



Revista Científica General José María Córdova
(Colombian Journal of Military and Strategic Studies)
Bogotá D.C., Colombia

ISSN 1900-6586 (print), 2500-7645 (online)
Journal homepage: <https://www.revistacientificaesmic.com>

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How to cite in APA: Oliinyk, O.S., Shestopalov, R.M., Zaryslyo, V.O., Stankovic, M.I., & Golubitsky, S.G. (2022). Economic security through criminal policies: A comparative study of Western and European approaches. *Revista Científica General José María Córdova*, 20 (38), 265-285. <https://dx.doi.org/10.21830/19006586.899>

Published online: April 1, 2022

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Revista Científica General José María Córdova
(Colombian Journal of Military and Strategic Studies)
Bogotá D.C., Colombia

Volume 20, Number 38, April-June 2022, pp. 265-285
<https://dx.doi.org/10.21830/19006586.899>

Economic security through criminal policies: A comparative study of Western and European approaches

La seguridad económica a través de las políticas criminales:
estudio comparativo de los enfoques occidental y europeo

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ABSTRACT. The article aims to identify the factors that have the greatest impact on economic security. Based on the study of legislative acts of the countries of the European Union, the United States, and relevant scientific literature, an analysis is made of the current situation in the field of economic security, exploring its constituent elements and factors influencing the security of the economy. Among them are ecology, the fight against crime, the financial and taxation spheres, innovative development, and the element itself as a component of the considered social relations, processes, among others. The article outlines the key areas of public relations and other factors that influence the situation's state concerning the issue addressed.

KEYWORDS: corruption; economic interest; economic relations; national security; public relation; taxation

RESUMEN. El objetivo del artículo es identificar los factores que más influyen en la seguridad económica. A partir del estudio de los actos legislativos de los países de la Unión Europea, de los Estados Unidos y de la literatura científica pertinente, se analiza la situación actual en el ámbito de la seguridad económica, examinando los elementos que la componen y los factores que influyen en la seguridad de la economía. Entre ellos se encuentran la ecología, la lucha contra la delincuencia, las esferas financieras y fiscales, el desarrollo innovador, la unidad en sí y como componente de las relaciones sociales consideradas, los procesos, entre otros. El artículo esboza las áreas clave de las relaciones públicas y otros factores que influyen en el estado de la situación en el tema.

PALABRAS CLAVE: corrupción; fiscalidad; interés económico; relaciones económicas; relaciones públicas; seguridad nacional

Section: DOSSIER • Scientific and technological research article

Received: November 3, 2021 • Accepted: January 27, 2022

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Introduction

The processes taking place today in society closely link social life and processes in the economy, ecology, the fight against crime, and the field of innovation development, among others. This connection first manifests itself in the fact that no social relation can exist independently. For example, the economic security of an agrarian country depends on the state of its natural resources and the effective use of environmental elements. However, individuals have only recently begun to understand the importance of preserving the integrity of lands, the balance of water resources, and flora and fauna, even at the interstate level. Until recently, there was widespread confidence in the inexhaustibility of the land resource, its limitless use, and self-restoration of fertile properties, despite the emerging discussions on the lack of fresh water and contamination of the ozone layer in the last century.

The purely consumeristic attitude towards the components of the environment has led to their partial loss and exacerbated the need to strengthen the accountability for acts committed resulting in the physical destruction of fertile lands, pollution of water resources, mass disappearance of representatives of the animal and plant world, and the emergence of threats to life, the health of people, or the environment (Savchenko et al., 2017). Such threatening consequences are especially terrible for those countries where the agrarian sector occupies a decisive position in the economy. If a country lacks its own resources, including the natural ones, the government should orient the economy towards another direction of state development, for example, active trading, investment, or the innovative activity of entrepreneurship in the region.

Economic security refers to the access to resources, finances, and markets needed to maintain an acceptable level of prosperity and government. However, the whole idea of economic security is extremely controversial and politicized. In the capitalist system, the concept itself is fraught with contradictions and complications, not least because market participants must feel insecure; if they fail to do so, the market will not achieve its effectiveness. Thus, the idea of economic security is in the dark, as well as the highly political debate on international political economy regarding the nature of the relationship between the political structure of anarchy and the economic structure of the market. The main opposing positions reflect different views on whether some states and societies or markets should be given priority and whether private entities have their own security requirements, which should be weighed against the market decision. The positions are as follows.

Mercantilists and neo-mercantilists place politics first, seeing the state as the embodiment of the social and political goals for which wealth is created and the security necessary for firms and markets to function. From this point of view, economic security is simply part of a broader priority given to national security, and economic success is usually

disregarded. Liberals place the economy first, arguing that the economy should be at the heart of the social fabric and that the market should function as freely as possible without government intervention. The state is needed to ensure legislative and military-political security and support the social fabric in those areas where the market cannot.

From this point of view, the main object of economic security is the development of rules that create the mobility of factors between national economies. However, it can also be argued that liberalism is the protection of the position of the capitalist elite. Liberals value economic efficiency and view economic relations with a positive quantity of shared gains. Socialists are somewhere in between, arguing that the economy is at the heart of the entire social fabric and that, to the extent that states can circumvent this logic, their task is to tame the economy to the social and political goals of justice and fairness. To socialists, security is focused on the economically weak and against the strong (Buzan et al., 1998).

In order to develop the strategy and boundaries of protecting economic security as a whole, as well as its separate elements, it is, first of all, necessary to clearly identify the object of such protection and the methods by which such protection will be carried out. The problems of ensuring economic security, structure, and development strategies in post-Soviet and EU countries have been considered by such scholars as Pasternak-Taranushenko (2002) and Zhalilo (2001).

In their work, Kryshevych et al. (2018) point out that the national economy of any state is a complex economic, social, organizational, scientific, and technological system. It has a general economic potential, among which natural resources, industry, labor, science, and technology stand out. As seen from the above definitions, the category under consideration includes both the conditions and the quality of the system of economic functioning.

Thus, in our study, under economic security, we consider the complexity of the official state bodies' effective measures to provide stability to external and internal threats. We also characterize the national economy's ability to expand self-reproduction to meet the needs of citizens, society, and the state at a specific level and time interval, as well as the state of the economy, which provides sufficiently high and stable economic growth, effectively satisfying economic needs.

It should not be forgotten that economic security is an integral part of national security, which protects the vital interests of people, citizens, society, and the state. It provides sustainable development of society, modern detection, prevention, and neutralization of real and potential threats to national interests.

Components of economic security

Among the factors that ensure (affect) the state of economic security, the state usually refers to the following:

- Financial (achievement of the most effective use of resources);
- Political and legal (observance of the current legislation, comprehensive legal support of the legal activity of entrepreneurship);
- Intellectual and personnel (preservation and development of the intellectual potential of entrepreneurship and effective personnel management);
- Techno-technological (degree of conformity of applied technologies of entrepreneurship to the modern world analogs providing optimization of resource expenditures);
- Information (effective informational and analytical support of the entrepreneurial economic activity);
- Ecological (observance of the current ecological norms);
- Power (providing physical security of entrepreneurship employees). (Buzan et al., 1998)

Concerning the political and legal component of the economic security of entrepreneurship, in this case, it should be noted that the latter provides for protection against excessive tax pressure (which will be discussed below), volatile legislation, and ineffective work of the legal department of entrepreneurship. It defines the environment in which businesses operate and the “game rules” for them. The legal component is the comprehensive legal protection of the company’s activities in observance of the current legislation. The legal hazards for entrepreneurship are:

- Insufficient legal protection of the entrepreneurship’s interests in contracts and other business documentation;
- Low quality of legal service employee’s maintenance of the relevant business entity and mistakes in the recruitment of the personnel of this service;
- Violation of the entrepreneurship and its employees’ legal rights;
- Deliberate or unintentional disclosure of commercially important information, among others. (Zavadska, 2018)

Among the external threats of political and legal security in entrepreneurship are frequent government changes, instability of the taxation system, excessive state interference in business affairs. Other serious threats to the companies’ activity include the lack of legal guarantees in case of forcible alienation of property and blocking of entrepreneurship accounts (so-called raiding). In turn, entrepreneurship’s internal legal and regulatory threats include harmful, ill-conceived rules of internal regulations, positions, instructions, orders, and decisions of the labor collective. The overall process of ensuring the political and legal component of economic security is based on a typical scheme that covers the following elements (actions) of organizational and economic orientation:

- Analysis of the threats of negative influences;
- Assessment of the current level of security;
- Planning a set of measures to increase this level;
- Implementation of resource planning;
- Planning of the work of the enterprise's (organization) relevant functional units;
- Operational realization of the proposed set of measures to ensure an adequate level of
- security.

The main reasons for the occurrence of internal negative influences can be:

- a) Low qualification of the relevant business entity's legal service and mistakes in the recruitment of personnel for this service;
- b) Insufficient financing of legal support of entrepreneurial or other activities;
- c) The enterprise's (organization) reluctance or inability to actively influence the external political and legal environment of its activity.

The causes of external negative influences are mostly of a double nature:

- 1) Political: a) collision of interests of social groups (groups) of the population with economic, national, religious, and other motives; b) military conflicts (actions); c) economic and political blockade, embargo; d) financial and worldwide political (international) crises.
- 2) Legislative and legal: a) The parties (public movements) in power's realization of their political and other goals; b) Change of the provisions of the current legislation on property, economic and labor law, taxation, among others.

Assessment of the enterprise's (organization) current level of political and legal security is conducted in several areas:

- 1) The level of organization and quality of work to ensure this component of the overall level of economic security;
- 2) Budget-resource support of works;
- 3) The efficiency of the activities of the relevant subdivisions of economic entities. (Pasternak-Taranushenko, 2002).

The general process of protecting the legal component of economic security is based on a typical scheme that covers the following elements (actions) of organizational and economic orientation. It includes the analysis of the threats of negative influences; assessment of the current level of security; planning a set of measures to increase this level; resource planning; planning of the work of the relevant functional divisions of the entrepreneurship; operational realization of the proposed set of measures to organize the proper level

of security. The following must be noted to ensure the entrepreneurship's compliance with the current ecological standards.

Technological catastrophes arise due to physically depreciated fixed assets, unplanned shutdown of electricity, or employees' low qualifications and irresponsibility. Environmental damage can significantly affect the firm's financial condition; for example, events such as a lawsuit for violations of environmental legislation or an accident with environmental consequences at the enterprise causing financial and environmental losses measured in cash. Other events include environmental damage caused by a company employee's loss of health; reduced production and sales can also affect the company's financial position in a somewhat slower way. However, environmental damage involving a person's loss of health cannot be measured in cash; compensation must be determined subjectively. Because environmental damage to the firm may be uncovered or partially covered, it is a significant source of danger for the organization (Ruslan et al., 2020).

The organization itself can become a source of danger to the environment as a result of economic activity. Internal factors that impair environmental safety include mistakes made at the design stage of new products harmful to human health. At the development and introduction stage of new technologies, these hazards can include fines for pollution of the environment and illegally created landfills. The ecological component involves complying with current environmental norms minimizing losses from the pollution of the environment.

The issues around guaranteeing a society's ecological safety by economic entities engaged in industrial and commercial activities can be solved only by developing and carefully observing national (and international) maximum permissible concentration norms of harmful substances that enter the environment and observing environmental parameters in production (Lavrentieva et al., 2020). However, these measures, including wastewater treatment plants and related efficient, environmentally friendly technologies, require additional costs. Therefore, production companies will not voluntarily comply. The only factor that prompts entrepreneurship to fulfill ecological production rules is the use of tangible fines for violating national environmental legislation.

The algorithm of the process of providing the ecological component of economic security involves the following sequential actions:

- 1) Calculating the measures' effectiveness map to ensure the ecological component of economic security, according to the organization's reported data on financial and economic activities;
- 2) Analyzing the performed calculations and the development of recommendations for improving the effectiveness of the activities undertaken;
- 3) Developing alternative scenarios for the implementation of planned activities;

- 4) Selecting a priority scenario based on a comparison of planned performance calculations;
- 5) Submitting the selected planned scenario as part of the general plan for guaranteeing economic security in the functional planning units of the organization's financial and economic activity;
- 6) Practically implementing the planned activities in the course of the entity's activity. (Kryshevych et al., 2018)

The effective informational and analytical support of the economic activity is a systematic approach to determine the level of economic security of industrial entrepreneurship in the process of information and analytical support. This process can be carried out based on financial information and other industrial economic security components, including social, political, ecological, and demographic production. There is a need for a comprehensive assessment of the level of economic security to optimize the approaches to maintaining the proper state of entrepreneurship security. Therefore, a list of information classified as commercial secrets should exist to resolve the issue at the level of the law. This information should not contain state secrets or harm the interests of society; it should relate to the organization's production activity, have effective or potential commercial value, create competitive advantages, and have access restrictions.

The previous should be considered when creating a list of the enterprise's commercial secrets. The enterprise's legal regime of commercial secrecy provides constitutional guarantees that entitle the entity to own, use, and dispose of intellectual property rights at its own discretion, determining the business entity's competence regarding commercial secrets. Usually, the state protects information containing commercial secrets through criminal law. The same approach to understanding the conceptual apparatus to draw up regulations should ensure such measures' effectiveness, within the limits of one state and at the international level.

Financial factor of economic security

Thus, as we noted, the financial factor of the state's economic security achieves the most effective use of various kinds of resources at the disposal of one or another state. A special effort in developing the modern economy and ensuring its security is to increase the role of banks in creating the necessary resources for the implementation of innovation policies. To ensure innovation in the development of the international economy, it is necessary to create new production capacities and renewal of fixed assets, crucial for increasing labor supply, productivity, resource conservation, and product competitiveness (United Nations, 2021). These transformations require major innovations, investments, and the provision of appropriate funding sources. In connection with this, the question arises on bank loans as sources of funding for projects.

Given the objective need to attract investment and resources for innovative programs and projects in the priority directions of worldwide economic development, the issue of activating commercial banks in the investment market has received a special character and significance (Zavadska, 2018; Bogatyrev et al., 2019). Zachosova and Babina (2006) highlight the significant role of banking institutions in securing economic security, indicating that political, social, and financial crises can seriously harm both the economy of an individual state and the global economy. In addition, the scientists point out in their research that destructive processes that may occur during the functioning of the financial market should be timely determined by government regulators. Usually, the country's National (Central) banks perform this function with the National Commissions, which are called to implement state regulation in the field of financial services markets, and the National Securities and Stock Market Commissions. Among the negative factors that influence the work of financial institutions (banks), scientists name:

- A decrease in the level of active and passive banking services operations;
- Fluctuations in exchange rates;
- Client and their own bank employee frauds;
- Low quality bank assets;
- Lack of proper due diligence of clients' financial security;
- Attempts to expand the lending volumes;
- Information leaks on management and investment;
- Financial decisions from insiders;
- Loss of consumers in competitions;
- Intruder attacks on branches and banks branches, especially in regional departments with poor physical protection;
- Cyberattacks;
- Corruption and false regulator actions, among others. (Zhalilo, 2001)

A number of these problems can be solved by increasing the criminal liability for certain socially dangerous acts that have the highest level of risk. Thus, actions such as cyberattacks on financial institutions are subject to criminalization or its enhancement. These actions not only interest the financial institution; they also interest its clients, who can be seriously affected. To optimize this issue's solution, it is necessary to clearly outline the actions that fall under the notion of "cyberattack" and identify the culprits of such unlawful conduct (Indicators, 2021). Especially because information security is an integral part of national security and, at the same time, an important part of its own sphere, it is also determined as one of the main functions of the state.

Information security is a state of protection of the national interests of any state in the information sphere from threats to individuals and society, and the state through

incompleteness, lack of timely information, unauthorized dissemination and use of information, negative informational influence, and negative consequences of the functioning of information technologies. Today, the information component does not exist outside general national security, and national security will not be comprehensive without information security. Similar crimes encroach on the order of information relations established in society and are committed using electronic computers (computers, systems, and computer networks). Today's cybercrime is widespread (Tatsyi et al., 2010). Moreover, there is no unified and clear definition of the concept under study, both in national and international legislation. The fundamental basis of a high-quality fight against cybercrime is understanding the essence of processes in the functioning of the information space of a particular state.

Therefore, for qualitative scientific and practical comprehension of this problem, it is necessary to determine the essence of the terms used by allocating a conceptual apparatus in the field of cyberspace. However, no clear definition of "cybercrime" was established in the Convention on Cybercrime of November 23, 2001 (Council of Europe, 2001) document. It did imply, however, that cybercrime is the deliberate use of an illegally imposed authority, violence, destruction, or penetration into a cyber system, provided that such actions caused death or damage to a person or persons, material damage to property, civil disorder, or significant economic damage. The document mentions four types of computer crimes: illegal access, unlawful interception, data interference, and interference with the system and establishes the means of cybercrime as computer systems, computer data, information technology services, and traffic data. Cyberspace allows attackers to manipulate information and society's perception at its discretion. Terrorist acts can be implemented with unprecedented efficiency, complicating the task of identifying intruders.

It can first be argued that cybercrime poses a real threat not only for any corporation or private person's individual or computer network but also for an entire state's information and communication systems and, therefore, should be qualified as modern forms of commission aggression. Secondly, given this crime's transnational nature, it is appropriate to establish closer cooperation between national law enforcement agencies and the relevant competent bodies of the international community to achieve the most effective results in combating this negative phenomenon. Thirdly, because many cases of damage to critical infrastructure objects were caused by the lack of well-trained cybersecurity personnel, the qualification level of this personnel must be updated periodically. Moreover, measures should be considered to eliminate illiteracy in the field of cybercrimes in the population.

Lastly, the analysis of international practice in this direction has demonstrated the negative aspects of the continuous computerization and automation of the industrial, banking, and social sectors of the state infrastructure. The violation of their work through

large-scale cyberattacks can lead to irreparable consequences in loss of strategically important information, resources, funds, and human lives. Therefore, the activities of these structures are currently relevant to the development of high-quality and effective preventive measures against cybercrime. Economic security, as such, is impossible without an active counteraction to the processes and socially dangerous phenomena mentioned above. Among the essential factors of an economic nature is the position on observance by all participants in public relations of various types of financial discipline, for example, concerning the payment of taxes. Thus, the current activity of registering fictitious companies worldwide as a means of tax evasion has become increasingly threatening. Producing required documents “on request” has created a separate segment of the economy with a high level of organization and conspiracy.

These socially dangerous acts, which in most countries are recognized as crimes, seriously damage the state’s economic security because of the negative impact on tax and budgetary policies, social security, the development of priority economic sectors, and military capabilities, among others; they are also a significant obstacle to ensuring equal conditions. Moreover, such unequal pre-conditions also reject potential investors for which compliance with the law is one of the main principles of business organization (Minchenko et al., 2018).

Crimes as factors of economic destabilization

Tax evasion as a destabilizing factor

Let us look at, for example, the Spanish Criminal Code’s wording on tax evasion. In Art. 305, “On felonies against the Exchequer and the Social Security,” it establishes that criminal responsibility occurs for any action or omission, leading to losses to the budget by way of non-payment, debt cancellation, or reimbursement (Legislationline, 1998).

The sanction of the article provides for punishment in the form of deprivation of liberty from one to four years with a fine of six times the number of assessed sums. At the same time, this article contains an incentive clause providing exemption from criminal liability if a person has not been informed of a tax audit process or that such a review has been initiated. Normally, the state prosecutor or procedural representative of autonomy administration or the local administration must file a complaint or a statement against that person before the prosecutor’s office, and this office or the investigating judge acts, making the person aware of the initiation of an investigation (Legislationline, 1998). In the United States, Germany, and Spain, tax evasion is most often attributable to inconsistencies in total property status, the declared income, and the questionable nature of transactions. In tax cases, the tax legislation in the United States and other developed countries’ carries a presumption of innocence, demonstrating their trust in the taxpayers

and allowing the latter the opportunity to refuse information that may be used against them during a trial.

The US legislation not only criminalizes non-payment of taxes; it even criminalizes actions aimed at attempting to evade taxation. The very procedure for collecting tax arrears prompts the payer to cooperate; the tax authorities' main purpose is filling the budget, not bringing taxpayers to liability. This approach is realized by introducing the order by which the payer repeatedly sends claims for payment of taxes, which they can appeal to the tax authority or the court. The taxpayer's property can be arrested; however, this can be canceled before the start of tenders in the event of repayment of arrears. Moreover, the payment of arrears with deductions excludes prosecution and eludes criminal liability (Minchenko et al., 2018).

Corruption as a factor in the destabilization of economic relations

The globalization of the economy, which today has a very active influence on the development of society, influences processes under consideration. Thus, global changes that accompany world economic relations between its participants, from international communities to small companies and consumers, are positive and negative. In the context of exacerbation of socio-economic, political, legal, environmental, financial, and other relations between world countries in the framework of the implementation of active integration processes at the international level, it is important to study and assess the negative effects of the economic nature of globalization. The economic consequences of globalization directly impact the global community, changes in macroeconomics, microeconomic implications, economic development of countries and their associations, the environment, finance, migration processes, and political environment, among others.

Underestimation of the negative impact of globalization in the world community can lead to large-scale crises in the world economy, the destruction of global economic interactions under the pressure of negative consequences (Shopina et al., 2017). Corruption remains a negative factor in the development of economic relations both within the country and beyond. Although this socially negative phenomenon is not a separate aspect of our study, the following should be noted. In the scientific environment, corruption is defined as:

- 1) Abuse of state power by state officials, political, and civil servants to illegally enrich themselves or their subordinates;
- 2) The activities of state-authorized persons aimed at abuse of power and position to accept material goods, services, benefits, or other tangible or intangible effects from individuals and legal entities, and bribing of officials;
- 3) Bribing of civil servants by legal entities and individuals encroaching upon normatively established social relations in the field of civil service;

- 4) The use of an official of the state's power and management of his/her official position for personal enrichment;
- 5) Abuse of management by authorities in favor of personal or group interests;
- 6) A social phenomenon that covers the entire set of corruption actions related to the illegal use of persons authorized to perform public functions of the authorities, the official authority, the appropriate facilities to satisfy the personal interests or interests of the third party and other corruption offenses, which create conditions for committing or concealing corruption (Inshyn & Moskalenko, 2018).

From the previous, three groups of definitions concerning the complex definition of corruption can be distinguished. The first group of definitions refers to public ethics. In this case, *corruption* is defined as the ethical mutual distribution of interests between the public and private space. The second group of definitions refers to corruption issues regarding the transparency of the state's activities. Finally, there is the third group of definitions that is proposed as basic: corruption is one of many parts of a more complex criminal phenomenon, which is an economic crime (Savchenko et al., 2018). In their work, Semchuk et al. (2018) note that corruption has existed since ancient times, since the emergence of the state and the creation of its bodies with authority and administrative powers. The authors emphasize that the characteristic feature of this phenomenon is its harm in the legal, social, economic, and other aspects.

In addition, the authors emphasize that corruption is a phenomenon that is constantly evolving, transforming, and adapting to modern conditions and developing legislation, society, and state, while its essence and negative influence remain unchanged. Thus, according to a survey conducted by the investment company Dragon Capital (Kyiv) and the European Business Association, this phenomenon is widespread. In Ukraine, for example, there is practically no trust in the authorities, judicial authorities, and law enforcement agencies. The Interfax-Ukraine¹ news agency issued a press release of a report in which respondents used a 10-point scale to rate relevant obstacles in this regard. The monopolization of markets and seizure of power by oligarchs placed third in the ranking (5.9 points), while the military conflict with Russia and the unpredictable exchange rate (by 5.6 points) occupied the fourth and fifth positions, respectively.

The repressive actions of law enforcement bodies occupied the sixth position (Ivanova et al., 2020) (4.6 points), based on the large-scale illegal actions of the Public Prosecutor's Office, the Security Service, and the police. Other positions belonged to the constant change of the statutory regulation, the complex administration of taxes, and

1 Ukrainian news agency founded in 1992. The agency publishes 52 information products on political and economic issues.

currency restrictions (Yunin et al., 2018). Kuzmenko et al. (2018) noted that the most damaging effects of the spread of corruption on the European state economy are:

- 1) The expansion of the shadow economy, leading to the reduction of tax revenues to the budget. As a result, the state loses the financial levers of economic governance, and social problems are exacerbated by the budget deficit.
- 2) The brake down of the competitive market mechanism. Often the winner is not the one who is competitive but the one able to obtain benefits illegally. This leads to a reduction of the market, a decrease in its efficiency and the discrediting of the idea of market and competition.
- 3) The deceleration in the emergence of effective private owners, primarily because of a breach of the privatization procedure and artificial bankruptcies, usually associated with the bribing of officials.
- 4) The inefficient use of budget funds, in particular, when distributing government orders and benefits, further complicating budget problems in the country.
- 5) Price increases due to “corruption costs.” As a result, consumers are suffering.
- 6) Business entities do not believe in the ability of the authorities to establish, control, and adhere to fair rules of the market game.
- 7) The investment climate leads to degradation and unresolved problems of overcoming the fall in the countries of production and reconstruction of fixed assets.

The shadow economy’s main causes are those previously mentioned. They include the imperfection of legislation, which is subject, among others, to tax pressure, confusion in the tax administration, the lack of assistance in obtaining tax breaks, lobbying the interests of business groups, and the closeness to power. Tylchuk et al. (2018) add that another socially dangerous phenomenon negatively affecting the state of economic security is the legalization of the proceeds of crime as an aspect or component of the shadow economy itself. By analyzing the laws defining measures to counteract the legalization (laundering) of proceeds from crime we can conclude that they actually emphasize that the negative phenomenon and the shadow economy are not identical. Some publications note that the sign of the shadow economy is an indication of the illegality of the origin of the monetary sum, including its mathematical expression (Tagarev, 2010). Thus, according to the authors, the legalization of shadow capital introduces it into the legal sphere of economic activity with a view to legitimate accumulation, that is, the receipt of “purified income.”

Indeed, each state has a single, functioning anti-corruption strategy (program) that includes comprehensive measures, usually approved at the state level. At the same time, the importance of establishing liability, commensurate with the harm caused by bribes

and payoffs, should not be diminished. In the face of these actions, the rules of liability are established, firstly, by prohibiting the conduct and establishing good conduct. Secondly, they can act as a preventive measure or incentive to refrain from unlawful actions, and thirdly, they can accomplish their direct function, repress, which also “works” in a certain way. Returning to the analysis of criminal legislation in Europe, we can conclude that most have criminalized various forms of bribery –both receiving and issuing a bribe (Melnyk et al., 2021). Consequently, foreign criminal law operates with the terms of “active and passive” bribery; there is a more detailed regulation of liability for passive bribery than active.

Active bribery in the international experience

According to Article 21 of the UN Convention Against Corruption (2003), active bribery can be defined as

- (a) “the promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
- (b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting”. (p. 12)

The term “active bribery” is used in the Framework Decision of the Council of the European Union No. 2003/568 / IPU on combating corruption in the private sector (Verkhovna Rada of Ukraine, 2003). According to Article 2 of this document, active corruption is an act consisting of promising, soliciting, or providing, directly or through a third party, to a person who, on any basis, has a leading function or work in favor of an organization related to the private sector, an unlawful gain any character assigned to such person or a third party in order to violate their obligations, such person committed or refrained from committing a certain action.

The positive aspect of the criminal law of western European states is that, compared with US law, the regulation of criminal measures to prevent active commercial bribery in Italy, France, and Germany is quite stable. In France, before 1992, the guilty were prosecuted under Articles 177-183 of the Criminal Code of 1810. In Italy, significant changes in the Criminal Code of 1930 concerning official crimes were introduced only in 1990. In many European countries, the criminalization of active commercial bribery is closely linked to the establishment of liability for organized crime, drug trafficking, and money laundering, in which corruption is considered an essential (qualitative) sign. Most clearly, this is seen from the experience of Italy. Experts from the Italian Parliament believe that

corruption in state and municipal government bodies has reached unprecedented proportions, corporate corruption is rampant among corrupt officials, and the law of “immortality” (duty of silence) is in effect.

Article 322, “Incitement to corruption,” in the Criminal Code of Italy (2022), establishes liability for active commercial bribery, implying responsibility even for offering a bribe. The severity of the punishment for committing this socially damaging act depends on whether it involves actions within the scope of official duties or actions not provided for by them. That is, if it is beyond the limits of the rights and duties assigned to a person by position, the punishment is more severe. In 1999, for example, the Criminal Code of Switzerland introduced a new section (1 called “Bribery.” It consists of two main points:

- 1) Bribery of a Swiss official. Giving a bribe;
- 2) Bribery of an official of a foreign state.

Here, private individuals bribing officials performing public functions are equated with officials of an international organization bribing officials of a foreign state. According to various articles, punishment applies in the following cases: a) a proposal for improper benefits, its promise, or provision in connection with official activities (bribery), b) an action or inaction contrary to the duties of an official (provision of benefits); c) accepting a bribe; and d) acceptance of benefits. In Swiss criminal law (similar to Germany), the notion of an official socially dangerous act in the context of bribery includes socially dangerous acts that may be carried out in the future, at the time of the bribe, and issuing a bribe (Vystavna et al., 2018). Because it is unknown what this act may involve and when it can occur, the “just in case bribe” is criminalized in these countries.

Active bribery in the Criminal Code of Belgium is defined as an act committed directly or through an intermediary’s actions consisting of offering, promising, or rendering unlawful benefits to a person holding a directorial or managing position or a representative or employee of an individual or legal entity. It is performed for themselves or in the interests of a third person for the commission or non-execution of actions within the limits of the powers of such persons, or through such powers, without the corresponding agreement or notice to the board of directors, the general meeting of shareholders (principal), or employer.

Croatian criminal law on liability for corrupt bribery of a private law official is established in the Criminal Code and the Criminal Law Act of legal entities for the commission of criminal offenses. In the Criminal Code of the Republic of Croatia (2011), in the chapter on crimes committed in the field of official activity, there is no special rule that establishes responsibility for corrupt bribery of a private person. Instead, such rules (active and passive bribery) are contained in Chapter 28, “Criminal offences against official duty,” where articles 294(20) and 294(3) under “Giving a Bribe” provide for criminal

liability for receiving and offering bribes in the course of economic and other transactions. In accordance with this norm, active bribery is defined as the provision of gifts or any other benefit, the promise of such items to the authorized person in exchange for the commission acts or provision of services by such a person that are beneficial to one side and harmful to the one represented by the person receiving such a benefit.

Criminal punishment is also the provision of such items through intermediaries (§1). The commission of such actions on mutually beneficial terms is also a criminal offense but it is punishable less strictly (§2) (CMS Law, 2018). In the United States, for example, liability is established by special laws for both physical and legal persons. Thus, anyone who gives, offers, promises anything valuable to a public official or a candidate for this post can be held responsible for giving a bribe. This action has the following aim: 1) to influence official actions on decisions within the individual's competence; 2) influence the official commit, assist in committing, conspire, permit any fraudulent action, or create an opportunity for deception; 3) to incline an official to action or inaction in violation of the official's legal duties. Punishment for those who give and those who receive a bribe is a fine of up to \$10,000 or imprisonment for up to two years (Jiménez, 1998).

Thus, it can be concluded that the concept of "active bribery" includes an offer or a promise to render unlawful benefits and give an unlawful benefit to the official of a private right for that person's performance or non-performance of certain actions (in exchange), using the person's official powers. Consequently, illegal rendering or attempting to grant another person an unjustified advantage when accessing a public contract or setting up public service entrepreneurship is punishable. In general, European criminal law draws attention to the fact that the sanctions provided for all types of bribery are strict. They involve, as a general rule, imprisonment and monetary fines; however, the "gap" between the lower and upper limits of the relatively defined sanctions is often quite significant. It is typical that in some countries the types and severity of punishment for receiving and giving a bribe are the same (Part 1 of Article 331 and Part 1 of Article 333 of the Criminal Code of Germany, Articles 432-11 and 433-1 of the Criminal Code of France; 321 CC of Italy) (Zitryak, 2021).

A selective study of foreign experience in establishing criminal responsibility for active commercial bribery shows the main features and trends of criminalization and penalization of bribery. Most of the examined criminal codes of foreign states criminalize offering a bribe, as well as its offer or promise. The scope of criminally-related bribery is not limited to the public sector; the law also addresses commercial and public relations. In some states, individuals and legal entities are the subjects of responsibility for active bribery. Sanctions against criminals are quite harsh, sometimes set at the level of responsibility of the bribe-taker, an obvious reflection of the view that bribery is a mutual agreement between two parties. Therefore, both parties are accountable for the social risk,

and responsibility should not differ materially. Currently, the international (transnational) nature of corruption involving the bribing of foreign officials and the harm caused by socially dangerous acts, especially in economic relations between economic entities, is criminalized (Zitryak, 2012).

Indeed, at the end of the twentieth century, the world community recognized that corruption is a global problem for every country, which needs to be addressed. The result was the adoption of several international legal acts (mandatory and recommended) prepared and adopted by the Organization of the Nations, the Organization for Economic Cooperation and Development, the Organization of American States, the Council of Europe, the European Union, among others. International instruments differ in scope; however, they have one aim: to establish common standards for combating corruption through the provision of anti-corruption legislation at the national level (Kryshevych et al., 2018). Thus, as evidenced by European and international experience, aimed at protecting business entities during their activities in the private and public sectors, the criminalization of illegal socially dangerous acts of private and public law officials is not overlooked. It is a significant factor, which will further normalize the economic situation and ensure economic security both in a single state and worldwide.

Conclusion

In this article, we have examined various factors and aspects that, in one way or another, affect the development of national and international economic relations. Based on this, the following conclusions have been drawn.

First, economic security is the key to the successful development of any state. The vector of this development should aim to ensure the state's sustainable development, the implementation of structural reforms, and, consequently, the improvement of living standards. Secondly, a macroeconomy that is capable of ensuring stability, sustainable economic growth, favorable conditions for economic activity, and a transparent tax system needs to be restored. Thirdly, the vector of provision is to provide the state, businesses, and security of citizens protection of investments and private property. Each country must become a state capable of defending its borders and securing peace within its territory and the European region. Fair and impartial justice, urgent purges of power at all levels, and ensuring the effective implementation of the fight against corruption should be the decisive basis for security.

Fourthly, more severely repressive effects on tax evasion measures are required to help fill the budget. More effective regulation of the activities of state financial control agencies is required to ensure the legality of regulation of relations in the field of public relations and their coordination. The international community should assist States in creat-

ing the legal framework for the financial control of the participation of society. Successful work in the given direction is considered an increase in the number of services provided by the financial control authorities impersonally, that is, through a computer network. In addition, with the increase of such a list, the level of responsibility for violation of financial and tax discipline should increase. Fifthly, it is necessary to create a high-quality normative-legal act at the level of international cooperation based on the integrated application of various spectra of expert assessments, addressing anti-corruption and financial expediency and the legal, independent, scientific, linguistic, social, and other. At the same time, it should be noted that the aspects, factors, and instruments mentioned and studied here have a direct or indirect impact on the provision of economic security, different in nature. These issues will not be covered and solved at the level of a single comprehensive normative act.

Sixth, given the previous, it should be reiterated that resolving the problems of effective counteraction to corruption, which has tightly captured the state and non-state sector of practically every developed state, depends largely on how properly and deeply we understand its essence. Understanding the essence of corruption is extremely important in the theoretical and practical sense. Therefore, the approach to solving this problem must be justified by theoretical developments. Moreover, “pilot” projects should be actively introduced in individual states or regions to confirm or deny the authenticity (validity) of the theory of mechanisms for combating this negative phenomenon, as corruption offenses in the field of economics. Lastly, ensuring the protection of the natural environment as an important component of economic security should not be called into question. There is a need to develop a single codified act to regulate the protection of objects of the natural environment; given their close interconnection, it is impossible to separate its constituent borders of the state.

Therefore, given the importance of the issues raised in the study, it should be emphasized that the aspects considered are rather ramified, complex, and diverse. In itself, the provision of economic security at the state, intergovernmental, and international levels require extraordinary efforts, strong cooperation of interested actors in public relations, and the involvement of specialists from various fields. Moreover, it is important to note that developing a single normative act (convention) with the issue raised *a priori* is impossible. In this case, a comprehensive approach to the issue is vital. Its result should be the development of the entire complex (system) of normative acts aimed at improving methods, forms, and measures to solve the problem of ensuring economic security comprehensively. The provided acts should be appropriate mechanisms and adequate methods (following the specifics of the region or country) to influence the resolution of public issues in this area qualitatively.

Disclaimer

The authors declare no potential conflict of interest related to the article.

Funding

The authors do not report sources of funding for this article.

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