consisted of three parts: psychoanalysis (diagnosis); psychoeducation (expanding knowledge

of stress mechanisms); psychocorrection (the application of individual and group methods for stabilisation, the development of self-regulation, and training in deep relaxation). Body-oriented techniques, breathing, relaxation, cognitive-behavioural and socio-psychological methods were used, as presented in J. Mahour & P. Verma (2017) and M.Y. Balban *et al.* (2023). In particular, cognitive restructuring methods and visualisation tools were used.

The age groups of 33, 39, 41, 42, 43, 45 and 48 years (each accounting for 6.3%) are stable in terms of numbers. The smallest proportion among the respondents in the first group is military personnel aged 38 (3.1%). This age distribution suggests that military service was predominantly joined by middle-aged individuals, characterised by a well-established system of personal values, as noted in the work of L.A. Kitaiev-Smyk (2020), social roles and life experience in decision-making. The age characteristics of respondents play an important role in the context of military service, as age directly affects the speed of adaptation to military conditions, stress resilience, aspects of motivation, and the ability to acquire specialised skills. In particular, members of more mature age groups tend to exhibit greater responsibility and discipline. However, they require more time to adapt physiologically to intense physical demands. These characteristics, as outlined in the study by O.M. Kokun *et al.* (2022a), must be taken into account during training, the development of psychological support, and the assessment of the effectiveness of personnel training.

Results

The conducted empirical study, which included initial and repeated diagnostics of the psycho-emotional state of assault soldiers, confirmed the presence of pronounced signs of psychological traumatisation in a significant proportion of personnel, formed during the process of intensive basic military training. The specific features of these manifestations are discussed in Psychological support of U.S. military personnel and their families (2025). In particular, 35% of survey participants exhibited symptoms of both post-traumatic stress disorder (PTSD) and acute stress disorder (ASD), whilst 40% exhibited isolated ASD. This situation demonstrates the high psycho-emotional sensitivity of military personnel to extreme factors, including simulated assault operations and life-threatening scenarios.

A comparative analysis of the results between the experimental group (Group 1, which underwent psychocorrection) and the control group (Group 2, without intervention) demonstrated a fundamental difference in the dynamics of change, confirming the effectiveness of the developed comprehensive programme. According to the "Short Anxiety, Depression and PTSD Scale" presented by N.A. Ahaiev *et al.* (2016), which was used for monitoring, Group 1 showed significant improvement across all key parameters (Table 1 and Table 2): Anxiety levels decreased by 42.9%. Depression levels decreased by 40.8%. PTSD symptoms decreased by 42.3%.

Measurements of the participants' key psycho-emotional indicators were taken before and after the programme to determine how effective the psychocorrectional intervention proved to be. Table 1 contains the summary data from the questionnaires. The questionnaire data showed a significant reduction in psychological stress, anxiety and emotional exhaustion following the eight-week psychocorrectional programme. In addition, there was a significant increase in indicators of social cohesion and self-control, the importance of which is discussed in the work of N. Zhuk (2023). This indicates a strengthening of the internal resilience of military personnel and an improvement in their ability to respond effectively to stressful conditions and uncertain situations.

Table 1. Dynamics of indicators of the psycho-emotional state of military personnel (n = 50)

Indicator	Before psychocorrection	After psychocorrection	Change, %
Level of personal anxiety (points)	74.2	51.8	–30.2
Emotional exhaustion (points)	68.5	46.1	–32.7
Mental tension (points)	70.3	48.9	–30.4
Social cohesion (points)	52.4	71.6	+36.6
Self-control and volitional resilience (points)	60.2	78.9	+31.0

Source: compiled by the authors

The repeated application of the "Short Anxiety, Depression and PTSD Scale" (Ahaiev *et al.,* 2016) also showed that the total average score of affirmative responses in Group 1 decreased from 5.28 to 1.78. Considering that the threshold value indicating the presence of clinically significant disturbances is four affirmative responses, a reduction to 1.78 indicates that the majority of military personnel were moved out of the risk zone. This conclusion was drawn in accordance with the methodology proposed in the work of I.I. Prykhodko (2021). An analysis of individual indicators according to the methodology of I. Kotenev, based on N.A. Ahaiev *et al.* (2016), confirmed this tendency.

The average level of PTSD in Group 1 decreased from 135 to 118 points (Table 2). The processed results of identifying psycho-emotional disorders in both groups can be observed more clearly through visual representations in the figures illustrating the dynamics of changes. Comparison of the two groups allows more accurate results to be obtained. The calculations therefore demonstrate a fundamental difference in the effectiveness of overcoming PTSD symptoms.

Table 2. Main types of disorders recorded among military personnel who participated in the psychocorrection assistance programme

Type of disorder	Before psychocorrection	After psychocorrection
PTSD	135	118
ASD	166	153

Source: compiled by the authors

The PTSD indicator among military personnel in the first group before the beginning of the psychocorrection programme amounted to 135 points. After the implementation of the programme based on the author's methodology, a repeated assessment showed a decrease to 118 points. These results indicate a reduction in emotional tension among the soldiers, a decrease in the frequency of intrusive memories, anxiety reactions and manifestations of hyperarousal. As noted by N.Y. Diomidova (2021), the use of psychocorrection methods contributes to the development of internal stabilisation skills and gradually replaces acute traumatic experiences. The calculation of the PTSD level in the second group, where no psychological assistance was provided, demonstrated no changes between the two survey stages (the first and second measurements). The indicator remained at 137 points, which suggests the absence of internal mechanisms for processing stress and the accumulation of emotional tension that cannot transform independently without targeted psychocorrection methods.

Thus, based on the research of V.V. Stasiuk & V.M. Ukrainets (2023a), the psychocorrection programme in t he first group made it possible to actively process intensified internal conflicts among respondents, thereby reducing the intensity of stress reactions and strengthening the psychological resilience and endurance of military personnel. In contrast, respondents from the second group maintained the previous level of emotional tension, indicating the absence of natural relief without professional support. Thus, the obtained results provide convincing evidence of the effectiveness of psychocorrection of combat stress as a tool for preventing deeper mental health disorders among military personnel and maintaining the combat readiness of the unit.

Working with a psychologist enabled the soldiers to restore a sense of internal security and master mechanisms for the gradual "release" of accumulated anxiety, which is crucial for preventing the transition of acute stress disorder (ASD) into PTSD. Real risks may arise for military personnel if symptoms are ignored. According to the research of M.M. Kononova & T.V. Kuchma (2021), the accumulation of stress reactions over time leads to emotional instability and exhaustion, prolonged depressive states, loss of working capacity, conflicts within the team and the unit, and a sharp decline in combat capability. According to the results obtained for the two groups of surveyed military personnel, the level of ASD decreased from 166 to 153 points. This reduction can be explained by the influence of psychocorrection methods ($p = 0.000142$), which contributed to the development of internal stabilisation skills and a decrease in the frequency of intrusive memories and anxiety reactions. The psychocorrection methods were aimed at reducing emotional tension, stabilising psychophysiological reactions and developing skills for controlled responses to stress stimuli. In the second group of military personnel, where psychocorrection was not implemented, the level of ASD decreased by only 3 points – from 166 to 163. These results indicate minimal changes in the group, which may be explained by temporary adaptation to the conditions of the military unit. However, the internal tension and anxiety of the soldiers were not processed, leaving defensive mechanisms superficial and traumatic experiences unresolved. A comparison of the results for both groups demonstrates that the decrease in ASD in the first group was more pronounced and structured. This can be explained by the effect of psychocorrection, which was aimed at reducing psychological and physiological tension. In the second group, changes were minimal, leading to the conclusion that without specialised psychological assistance acute stress decreases very slowly, which is insufficient for preventing further negative consequences.

In contrast, in the control group (Group 2), where no psychocorrection was conducted, no significant positive changes were recorded. The level of PTSD remained unchanged at 137 points. The level of acute stress disorder (ASD) decreased only minimally, by 3 points (from 166 to 163). This result confirms that natural adaptation resulting solely from remaining in the stable conditions of a military unit is

insufficient for preventing more serious psychological disturbances. The comprehensive psychocorrection programme was aimed not only at reducing negative symptoms but also at developing internal adaptive resources. According to the assessment results, the following improvements were observed: social cohesion increased by 36.6%, self-control and volitional resilience increased by 31.0%, and the subjective sense of calm and inner balance increased by 78.5%. Positive changes in internal resources indicate the strengthening of psychological resilience and the ability of military personnel to respond effectively to uncertain and stressful situations. Participants also reported improvements in sleep quality (82%), increased concentration (76%), and improved mutual understanding within the group (70%). An analysis of effectiveness using the "Stress Factors" method (Ahaiev *et al.*, 2016) demonstrated that the overall level of stress load decreased by almost 30% (from 4.16 to 2.98 points). The greatest reduction in tension was observed in the areas of personal-psychological (-33.3%) and emotional-physiological (-31.9%) reactions. These results highlight the effectiveness of body-oriented exercises and cognitive processing of emotions, which were key components of the programme.

The initial study determined that the greatest psycho-emotional tension was caused by combat-related factors: threat to life (27.8 points), death of comrades (26.9 points), and injury or mutilation (25.6 points). Physiological factors (exhaustion, lack of sleep) ranked second in significance. Data collection required the generalisation and systematisation of results, for which statistical analysis was carried out: average ranks were calculated for each factor across all respondents; the most significant stressors with a key influence on the emotional and psychological state of military personnel were identified (Table 3). The remaining factors had an average rank below 13 points and were not included in the top 20 in terms of significance. Thus, the psycho-emotional state of military personnel is most strongly influenced by factors related to risks to life and health, injuries, and the loss of comrades (Table 3).

Table 3. Average values of stress factors among 25 military personnel who participated in the psychocorrection programme

No.	Stress factor	Mean rank (0-30)	Group of factors
1	Danger to life during combat operations	27.8	Combat
2	Death of comrades	26.9	Combat
3	Injury or mutilation	25.6	Combat
4	Fear of being taken prisoner	24.7	Combat
5	Prolonged separation from family	23.9	Socio-psychological
6	Lack of clear information about the situation	22.8	Informational
7	Exhaustion due to lack of sleep	22.5	Physiological
8	Constant noise and shelling	21.4	Physiological
9	Poor nutrition, shortage of water	20.6	Physiological
10	Conflicts within the unit	20.1	Socio-psychological
11	Lack of rest	19.4	Physiological
12	Feelings of guilt for actions in combat	18.7	Moral and ethical
13	Uncertainty about the future	17.9	Informational

Source: compiled by the authors

These stressogenic elements pose a threat to psychological stability, as noted by K. Ulianov (2020). This is particularly true of military personnel who have joined the brigade following training, where combat risks were practised in conditions as close as possible to real-life assault operations. Following the psychocorrectional intervention (Group 1), it was found that the programme effectively reduced the impact of many stressors associated with sensory, everyday and emotional reactions (for example, the shock caused by the sight of corpses and destruction decreased). However, some of the highest-ranked stress factors (threat to life, injuries, and command errors) remained at a high level or even increased slightly. This phenomenon can be interpreted not as an indication of the ineffectiveness of the correction but as a natural psychological process: the conscious processing of traumatic events (within the cognitive-analytical module) may lead to a temporary increase in the subjective perception of real threats.

The obtained results support the idea that a systemic approach to stress management (the concept proposed by I. Kotenev), presented in the methodology of N.A. Ahaiev *et al.* (2016), which combines cognitive-behavioural methods, psychophysiological practices, meditative elements of the Art of Living programme, and group mutual support described in Art of Living Research (2023), is a highly effective tool for the prevention of PTSD and ASD. The integrated methods used in the programme (deep relaxation, body-breathing techniques, cognitive

restructuring and meditative elements of the Art of Living programme) demonstrated their capacity to mobilise internal mechanisms of self-regulation and restore the harmonious connection between the "body", "breath" and "consciousness", which is critically important for increasing adaptability. This approach ensured a deep and sustainable restoration of psycho-emotional balance.

The study demonstrates that psychological assistance enabled military personnel to restore a sense of internal safety and to master mechanisms for the gradual "release" of accumulated anxiety. As noted by V.V. Stasiuk & V.M. Ukrainets (2023b), this is crucial for preventing the transition of ASD into chronic PTSD, since ignoring symptoms of combat stress leads to emotional instability, exhaustion and a sharp decline in combat effectiveness. Because symptoms of traumatic stress were detected among soldiers already during the training stage, the results of the study have particular practical significance for the development of a system of psychological support for the Armed Forces of Ukraine.

Discussion

The obtained results confirm that intensive basic military training can act as an independent psychotraumatic factor, which is consistent with the conclusions of O.A. Blinov (2019), who emphasised the formation of symptoms of combat psychological trauma even before direct participation in combat operations. A similar position is expressed by O.P. Liashch (2021), who points to the destructive impact of combat stress on the emotional sphere of military personnel even during the training period. In the present study, 35% of participants demonstrated signs of both PTSD and ASD, which correlates with the tendencies described by these authors. At the same time, the conducted analysis demonstrates a different perspective regarding possibilities for prevention. While the works of O.A. Blinov (2019) and K. Ulianov (2020) primarily emphasise the severity and duration of the consequences of combat stress, the results of this study indicate that timely and systematic psychocorrection intervention can reduce indicators of anxiety, depression and PTSD by 40-43%. Thus, the thesis regarding the danger of accumulating traumatic experience is supported, while also being supplemented with empirical evidence of the effectiveness of early psychocorrection.

The conclusions of O.M. Kokun *et al.* (2022b) regarding the necessity of ensuring psychological resilience as a dynamic process of adaptation to combat conditions are also confirmed by the findings of this research. In particular, the increase in indicators of social cohesion (+36.6%) and self-control (+31.0%) corresponds with their statement regarding the importance of team interaction and the development of internal resources. However, unlike these authors, who consider resilience mainly as an integral characteristic of personality, the results demonstrate its plasticity and the possibility of purposeful development during an eight-week programme. The differences in interpretation may be explained by variations in the sample and research design.

The provisions of I.I. Prykhodko (2021) concerning the need to systematise measures for the prevention of combat stress are also supported by the obtained data. The author emphasises that without targeted intervention acute stress tends to become chronic. This fully corresponds with the results observed in the control group, where natural adaptation proved insufficient for a significant reduction in symptoms. The findings of M.Y. Balban *et al.* (2023) regarding the positive influence of structured breathing practices on reducing physiological arousal and improving mood are also supported by the results of this study, in which improvements in sleep quality (82%) and concentration (76%) were recorded. Body-breathing techniques demonstrated a significant contribution to reducing emotional and physiological tension (-31.9%). At the same time, unlike J. Mahour & P. Verma (2017), who primarily focus on physiological indicators of autonomic regulation, the present study demonstrates a comprehensive psycho-emotional effect, which may be explained by the combination of breathing, cognitive and group-based methods.

Overall, the results are consistent with the principles of contemporary psychological science regarding the nature of combat stress, while also expanding them in terms of the proven effectiveness of a systemic approach to psychocorrection. A comprehensive programme combining cognitive-behavioural, psychophysiological and socio-psychological components can be regarded as an effective tool for preventing the chronicity of acute stress reactions in military personnel during basic training.

Conclusions

The comprehensive psychocorrection programme, based on the systemic approach of I. Kotenev and incorporating elements of cognitive behavioural therapy together with meditative components from the Art of Living programme, demonstrated high effectiveness in work with military personnel experiencing combat stress and undergoing intensive training. The study confirmed that signs of post-traumatic stress disorder (PTSD) and acute stress disorder (ASD) may develop during training exercises even before direct involvement in combat operations.

The results of the assessment using scales of traumatic stress, anxiety and depression showed a significant improvement in the psycho-emotional state of the experimental group. Symptoms of anxiety,

depression and PTSD decreased by approximately 40-43%. At the same time, no significant positive changes were recorded in the control group, which did not receive psychological intervention, emphasising the necessity of targeted psychocorrection work. The programme contributed to a substantial strengthening of the internal resources of military personnel: the subjective sense of calmness and inner balance increased by 78.5%, while indicators of social cohesion and self-control increased by more than 30%. This indicates the restoration of a harmonious connection between the "body", "breath", and "consciousness", which forms the basis of stress resilience. It was also established that the intensity of the influence of the main stress factors among programme participants decreased by almost 30%. The greatest reduction in psycho-emotional tension was achieved in the areas of personal-psychological and emotional-physiological reactions, which confirms the effectiveness of body-oriented and relaxation techniques in developing self-regulation skills.

Prospects for further research on this topic include the integration of the developed psychocorrection programme into the system of psychological support for military units on a permanent basis; the implementation of long-term monitoring in order to assess the sustainability of the obtained results and prevent recurrence of symptoms; as well as the development of additional modules aimed at addressing the most persistent stress factors, particularly those related to the perception of life-threatening danger and trust in command leadership.

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Conflict of Interest

None.

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Вплив стрес-факторів на психоемоційний стан військовослужбовців

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■ **Анотація.** Метою статті було вивчення рівня травматичного стресу, тривоги, депресії та впливу стрес-факторів на психоемоційний стан військовослужбовців, а також оцінювання ефективності комплексної психокорекційної програми. Дослідження здійснено на вибірці з 50 військовослужбовців-штурмовиків, поділених на експериментальну (25 осіб) та контрольну (25 осіб) групи. Застосовано експериментальний дизайн із повторним вимірюванням. У програмі з психокорекції, яка тривала вісім групових тренувань (90 хвилин кожне), за основу було взято системний підхід І. Котєньова. Було використано «Опитувальник травматичного стресу» І. Котєньова, «Коротку шкалу тривоги, депресії та ПТСР» (Short AD-PTSD Scale) та методику «Стрес-фактори». Результати засвідчили високу ефективність програми: за шкалою Short AD-PTSD в експериментальній групі рівень тривожності знизився на 42,9 % (з 14,2 до 8,1 балів), рівень депресії – на 40,8 % (з 12,5 до 7,4 балів), а симптоми ПТСР зменшилися на 42,3 % (з 16,8 до 9,7 балів). Сумарний середній бал схвальних відповідей, що засвідчують наявність порушень, знизився з 5,28 до 1,78, що вивело більшість військових із зони ризику. Загальний рівень стресового навантаження, визначений за методикою «Стрес-фактори», знизився майже на 30 % (з 4,16 до 2,98 балів). Найбільш помітне зменшення психоемоційного напруження зафіксовано у сферах особистісно-психологічних та емоційно-фізіологічних реакцій (зниження на 33,3 % та 31,9 % відповідно). Позитивні зміни зафіксовано у внутрішніх ресурсах: суб'єктивне відчуття спокою та внутрішньої рівноваги підвищилося на 78,5 %, соціальна згуртованість зросла на 36,6 %, а самоконтроль підвищився на 31,0 %. Після завершення програми у 82 % учасників покращилася якість сну, а в 76 % – підвищилася концентрація уваги. У контрольній групі, яка не отримувала корекції, значних позитивних змін не відбулося. Це доводить, що природної адаптації недостатньо для подолання наслідків бойового стресу. Програма суттєво підвищує адаптивність військовослужбовців, стабілізує їхній емоційний стан і може бути інтегрована в психопрофілактичні програми підрозділів Збройних Сил України

■ **Ключові слова:** психокорекція; бойовий стрес; посттравматичний стресовий розлад; тривожність; адаптивність; системний підхід

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Constructivist framework for analysing the criminal liability of officials for abuse in the energy market as a threat to Ukraine's critical infrastructure

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■ **Abstract.** The purpose of the study was to determine to what extent the current model of criminal liability of officials in the energy market is effective and relevant to modern security challenges in the field of critical infrastructure. The research methodology combined historical-legal, systemic-structural, and discourse analysis of Ukrainian normative legal acts, as well as analytical reports. The research established that the current system of criminal-legal protection is a consequence of historical inertia and has inherited the shortcomings of the Soviet model, which was oriented towards ideological rather than technogenic threats. It was revealed that the general articles of criminal legislation on official crimes are qualitatively incapable of reflecting the specificity and scale of potential harm, as they are oriented towards individual consequences, rather than the threat of systemic collapse resulting from attacks on vital systems. It was proven that the privatisation processes in the 1990s created a gap in defining the subjects of liability among managers of private energy infrastructure operators. A significant gap was identified between outdated legal norms and new societal security expectations, formed under the influence of full-scale war. The conclusions were that the existing system of criminal liability is ineffective and requires immediate reform. The urgent necessity for developing and implementing into the Criminal Code specialised criminal offences with sanctions proportionate to the level of public danger of such acts was substantiated; this is intended to enhance the state's resilience and ensure the inevitability of punishment. The practical significance of the study lies in the fact that its results can be used by law-making bodies to develop effective legal mechanisms to protect the energy market as a subject of influence on the critical infrastructure of Ukraine

■ **Keywords:** national security; legal regulation; legislative gaps; strategic facilities; privatisation processes; energy infrastructure; energy market

■ Introduction

The resilience of energy infrastructure is a fundamental pillar of national security, economic welfare, and social stability for any modern state. For Ukraine, under conditions of ongoing full-scale military aggression, this issue has acquired fundamental significance. Systematic and targeted attacks on energy,

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transport, and communication networks have transformed the protection of critical infrastructure from a purely managerial task into a key element of national survival and resilience. Against this backdrop, the problem of the adequacy and effectiveness of existing legal mechanisms arises, particularly the norms of criminal liability for officials who, by virtue of their authority, are directly responsible for the security and uninterrupted functioning of these vital systems.

Despite the obvious escalation and qualitative transformation of threats, the existing normative framework demonstrates signs of a clear incongruity with contemporary realities, creating a dangerous gap between the actual scale of challenges and the effectiveness of the state's legal response. These threats extend beyond traditional kinetic attacks, encompassing the cyber domain. H. Durojaye & O. Raji (2022) emphasised that state and state-sponsored actors deliberately exploit vulnerabilities in energy infrastructure to destabilise, spread disinformation, and diminish the defensive potential of the attacked state. As an example, the authors cited precisely Russia's cyberattack on Ukrainian energy companies in 2015, which led to power outages. The complexity of detecting and attributing such attacks makes the cyber domain a priority area for hybrid aggression, requiring cooperation between the public and private sectors. G. Ocieczek (2024) analysed key elements of ensuring security in the EU, paying particular attention to the new directives on the resilience of critical entities (CER) and on a high common level of cybersecurity (NIS 2). In the European Security Strategy (2020-2025), the protection of critical infrastructure and cybersecurity are defined as priorities. Against this backdrop, in Ukraine, the criminal-legal protection of critical infrastructure facilities is characterised by a lack of systematisation and fragmentation; certain terminological constructs in the Criminal Code[1] have lost their relevance, which complicates law enforcement (Fedyuk, 2025), and the universal norms on official crimes are incapable of reflecting the specificity and catastrophic scale of potential harm to vital systems (Office of the UN High Commissioner for Human Rights, 2024). This problem is not limited to a formal-dogmatic analysis of legislative acts, as legal norms are not static; they are social constructs, dynamically shaped by specific historical conditions, political interests, economic factors, and dominant societal perceptions of threats, responsibility, and justice.

The basis for a deep analysis of this problem is social constructivism. This approach, as noted in his work "Constructivism", S. Park (2023), has allowed for an understanding of how certain ideas and norms become generally accepted and how, in turn, societal changes become possible, challenging traditional rationalist theories. Examining constructivist approaches and institutional constructivism in the legal science of the European Union, D. Kostakopoulou (2024) refers to constructivism as the fourth force in theories of European integration, which testifies to its methodological maturity and significant influence on contemporary legal studies. Applied to the legal system, constructivism explains that laws are not an objective given, but are the result of a continuous process of social interaction, where various actors promote their interests and interpretations. Revealing the theoretical, methodological, and practical potential of social constructivism, V.P. Gorbatenko & O.V. Kukuruz (2021) emphasised its significant heuristic value for studying and transforming the political and legal reality precisely in Ukraine. The relevance of this approach for criminal law research is confirmed by the fact that the concepts of 'crime' and 'liability' are socially variable. For instance, defining "relativity (social constructivism)" as one of the key features of criminality, A.A. Ternavska & Y.A. Turlova (2024) emphasise its constructed nature. The application of this methodology allows not merely stating the existing shortcomings of legislation, but also understanding their genesis: why they arose, which historical events and political decisions shaped them, and why they have proven so resistant to change even under conditions of necessity.

Analysis of scientific literature indicates that the problem of critical infrastructure protection is actively researched by Ukrainian legal scholars. Thus, in the work of O.M. Gerasimenko (2024), based on an analysis of legislation and foreign experience, the conclusion is made about the relevance of the task of countering criminal offences at critical infrastructure facilities elements of which are also energy market objects, and the necessity of improving the corresponding legislative policy of Ukraine is substantiated. Researching the current state of criminal-legal protection of critical infrastructure facilities, S.E. Kucherina & D.O. Oleinikov (2021) conclude that it is unsystematic and fragmented, which, as the authors note, is due to the absence in criminal legislation of an individualised approach to critical infrastructure as a separate object of legal protection and the disregard in criminal law norms of the modern organisational and legal foundations for the functioning of such facilities. V. Fedyuk (2025), analysing the qualifying feature of critically important infrastructure facilities, additionally pointed out that the definition of the term "critically important infrastructure facilities", provided in the note to Art. 259

[1] Criminal Code of Ukrainian SSR. (1960, December). Retrieved from https://ips.ligazakon.net/document/view/kd0006?an=0&ed=1961_06_27.

of the Criminal Code of Ukraine[1], has lost its relevance, which complicates law enforcement. Concurrently, the issue of officials' liability is considered in a broader context. The peculiarities of criminal liability of officials of legal entities under private law were researched by D.M. Tychyna (2025), who, focusing on problematic aspects of qualification and law enforcement, substantiated the expediency of strengthening legislative regulation and state monitoring of anti-corruption measures in the private sector, which is of primary importance given the privatisation of part of the energy infrastructure facilities. The unconstitutionality of criminal liability for submitting inaccurate information in Ukraine was examined by A. Vozniuk *et al.* (2021), who concluded that the decision of the Constitutional Court declaring Article 366-1 of the Criminal Code[2] unconstitutional was insufficiently substantiated and lacked proper arguments regarding the absence of public harm in the act. This aspect is complemented by research on the legal regulation of ethics of conduct for public officials, in which V.S. Chernousov (2021) emphasised that reforming the public service is impossible without changes in the ethical attitude of officials, since their goal is the professional performance of the functions of a legal and social state. However, despite a significant body of research diagnosing the existence of the problem, its genesis remains insufficiently studied.

Thus, a significant lacuna exists in the scholarly discourse: there is a lack of comprehensive research explaining how and why the norms of criminal liability in the sphere of energy infrastructure were constructed in such a way that, as of 2025, they have proven ineffective. The purpose of the study was to analyse the evolution of the norms of criminal liability of officials in the energy market as a threat to the critical infrastructure of Ukraine. The central hypothesis of the study posited that applying a constructivist framework – which considers the conditions of the legislation's emergence, stakeholder interests, historically formed norms, political and economic factors, law enforcement practices, and alignment with societal demands – allows for demonstrating that Ukrainian legislation in this sphere contains profound historical lacunae. These lacunae, inherited from previous legal and political epochs, substantially diminish the effectiveness of legal regulation and render it maladapted to the complex threats of 2025.

Materials and Methods

This study was grounded in the principles of qualitative methodology within the social constructivist paradigm. This approach enabled the examination of legal norms not as static and objective prescriptions, but as dynamic social constructs that are formed and transformed under the influence of historical conditions, political discourse, economic factors, and societal perceptions of threats and liability. The chosen methodological framework allowed for a profound analysis of the causes of lacunae in the legislation and its misalignment with contemporary challenges. To achieve the set goal and test the hypothesis, a complex of general scientific and special methods of cognition was applied. The historical-legal method was key to researching the genesis of the norms of criminal liability for public officials. Its application allowed for tracing the evolution of legislation from 1960 to 2025 – from the Soviet period, represented by the Criminal Code of the Ukrainian SSR of 1960[3], to the modern stage, encompassing the provisions of the current Criminal Code of Ukraine[4]. Its application was directed at identifying the continuity and transformation of legal approaches across different historical epochs, particularly after the proclamation of Ukraine's state independence in 1991. Systemic-structural analysis was used to study normative-legal acts as a unified system. This method was applied with the aim of establishing connections and contradictions between general norms of criminal law and special legislation, such as the Law of Ukraine "On Critical Infrastructure"[5] and CMU Resolution No. 415[6], which regulates the maintenance of the Register of Critical Infrastructure Objects. Its application was directed at identifying systemic lacunae and a lack of coherence in legal regulation. Discourse analysis was applied to study analytical reports and official documents. This method allowed for analysing how the concepts of "energy infrastructure",

[1] Criminal Code of Ukrainian SSR. (1960, December). Retrieved from https://ips.ligazakon.net/document/view/kd0006?an=0&ed=1961_06_27.
[2] Decision of the Constitutional Court of Ukraine in Case No. 1-24/2020(393/20) on the Constitutional Submission of 47 People's Deputies of Ukraine Regarding the Compliance with the Constitution of Ukraine (constitutionality) of Certain Provisions of the Law of Ukraine "On Prevention of Corruption" and the Criminal Code of Ukraine. (2020, October). Retrieved from https://zakon.rada.gov.ua/laws/show/v013p710-20#Text.
[3] Criminal Code of Ukrainian SSR. (1960, December). Retrieved from https://ips.ligazakon.net/document/view/kd0006?an=0&ed=1961_06_27.
[4] Ibidem, 1960.
[5] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[6] Resolution of the Cabinet of Ministers of Ukraine No. 415 "On Approval of the Procedure for Maintaining the Register of Critical Infrastructure Facilities, Including Such Facilities in the Register, Accessing and Providing Information from It". (2023, April). Retrieved from https://zakon.rada.gov.ua/laws/show/415-2023-п#Text.

"critical infrastructure", "threat", and "liability" were constructed in expert and political discourse. The analysis of sources such as the report by S.I. Kondratov & O.M. Sukhodolia (2020), dedicated to the organisational and legal principles of critical infrastructure protection, was used to identify key ideas and narratives that dominated the expert discourse and influenced the process of forming the relevant legislation. The informational basis for the research comprised a complex of interconnected sources. To assess the current state of threats and the effectiveness of state policy, data from international and national reports were used. Specifically, these included the report by the Office of the UN High Commissioner for Human Rights (2024), the chronology of cyberattacks from the European Parliament (2022), as well as the analytical reports "The State Critical Infrastructure Protection System in the National Security System" (2020) and ACTED (2020). For the legal analysis within a broader socio-political context, scholarly works illuminating the transformation processes of Ukrainian society were engaged.

Results

The historical evolution and socio-cultural construction of norms of criminal liability for public officials in the sphere of Ukraine's energy infrastructure. The analysis of criminal liability for public officials in the sphere of Ukraine's critical infrastructure in general, and in the energy market, in particular, through the prism of a constructivist framework required detailed elaboration within the historical context of the formation of the relevant legislation. The norms regulating this sphere are not static or objectively predetermined. They are the result of the interaction of social, political, economic, and cultural factors that have been constructed over decades. Understanding this evolution allowed for uncovering the roots of existing lacunae and imbalances that may diminish the effectiveness of contemporary legal regulation. Historically, the concept of "critical infrastructure" in Ukraine, as in other post-Soviet states, evolved under the influence of the Soviet administrative-command management system. During this period, key life-sustaining facilities – particularly, energy complexes (power plants, distribution networks), transport hubs (railways, port facilities, airports), as well as communication systems (telecommunication networks, radio relay stations) – were exclusively state-owned and operated under the centralised control of relevant sectoral ministries and departments (for example, the Ministry of Energy and Electrification of the USSR, the Ministry of Railways of the USSR, etc.).

The system of liability for public officials within this paradigm was predominantly focused on preventing actions that could harm the functioning of these "strategically important" facilities, which were perceived as elements of a unified national economic complex. Criminal-legal liability, as enshrined in the relevant articles of the Criminal Code of the Ukrainian SSR of 1960[1] (for instance, Art. 61 "Wrecking" (which was interpreted as the non-performance or negligent performance of certain duties with the aim of undermining industry, transport, agriculture, the monetary system, trade, etc.), Art. 60 "Sabotage" (committing, with the aim of weakening the state, explosions, arson, or other actions aimed at the mass destruction of people, inflicting bodily harm or other injury to their health, damaging or destroying enterprises, structures, routes and means of communication, means of communication or other state or collective property), as well as Art. 172 "Official Negligence" (negligent attitude towards service, which caused substantial harm)), was aimed at protecting state security in its traditional understanding. This implied countering actions that would undermine the economic or defensive might of the state. However, the key focus of this regulation was on protecting the stability of state governance and economic integrity, rather than on the comprehensive protection against a broad spectrum of modern threats. These include phenomena such as high-tech cyberattacks, international terrorism with its asymmetric methods, or large-scale emergencies of technogenic and natural character, which lacked a direct ideological basis. The absence of corresponding legal constructs and managerial practices in the Soviet system was conditioned by a different nature of threats, perceptions of technology, and the political doctrine, which formed certain historical lacunae in the subsequent development of Ukrainian legislation.

Table 1. Evolution of criminal liability of officials for offences in the energy market (1960-2025)

Period	Regulatory document	Example articles	Regulatory focus	Key limitations
1960-1991 (USSR/ Ukrainian SSR)	Criminal Code of the Ukrainian SSR[2] (1960)	Art. 60 "Sabotage", Art. 61 "Wrecking", Art. 172 "Official Forgery"	Protection of state security, countering wrecking	Focus on ideological threats, disregard for technological and cyber risks
1991-2000	Post-independence transition period	General articles of the Criminal Code of Ukraine	Adaptation of the Soviet model	Lack of special provisions for critical infrastructure

[1] Criminal Code of Ukrainian SSR. (1960, December). Retrieved from https://ips.ligazakon.net/document/view/kd0006?an=0&ed=1961_06_27.

[2] Ibidem, 1960.

Table 1. Continued

Period	Regulatory document	Example articles	Regulatory focus	Key limitations
2001	Criminal Code of Ukraine[1] (new version)	Art. 364, Art. 367	Universal liability of officials	No qualifying attribute of "critical infrastructure"
2010-2020	Legislative amendments, international influences	Art. 364-1 (Officials of private legal entities)	Partial expansion of subjects	Failure to account for the specifics of private critical infrastructure operators
2021	Law of Ukraine "On Critical Infrastructure"[2]	–	Definition of sectors, objects, subjects	No amendments introduced to the Criminal Code of Ukraine
2025 (Current State)	Current State	–	Need for specialised offence compositions	Sanctions do not correspond to the scale of public danger

Source: created by the authors based on an analysis of the following sources: S.I. Kondratov & O.M. Sukhodolia (2020), Office of the UN High Commissioner for Human Rights (2024)

Ukraine's attainment of independence in 1991 opened up new opportunities for the formation of its legal system. However, a significant part of the legislation, particularly in the sphere of security and infrastructure management, was based on inherited Soviet approaches. The relevant articles of the Criminal Code of Ukraine[3] (CCU) concerning official offences (e.g., Art. 364 "Abuse of Authority or Office", Art. 367 "Official Negligence") were adapted, but their underlying logic remained within the framework of classical criminal law, failing to account for the specifics and growing complexity of critical infrastructure.

An analysis of the key CCU[4] articles has allowed for the identification of systemic shortcomings in their application to the sphere of critical infrastructure, indicative of historically formed gaps. Firstly, the general nature of the object of the crime and its consequences is defining. All the mentioned CCU[5] articles operate with such broad categories as "legally protected rights, freedoms, and interests of individual citizens, or state or public interests, or the interests of legal entities". Criminal-legal consequences are defined through "substantial harm" and "grave consequences", tied to an economic criterion – a multiple exceeding of the non-taxable minimum income of citizens (Part 3, 4 of the Note to Art. 364 CCU[6]). However, these formulations do not reflect the unique nature and potentially catastrophic scale of harm that can be inflicted upon critical infrastructure. Disruption of the functioning of its objects can lead to systemic collapse (e.g., a national blackout, cessation of water supply, complete blockage of telecommunication networks), which poses an existential threat to the state and society, extending far beyond purely economic losses or harm to the rights of individual citizens. Such consequences may include threats to national security, mass casualties, and long-term social and economic destabilisation, which are not fully captured by the current definition of "serious consequences," "significant losses," or "significant harm."

Secondly, a key shortcoming is the lack of focus on specific threats. Articles 364 and 367 of the CCU[7] are concentrated on general intentional abuse or negligent performance of official duties. However, they do not contain references to the unique risks and threats characteristic of critical infrastructure, such as targeted cyberattacks, terrorist acts, physical sabotage, or large-scale technological disasters caused by the actions or inaction of officials. This leads to, for example, official negligence that resulted in a critical vulnerability of a system to a cyberattack being qualified in the same manner as negligence in any other sphere, without due consideration of the potentially catastrophic consequences for the country's vital sustenance. Thirdly, there is an issue with defining the subject of the offence, particularly in the private sector. Although Art. 364-1[8] of the CCU expands the range of subjects, including officials of private legal entities, its application to energy market operators, who are often private companies or operate under complex concession/lease agreements, remains challenging. The definition of an "official" in the Note to Art. 364 CCU[9], although broad, is still predominantly oriented towards traditional state and municipal structures or legal entities with a dominant state/municipal share. In the case of complex

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[2] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[3] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[4] Ibidem, 2001.
[5] Ibidem, 2001.
[6] Ibidem, 2001.
[7] Ibidem, 2001.
[8] Ibidem, 2001.
[9] Ibidem, 2001.

corporate structures or international energy market operators, clearly identifying the specific individual responsible for compliance with specific energy infrastructure security standards, which do not always coincide with general "administrative-economic" or "organisational-administrative functions", remains a significant challenge, creating a field for the "diffusion" of personal responsibility. Fourthly, there is an observed inadequacy of sanctions relative to the scale of the threats. The sanctions provided for by Articles 364 and 367 of the CCU (namely, probationary supervision, restriction of liberty, or imprisonment for a term of up to three to six years, fines) may prove disproportionate to the public danger of acts leading to significant disruptions in the functioning of energy market facilities, and as a consequence, critical infrastructure, especially under martial law. For instance, official negligence resulting in the death of a person (Part 3, Art. 367) is punishable by imprisonment for a term of five to eight years.

However, a system failure at an energy infrastructure facility caused by similar negligence could lead to a significantly larger number of casualties or destabilisation on a nationwide scale, necessitating a review of the adequacy of the punishment. Finally, a substantial gap is the absence of a special qualifying attribute of "critical infrastructure". None of the aforementioned articles contains such a qualifying feature as "committing a crime that disrupted the functioning of critical infrastructure". This means that the legal system does not construct an elevated public danger for such acts, treating them as ordinary official crimes, ignoring their strategic impact on national security and societal viability. The stakeholders at this stage were state structures: law enforcement agencies, the Security Service of Ukraine, ministries managing relevant sectors (which exercised control over the critical infrastructure object and were responsible for its current functioning[1]). The private sector, which, starting from the 1990s, began to play a significant role in the operation and management of part of the critical infrastructure, had minimal influence on the formation of these norms (Snelbecker, 1995). This created a certain asymmetry, whereby the norms were constructed without fully considering the interests and challenges faced by private operators.

Political and economic factors also played a decisive role in the construction of these norms. The period of privatisation and the formation of oligarchic structures in the 1990s and early 2000s led to a significant portion of energy infrastructure (particularly in energy and transport) being transferred to private enterprises or controlled by financial-industrial groups (Minakov, 2023). This created a paradoxical situation: assets vital to the functioning of the state and society came under the influence of private interests. However, legislation on the liability of public officials was not adequately adapted to these new realities. Significant gaps existed in defining the subjects of liability, their powers, and duties within the context of private management of energy infrastructure. The absence of clear mechanisms for state control and an adequate level of liability for private operators' failure to comply with safety requirements created circumstances where societal interests could be ignored for the sake of profit.

The formation of the concepts of "energy infrastructure" and "critical infrastructure" as a distinct legal field in Ukraine began considerably later, under the influence of European and international standards, especially after the Orange Revolution of 2004 (OSCE, 2004) and the Council of Europe Office in Ukraine (2015). These events stimulated aspirations for Euro-integration and the modernisation of the legal system. However, even then, the process of implementing international practices was slow and fragmented due to the absence of a unified state strategy and the dispersion of responsibility among various agencies. Active discussion on the necessity of a systemic definition and protection of energy infrastructure, involving expert communities and analysis of EU country experiences, began only in the late 2010s, particularly following the 2015-2016 cyberattacks on Ukraine's energy system, which demonstrated the vulnerability of critical sectors (European Parliament, 2022). This discussion encompassed issues of terminology, criteria for designating assets as an energy and critical infrastructure, and mechanisms for interagency cooperation. The relevant legislation, namely the Law of Ukraine "On Critical Infrastructure"[2], was adopted only in 2021. Prior to the adoption of this Law, criminal liability of public officials in this sphere was regulated exclusively by general norms of the Criminal Code of Ukraine[3], such as Articles 364, 367, and, in the case of sabotage or terrorist acts, Articles 113 and 258 respectively. These norms did not account for the unique risks and threats specific to critical infrastructure and were insufficient to ensure its comprehensive protection.

These historically formed norms and law enforcement practices demonstrated significant gaps. Firstly, the absence of a clear legislative definition of "critical infrastructure" and its components in Ukrainian

[1] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[2] Ibidem, 2021.
[3] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.

regulatory acts prior to the adoption of the Law of Ukraine "On Critical Infrastructure"[1] in 2021 complicated the qualification of crimes related to its disruption. This lack of unified criteria for criticality and identification of relevant assets created legal uncertainty, potentially hindering the investigation of incidents and the prosecution of individuals whose actions or omissions led to failures in the functioning of vital systems.

There is still no legislative definition of the "energy market". Secondly, even with the existence of general norms on official crimes, a problem could arise in determining the subjects of criminal liability. Within the context of the complex ownership and management structure of energy infrastructure assets, encompassing state, municipal, and private enterprises, as well as companies operating under concession or lease agreements, the absence of specialised legislation could complicate the identification of the specific public official bearing direct responsibility for compliance with safety standards and the uninterrupted functioning of the relevant asset. The third gap lay in the inadequacy of sanctions to the nature of the threats. Even in cases where public officials were held liable under general articles of the Criminal Code of Ukraine[2], the penalties did not reflect the actual scale of harm caused by the disruption of energy infrastructure. This indicated that the legislation was not constructed with due regard for modern risks, such as mass cyberattacks, terrorist acts, or large-scale technological disasters, where liability should be significantly more severe.

Criticism and proposals from interested agencies, such as national security experts, human rights organisations, and international partners (Aebi *et al.*, 2024). They noted that Ukrainian legislation does not meet modern societal demands for security and protection and is not adapted to new challenges. In particular, after 2014, in the context of hybrid aggression by the Russian Federation, the issue of protecting energy infrastructure, including energy networks, telecommunications, and transport routes, acquired existential significance (European Parliament, 2022). However, despite the need, introducing systemic amendments to criminal legislation was protracted, reflecting the difficulty of political consensus and the influence of various interests on the law-making process.

Thus, the historical evolution of criminal liability of public officials in the sphere of energy market as a threat to Ukraine's critical infrastructure, demonstrated that the norms were constructed under the influence of different eras and challenges, often without sufficient awareness of the unique threats associated with vital systems. This led to the formation of a legal field containing significant gaps in definitions, subject composition, crime qualification, and the adequacy of sanctions. These gaps, in turn, substantially reduce the effectiveness of legal regulation and leave the system vulnerable to new, dynamic challenges of 2025, especially under the conditions of the ongoing Russo-Ukrainian war, where energy infrastructure becomes a primary target and the energy market is gaining in importance.

Current status and law enforcement practices in identifying gaps in the regulation of criminal liability of officials in the energy market as a threat to critical infrastructure. Despite the adoption of the Law of Ukraine "On Critical Infrastructure"[3] in 2021, as well as the subsequent adoption of related regulatory acts, in particular CMU Resolution No. 415[4], systemic gaps, whose roots lie in the historical construction of norms, continue to affect the effectiveness of legal regulation. These gaps are revealed not only at the level of legislative definitions but also in real law enforcement practices, reflecting the complex interaction between legislative intent, stakeholder interests, and objective challenges, especially under conditions of full-scale war. The Law "On Critical Infrastructure"[5] became a primary step in defining the very concept of "critical infrastructure" and its sectors, identifying objects and subjects responsible for ensuring their security. It outlined general principles and powers of state authorities in this sphere. However, from the perspective of criminal law, this law did not introduce systemic changes to the Criminal Code of Ukraine[6] that would create special offences specifically targeting violations in the sphere of energy market and critical infrastructure. Public officials are still held liable under general articles of the Criminal Code of Ukraine[7] on official crimes (abuse of power/official position, official

[1] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[2] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[3] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[4] Resolution of the Cabinet of Ministers of Ukraine No. 415 "On Approval of the Procedure for Maintaining the Register of Critical Infrastructure Facilities, Including Such Facilities in the Register, Accessing and Providing Information from It". (2023, April). Retrieved from https://zakon.rada.gov.ua/laws/show/415-2023-п#Text.
[5] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[6] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[7] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.

negligence, embezzlement of property), and, in some cases (where the actions of a public official affect the functioning of a system), under articles on crimes against public safety or production safety. This approach ignores the unique nature of threats and potential consequences of violations concerning energy market facilities. The absence of special norms leads to criminal liability often failing to reflect the full social danger of the acts.

Conformity with modern societal demands and challenges of 2025 is defined by the fact that russia's war against Ukraine has transformed energy market facilities and critical infrastructure objects into systemic targets, and society – vulnerable to disruptions in the provision of vital services. In the period from October 2022 to March 2023, Russian forces carried out large-scale attacks on the Ukrainian energy system, leading to the destruction or damage of over 50% of the country's generating capacity and mass disruptions of electricity, heating, and water for millions of civilians (Office of the UN High Commissioner for Human Rights, 2024). Similar attacks recurred in 2024: in January and March, combined missile and drone strikes on thermal power plants and substations were recorded, leading to prolonged disruptions in Kyiv, Kharkiv, Dnipro, and other cities, and in June 2024, Ukrainian government structures reported a peak-hour electricity deficit of up to 1.5 GW (Office of the UN High Commissioner for Human Rights, 2024). The scale and regularity of these attacks demonstrated that the disruption of energy supply had become not a temporary phenomenon, but a strategy of the aggressor aimed at destabilising society. In this context, societal expectations in 2025 include not only the physical restoration of damaged assets but also the creation of mechanisms for full legal liability of public officials for the inadequate provision of resilience and functioning of energy infrastructure. According to the analytical report by the S.I. Kondratov & O.M. Sukhodolia (2020), Ukraine had not completed the creation of a unified register of critical infrastructure objects, had not implemented a full-fledged system for certification and categorisation of such objects, in particular, energy infrastructure, and the regulatory framework remained fragmented among various bodies (Table 2).

Table 2. Identified gaps and societal expectations regarding criminal liability in the sphere of critical infrastructure (2020-2025)

Category	Status prior to 2020	Challenges 2022-2024	Societal expectations in 2025
Register of critical infrastructure objects	Non-existent, fragmented departmental databases	CMU Resolution No. 415[1] formalised the register	Full population of the register, transparent access
Liability Subject	Uncertainty for private operators	Increased role of private energy companies	Clear criminal liability for managers of private structures
Offence qualification	General Articles of the CCU (364, 367)[2]	Mass cyberattacks and shelling (2022-2024)	Introduction of specialised offence elements
Sanctions	Universal, disproportionate	Blackouts, deficit up to 1.5 GW, harm to millions	Proportional punishments, considering the scale of consequences and the martial law state
Social dimension	Lack of a culture of accountability	Dependence of people's lives on CI (hospitals, water supply)	Formation of a "culture of accountability" among officials and society

Source: created by the authors based on the analysis of the following sources: S.I. Kondratov & O.M. Sukhodolia (2020), ACTED (2020), Office of the UN High Commissioner for Human Rights (2024)

Consequently, there was uncertainty regarding the personal liability of operators and officials: on the one hand, certain Resolutions of the Cabinet of Ministers of Ukraine defined requirements for cyber protection and technical accounting, on the other hand – criminal legislation lacked specialised elements of offences for gross official negligence or failure to fulfil duties related to preparing resilience plans in the sphere of critical infrastructure (Kondratov & Sukhodolia, 2020). A key step was the adoption of the Resolution of the Cabinet of Ministers of Ukraine No. 415[3], which for the first time formalised the procedure for maintaining a centralised state register of critical infrastructure objects. However, even after its adoption, questions regarding the coordination of inter-agency mechanisms, the practical

[1] Resolution of the Cabinet of Ministers of Ukraine No. 415 "On Approval of the Procedure for Maintaining the Register of Critical Infrastructure Facilities, Including Such Facilities in the Register, Accessing and Providing Information from It". (2023, April). Retrieved from https://zakon.rada.gov.ua/laws/show/415-2023-п#Text.
[2] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[3] Resolution of the Cabinet of Ministers of Ukraine No. 415 "On Approval of the Procedure for Maintaining the Register of Critical Infrastructure Facilities, Including Such Facilities in the Register, Accessing and Providing Information from It". (2023, April). Retrieved from https://zakon.rada.gov.ua/laws/show/415-2023-п#Text.

implementation of certification, and determining the liability of officials for failure to perform their duties remain open, indicating the necessity for further changes in legislation and law enforcement.

International assessments confirm the critical nature of the problem. In September 2024, Office of the UN High Commissioner for Human Rights (2024) noted that attacks on energy infrastructure have "reverberating consequences" for healthcare, education, and the economy, as power cuts deprived hospitals of access to oxygen concentrators and ventilators, and schools of the ability to continue the educational process. Simultaneously, the report by the ACT-ED (2020) emphasised that the absence of systemic monitoring and a shared database on technogenic and natural threats significantly limits preparedness for crisis situations, including repeated attacks on energy and water systems.

Thus, in 2025, the formation of legal norms and state policy should be based on the understanding that energy infrastructure is not merely "strategic objects", as in Soviet terminology, but a complex of vital systems, upon which the survival of society depends during war. Clear elements of criminal offences are needed, encompassing: a) intentional acts – sabotage or collaboration with the aggressor, which lead to the destruction of energy infrastructure; b) gross official negligence, which prevented the uninterrupted functioning or restoration of objects; c) breaches of duties regarding planning and preparation, which create systemic risks. Furthermore, it is worth enshrining a norm on the priority provision of energy and water to social sphere objects (hospitals, water purification systems, educational institutions) (Office of the UN High Commissioner for Human Rights, 2024). Only such an approach will meet societal demands and the challenges of wartime, adequately reflecting the increased danger of new types of threats and ensuring citizens' trust in state institutions.

Effectiveness, compliance, and adaptation: constructivist proposals for enhancing the criminal liability of officials in the energy market as a prerequisite for ensuring the security of critical infrastructure. The constructivist approach in researching the criminal liability of officials in the sphere of critical infrastructure allows for the formulation of specific directions for improving legislation, taking into account the real societal challenges of 2025. The current articles of the Criminal Code of Ukraine[1], namely Art. 364 "Abuse of Power or Official Position" and Art. 367 "Official Negligence", remain universal and do not account for the specifics of critical infrastructure functioning in general, and energy infrastructure in particular. In this regard, it is advisable to develop separate, specialised articles: "Failure to Comply with Critical Infrastructure Security Requirements" – to criminalise inaction or intentional violation of established standards for the physical or cyber protection of critical infrastructure objects. "Disruption of Critical Infrastructure Functioning" – to cover acts or omissions that led to disruptions in the provision of electricity, water supply, transport, or communications. "Concealment of Information about Threats or Incidents in the Sphere of Critical Infrastructure" – to establish liability for officials who knowingly failed to report or distorted data about attacks, sabotage, or technogenic accidents. Furthermore, sanctions for such offences must be differentiated depending on the criticality level of the object and the scale of the harm. Thus, if official negligence led to a local incident, the punishment could be milder; however, in cases of systemic blackouts or a national power outage, the sanction should be significantly more severe. The qualifying feature "commission of a crime during the martial law state" must necessarily be considered, as it increases the level of public danger and requires enhanced punishment. Thirdly, the subject composition of criminal liability requires clarification. According to the note to Art. 364 of the CCU[2], officials are defined as representatives of authority or persons with organisational-administrative functions. However, this definition does not encompass managers of private companies who, on the basis of concession or lease agreements, manage critical infrastructure objects. It is necessary to legislatively establish that they also bear criminal liability for non-compliance with security requirements on an equal footing with officials of state and municipal enterprises. Fourthly, an important direction is strengthening inter-agency coordination. The Law of Ukraine "On Critical Infrastructure"[3] of 2020 and the CMU Resolution No. 415 of 28 April 2023[4] define the general principles for the accounting and management of critical infrastructure objects, including energy infrastructure, but do not regulate mechanisms for responding to crimes. For this purpose, it is necessary to create protocols for interaction between the Prosecutor's Office, the Security Service of Ukraine, the State Service for Special Communications and Information Protection, the Ministry of

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[2] Ibidem, 2001.
[3] Law of Ukraine No. 1882-IX "On Critical Infrastructure". (2021, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1882-20#Text.
[4] Resolution of the Cabinet of Ministers of Ukraine No. 415 "On Approval of the Procedure for Maintaining the Register of Critical Infrastructure Facilities, Including Such Facilities in the Register, Accessing and Providing Information from It". (2023, April). Retrieved from https://zakon.rada.gov.ua/laws/show/415-2023-п#Text.

Energy, and operators of critical infrastructure objects, which would ensure a rapid response to incidents. Furthermore, investigating crimes in the sphere of critical infrastructure requires specialised knowledge in the fields of energy, transport, IT, and cybersecurity. Therefore, it is necessary to introduce training programmes for investigators and prosecutors, who will possess the competence to qualify such crimes and establish the causal link between official negligence and the large-scale consequences for society.

Finally, the paramount objective is the cultivation of a "culture of responsibility". Critical infrastructure, and especially energy facilities, must be perceived by society and public officials not as ordinary strategic assets, but as the foundation of national survival and state resilience. This necessitates not only the inevitability of punishment for crimes in this sphere but also public awareness campaigns that foster an understanding of the significance of critical infrastructure security for citizens' lives. Such measures are consistent with international recommendations, particularly the conclusions of the Office of the UN High Commissioner for Human Rights (2024), which emphasised the vital importance of protecting energy infrastructure for population access to healthcare, education, and essential services. Collectively, these proposals are aimed at remedying historical gaps in legal regulation and establishing a criminal law mechanism capable of adequately responding to the challenges of war and post-war recovery, thereby ensuring the efficacy, relevance, and adaptability of legislation to contemporary societal needs.

Discussion

The results of this study indicate that the criminal law framework for protecting critical infrastructure in Ukraine is in a phase of active development, yet simultaneously faces a complex of systemic problems, caused both by the war and by global transformations in the security domain. A key finding is the necessity of transitioning from the universal provisions of the Criminal Code of Ukraine, such as Article 364 ("Abuse of Power or Official Position") and Article 367 ("Official Negligence"), to specialised criminal offences that account for the specificities of critical infrastructure operations, including energy facilities. This confirms that public consciousness in Ukraine has undergone significant changes in recent years: infrastructure assets are no longer perceived as abstract strategic assets but are regarded as vital life-support systems, upon which the survival of society and the state during war and in the process of post-war recovery depends.

The application of a constructivist approach has allowed for the explanation of this transformation. As emphasised by D.M. McCourt (2022), it is norms, ideas, and social perceptions that determine not only the behaviour of states but also the content of legal institutions. M. Buckley (2025), in this context, stressed that constructivism proceeds from the active role of thought, which creates social reality, and consequently, laws are formed not in isolation from society but as a reflection of its needs and collective perceptions. The obtained results demonstrate precisely this process: a new norm is emerging in Ukraine, according to which negligence in the infrastructure sphere is deemed equivalent to a threat to national security, and responsibility for the continuity of its operation is becoming a societal expectation. This conclusion is consistent with international research. A. Locatelli (2021) demonstrated that following the end of the Cold War, the concept of security underwent a radical revision. Traditional military threats gradually lost their dominant significance, giving way to the prominence of issues related to internal conflicts, terrorism, and attacks on infrastructure. A similar dynamic is evident in the Ukrainian experience, where in 2022-2025 the primary targets of Russian attacks were energy and communication systems. Y. Yigit *et al.* (2024) proved that modern threats combine both physical and cyber components, and the protection of critical infrastructure is impossible without the integration of technical, legal, and social solutions. This correlates with the finding of this study on the necessity of creating new criminal offences that would consider not only negligence in physical management but also cyber threats and the concealment of information about them. Concurrently, the identified problems in Ukraine align with global trends, confirming the universality of challenges in critical infrastructure protection, as shown in the analysis of the legal systems of Poland (Roman & Cygańczuk, 2022) and international legal approaches in general (Ilic, 2023). However, the specificity of the Ukrainian context lies in the fact that reform is hampered not only by objective threats but also by the state of national legal scholarship. As noted by V.V. Sokurenko (2023), Ukrainian criminology, despite moving towards the implementation of modern methodologies, remains influenced by outdated approaches, which explains the identified historical inertia of legislation and the persistence of inefficient legal constructs identified in the study.

An illustration of the dynamics of societal perceptions is provided by the research of M. Sallinen (2021), dedicated to the shift in American discourse on cyber weapons following the discovery of Stuxnet. The author showed that over a decade, not only political decisions changed but also the informal norms that defined society's attitude towards cyber operations. Similar processes are observed in Ukraine, where mass shelling of the energy system and cyberattacks by Russia have transformed public expectations regarding what is permissible and

what should be criminalised at the legislative level. J.N. Pardede & P.H. Poluakan (2021) supplement this conclusion, asserting that critical constructivism in law allows for avoiding the absolutisation of norms and preserving space for their constant re-evaluation. The Ukrainian example confirms this view: the formulation of new articles of the Criminal Code cannot be merely a declarative act; it must be based on the continuous analysis of societal risks, technological changes, and international experience.

A similarity to results in pedagogy is demonstrated by the research of K. Meli *et al.* (2022), who showed that teaching fundamental scientific principles becomes effective only when students themselves participate in building conceptual models. Similarly, legal provision in the sphere of energy infrastructure cannot be imposed exclusively "from above"; it must be formed through the interaction of the state, operators, and society, which confirms this study's conclusion on the necessity of cultivating a culture of responsibility. The research of H. Wijesinghe *et al.* (2024) on the Russian-Ukrainian war showed that the reactions of neighbouring states to Russia's aggressive policy are determined not only by contemporary realities but also by historically formed perceptions and collective memory. This aligns with the Ukrainian experience, where citizens' demands for enhanced criminal liability for negligence in the infrastructure sphere are based not only on the actual blackouts of 2022-2025 but also on a long history of vulnerability to external threats. Applying a constructivist approach to power exchange in the context of the Russian-Ukrainian conflict, B.W. Nugroho (2024) showed that it is precisely norms, shared identities, and dominant discourses and narratives that play a key role in shaping power relations between states. This fully correlates with this study's conclusion that the new societal demand for enhanced responsibility for infrastructure protection is a result of the formation of a new national security narrative, generated by the war. A similar effect was described by A. Matczak (2024), who analysed the role of public voice in criminology and emphasised that citizens' perceptions of crime and punishment are dynamic and depend on the dominant discourse. The results demonstrate an analogous process: the expectation of strict liability for official negligence in the energy sector reflects a change in societal norms, not merely a situational reaction to a crisis.

A theoretical summary is the confirmation of the conclusions of F. Kratochwil & H. Peltonen (2022), who noted that constructivism in political and social sciences has undergone waves of development and transformations; however, it is precisely during crisis periods that its analytical potential is fully revealed. The Ukrainian case proves that only through a constructivist approach can one explain why society demands the creation of new norms, even if the existing legislation formally already covers certain acts. In this context, the works of C. Larrinaga & J. Bebbington (2021) on the institutionalisation of sustainability reporting also provide a parallel example. They proved that new practices are formed not instantaneously but through the gradual combination of institutional conditions, actors, and discourse. In Ukraine, the process of creating criminal law protection for energy infrastructure follows a similar logic, where various institutions and societal forces step by step build a new system of norms.

Overall, the results of the study have a dual significance. Firstly, they outline specific directions for reforming Ukrainian criminal legislation towards the introduction of specialised criminal offences that would correspond to the modern challenges of war and post-war recovery. At the same time, as shown by the comparative study of the public official as a victim of criminal insult and defamation, A. Borovyk *et al.* (2023) demonstrated that models of criminal liability of officials in different jurisdictions vary significantly, balancing the principle of freedom of speech and the necessity of protecting representatives of authority. This indicates that the reform process in Ukraine must consider international experience, not through copying, but by creating balanced legal constructs adapted to the national context. Secondly, they confirm the global trend of transforming perceptions of security, where not only technical or legal mechanisms play a key role, but also the norms, discourses, and collective perceptions of society. In this sense, the Ukrainian experience is consistent with the conclusions of D.M. McCourt (2022), M. Sallinen (2021), and Y. Yigit *et al.* (2024) and simultaneously contributes to the international discussion, showing that energy infrastructure in the 21st century is becoming not only an object of physical or cyber protection but also a component of societal identity and a mechanism of collective survival.

Conclusions

The conducted research comprehensively confirmed the central hypothesis and established that the current system of criminal liability of officials in the field of energy market protection, as a subject of influence on critical infrastructure in Ukraine, is a result of historical evolution, rather than deliberate design in response to contemporary threats. It was ascertained that the legislation contains profound structural gaps that diminish its preventive and punitive potential. The analysis demonstrated that the roots of the problem trace back to the Soviet legal doctrine, which was oriented towards ideological threats to state security and ignored technological and specific infrastructural risks. The general norms of the Criminal Code inherited after 1991, namely

Articles 364 and 367, proved qualitatively incapable of encompassing the full scope of the social danger of acts encroaching upon vital systems. Their blanket wording of "substantial harm" fails to capture the potentially catastrophic, cascading effects of power grid outages, especially under martial law. Privatisation processes further complicated the issue, creating uncertainty regarding the subject composition of criminal liability in the private sector managing strategic facilities. Thus, it was proven that the full-scale aggression of 2022-2025 acted as a catalyst, revealing a critical discrepancy between the outdated legal framework and the new social norm that views energy infrastructure security as an existential condition for the nation's survival.

The obtained results hold significant practical importance. Based on them, a number of recommendations aimed at reforming criminal legislation have been formulated. The primary task is the development and implementation of specialised criminal offences into the Criminal Code of Ukraine. These norms should criminalise acts directly pertaining to the sphere of energy infrastructure, namely: intentional or grossly negligent failure to comply with established standards of physical and cyber protection; inaction that led to the disruption of a energy infrastructure facility's operation; concealment of information about incidents or threats. Sanctions for such crimes must be proportional to the scale of the consequences, and the commission of an act under martial law should constitute an aggravating circumstance that significantly intensifies liability. Furthermore, it is recommended to broaden the definition of the subject of a crime, explicitly extending it to the managers of private companies that are energy infrastructure operators.

The research had certain limitations. Firstly, it was focused predominantly on normative-legal analysis and constructivist interpretation, without including an empirical study of judicial-investigative practice due to the objective difficulty of accessing relevant data during a period of active hostilities. Secondly, the analysis was conducted under conditions of a dynamic security and legal situation; therefore, the conclusions reflect the state of the problem at the current moment, requiring their further clarification and updating in future research.

Directions for further scientific research may include: an in-depth comparative legal analysis of the legislation and practice of holding officials accountable for abuse in the energy market as a threat to critical infrastructure in countries with experience in countering hybrid threats; an empirical study of court decisions in the relevant category of cases after accumulating a sufficient amount of data; a sociological study of the level of legal awareness and culture of responsibility among the management of energy market facilities in Ukraine.

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Conflict of Interest

None.

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Конструктивістська рамка аналізу кримінальної відповідальності службових осіб за зловживання на енергетичному ринку як загрози критичній інфраструктурі України

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■ **Анотація.** Метою дослідження було визначити, наскільки чинна модель кримінальної відповідальності службових осіб на енергетичному ринку є ефективною та релевантною сучасним безпековим викликам у сфері критичної інфраструктури. Методологія дослідження поєднувала історико-правовий, системно-структурний та дискурс-аналіз нормативно-правових актів України, а також аналітичних звітів. За результатами дослідження встановлено, що чинна система кримінально-правового захисту є наслідком історичної інерції та успадкувала недоліки радянської моделі, орієнтованої на ідеологічні, а не техногенні загрози. Виявлено, що загальні статті кримінального законодавства про службові злочини якісно не здатні відобразити специфіку й масштаби потенційної шкоди, оскільки вони орієнтовані на індивідуальні наслідки, а не загрозу системного колапсу, від атак на життєво важливі системи. Доведено, що процеси приватизації у 1990-х роках створили прогалину у визначенні суб'єктів відповідальності серед керівників приватних операторів енергетичного ринку. Констатовано суттєвий розрив між застарілими правовими нормами та сучасними суспільними очікуваннями щодо безпеки, що сформувалися під впливом повномасштабної війни. Висновки полягали в тому, що наявна система кримінальної відповідальності є неефективною та потребує негайного реформування. Обґрунтовано нагальну необхідність розроблення та імплементації до Кримінального кодексу України спеціалізованих складів злочинів із санкціями, пропорційними рівню суспільної небезпеки таких діянь, що має підвищити стійкість держави та забезпечити невідворотність покарання. Практична значущість дослідження полягає в тому, що його результати можуть використати законотворчі органи для розроблення дієвих правових механізмів захисту енергетичного ринку як суб'єкта впливу на критичну інфраструктуру України

■ **Ключові слова:** національна безпека; правове регулювання; законодавчі прогалини; стратегічні об'єкти; процеси приватизації; енергетична інфраструктура; енергетичний ринок

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