

PECULIARITIES OF CORRUPTION RISK MANAGEMENT IN ECONOMIC ACTIVITY

Serhii Vitvitskyi¹, Anton Syzonenko², Tetiana Titochka³

Abstract. The *purpose* of the article is to study the essence of corruption risks that may arise in the process of ensuring the economic security of the State; to consider the main ways of managing such risks as a method of improving the interaction between the economic and legal components of modern Ukrainian society. The scientific discussion on the problem of legal regulation of economic security in Ukraine is presented. The concept of legislative provision of economic security of the state is proposed. This concept is defined as a set of normative legal acts and documents that determine the priorities of the state, aimed at increasing the level of competence and responsibility of public authorities in ensuring safe conditions for the functioning of the national economy of the state (as a component of national security) by identifying the main risks and ways to eliminate them. The scientific approaches to the definition of economic security are characterized. The author's vision of the essence of economic security is presented. This essence is understood as the interaction of public authorities to ensure the conditions necessary to protect the national interests of the subjects of socio-economic relations at all levels in order to ensure stable growth of the economic indicator, meet the economic needs of society and simplify state control over the use of economic resources. The main corruption risks that may arise in the process of ensuring the economic security of the state and the peculiarities of their management are considered. *Results.* The main corruption risks that may arise in the process of ensuring the economic security of the state are highlighted: risks caused by the discretionary powers of the subjects of ensuring the national economic security of the state; risks caused by the conflict of interests of the subjects of ensuring the national economic security of the state; institutional risks caused by the presence of a number of determinants that contribute to the development of the criminal intent of an official to commit a corruption offense; system-wide risks caused by the general instability of functioning and other shortcomings of the economic sphere of the state. It is established that the main methods of managing corruption risks in economic activity are: elimination of formalism by expanding/improving the boundaries and ways of interaction of economic entities; preventing the existence of discretionary powers of economic entities; provision of individuals and legal entities with procedural guarantees of influence on the development of the state economy; prevention of conflicts of interest of economic entities; regular analysis of possible losses from risk; modeling of potentially corrupt situations in the economic sphere of the state; forecasting the growth of corruption and elimination of its determinants by means of criminal law and criminology.

Key words: corruption, risk, economic security, state administration, national safety, conflict of interests.

JEL Classification: D73, G32, D74

1. Introduction

Modern development of society requires from the legislator dynamism and determination in the construction of new norms aimed at protecting citizens from existing forms of socially dangerous activities.

This is especially true in the economic sphere, due to the fact that any transformations within the economy can have irreversible consequences that will lead to destabilization of a number of social relations in the state. Economic security is a guarantee of stabilization

¹ Donetsk State University of Internal Affairs, Kropyvnytskyi, Ukraine (*corresponding author*)

E-mail: vitvitskyi_ss@ukr.net

ORCID: <https://orcid.org/0000-0002-4884-1883>

² Department of Education, Science and Sports,
Ministry of Internal Affairs of Ukraine, Kyiv, Ukraine

E-mail: my.post7@protonmail.com

³ Donetsk State University of Internal Affairs, Kropyvnytskyi, Ukraine

E-mail: tatianaponomarova@ukr.net

ORCID: <https://orcid.org/0000-0002-5924-614X>



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and realization of social needs of the citizens of the country. In this regard, determining the peculiarities of managing criminal risks in the economic activities of financial institutions operating in Ukraine is a priority task of a modern legal, European state.

Nowadays, the peculiarities of ensuring state economic security, including means of criminal law, have been considered in the works of such scholars as V. Geyets, Z. Varnaliy, O. Baranovskiy, Ye. Oleinikov, O. Vlasyuk, Ya. Zhalilo, O. Korystin, etc. However, the study of the problem of corruption risk management in economic activity requires additional attention, which determines the relevance of the content of the article.

The purpose of the article is to study the essence of corruption risks that may arise in the process of ensuring the economic security of the State; to consider the main ways of managing such risks as a way to improve the interaction between the economic and legal components of modern Ukrainian society.

2. Legal regulation of economic security in Ukraine

The main program document regulating the development of the system of ensuring national and economic security of Ukraine is the National Security Strategy of Ukraine. The study of the general conceptual provisions of the National Security Strategy of Ukraine allowed to determine that it assesses internal and external threats to national security and strategic risks, as well as defines the principles of national security. Among the sources of economic security, laws should be singled out. A special place in the system of regulatory legal acts is occupied by the Laws of Ukraine "On National Security of Ukraine", "On the Principles of Domestic and Foreign Policy", which state that security in the economic sphere of Ukraine is a component of the national security of Ukraine as a whole (On the Fundamentals of National Security of Ukraine: Law of Ukraine of June 21, 2018 No. 2469-VIII; On the Principles of Domestic and Foreign Policy: Law of Ukraine of July 1, 2010 No. 2411-VI). The above-mentioned Laws of Ukraine define the essence of external and internal threats to the economic security of Ukraine, systematize the tasks of determining the criteria and parameters that characterize national interests in the sphere of economy, and determine the directions of economic policy formation. It should be noted that the state security policy is implemented by public authorities and local self-government bodies on the basis of the National Security Strategy of Ukraine and other conceptual documents developed by the National Security and Defense Council. It defines the

main directions of the state security policy (On the National Security and Defence Council of Ukraine: Law of Ukraine of March 5, 1998 No. 183/98-VR). In determining the priorities of economic security, it is necessary to pay attention to the principles of the micro level, among which it is advisable to highlight the following: 1) planning as a guarantor of the application of a consistent, holistic mechanism to ensure resilience to internal and external threats to the self-reproduction of national economic security; 2) legality as a normatively defined procedure for regulating social relations in the economic sphere; 3) competence as ensuring the involvement of high-level specialists with special knowledge in the field of economics and law in the protection of economic security; 4) regularity as a guarantor of the continuous functioning of the mechanism of protection of the national economy of the state; 5) confidentiality as a guarantor of the protection of personal data of subjects of the national economy, which in accordance with the current legislation of Ukraine are not subject to disclosure.

The state policy aimed at ensuring economic security should be based on the principles of the legal field with the establishment of quantitative and qualitative parameters and criteria of economic security of Ukraine. Therefore, it is logically necessary to form a legislative guarantee of economic security. Scientists understand it as the establishment of the competence and responsibility of the state authorities of Ukraine, subject to an interdependent and coordinated set of goals, objectives, principles and concepts of economic security, the main directions of their functioning as the main elements of the system of economic security. Currently, the main task is to establish the correlation of all legislation in the field of economic security with the tasks set by the state in the field of sustainable development. To this end, it is advisable to systematize and codify the regulatory framework, avoiding contradictions contained in legal norms, and establish priorities for legal regulation in the field of economic security (Pavlichenko, Guzenko, 2020). According to the authors, *it is necessary to understand the legal ensuring economic security of the state* as a set of normative legal acts and documents that determine the state's priorities, aimed at improving the level of competence and responsibility of state authorities in part of ensuring safe conditions for the functioning of the state's national economy (as a component of national security) by determining the main risks and ways to eliminate them.

In the context of the integration of Ukraine and the European Union, the analysis of the current legal framework shows the increasing role of international legal acts in ensuring economic security, as the role of cooperation between states in the economic sphere

is constantly growing. The stages of historical development of economic relations are directly related to ensuring economic security. The problems of ensuring economic security arose simultaneously with the formation and development of state interests in the economic sphere. The issues of ensuring economic security have been constantly arising at the international level since the adoption of the United Nations General Assembly Resolution (Pavlichenko, Guzenko, 2020). Thus, the regulatory and legal regulation of economic security in Ukraine is carried out taking into account the principles and approaches of the international legal community, which actualize / define the integral guidelines of the state aimed at increasing the level of national security of the state within its financial component.

3. Features of scientific approaches to the definition of economic security of the state

Economic security of the state is considered mainly as a component of national security, without which the normal functioning of other state institutions and organizations becomes impossible. Scientists note that economic security should be understood as the possibility of developing the state's economy in order to ensure stable socio-economic development and proper protection of the economic interests of citizens, business entities, regions and the state. Economic security of the state should be considered from the standpoint of ensuring the protection of vital interests of all people of the state, society in the economic sphere from external and internal threats. Economic security is a state of the economy that ensures sufficiently high and stable rates of economic growth, effective satisfaction of economic needs, state control over the movement and use of national resources, protection of economic interests of the state at the national and international levels. Economic security involves ensuring the balance of the economic system (Pavlichenko, Guzenko, 2020). Thus, *economic security should include such mandatory components as the following*: 1) dynamism – a component that determines the systematic positive growth of the state's economy, its worthy place in the world economic activity; 2) predictability – a component that allows to predict the limits of changes in economic indicators, taking into account size and time factors; 3) stability – a component that allows to count on insignificant limits of fluctuations of economic indicators during a certain time period; 4) resourcefulness – a component that allows to effectively meet the economic needs of society and the state.

Due to administrative and legal regulation, security should be understood as bringing the state policy

aimed at creating and maintaining the necessary level of security of the object to adequate security conditions. Scientists have determined that, according to the legislation, economic security includes such a state of social relations, which is the subject of legal regulation, in which the behavior of subjects of law complies with the established legal norms, as well as such a state of legislation that does not contradict the requirements of economic security. According to the scientific point of view, economic security as a legal category should be defined as the state of the national economy, which is characterized by the presence of protection against all types of threats resulting from activities to protect the economic interests of the state. In legal form, ensuring economic security should be presented as the activities of state bodies to meet security requirements in order to ensure national economic interests. Ensuring economic security can be presented as a legal phenomenon that has a specific nature and is characterized by a multifaceted approach to the interpretation of this phenomenon. The main task of ensuring economic security is to determine the means of providing needs aimed at the status of public interests' protection (Pavlichenko, Guzenko, 2020). Thus, *economic security should be understood* as the interaction of state authorities to ensure the conditions necessary to protect the subjects' national interests of social and economic relations at all levels with the aim of ensuring stable growth of the economic indicator, providing the economic needs of the society and simplifying state control over the use of economic resources.

4. The main corruption risks that may arise in the process of ensuring the economic security of the state

As part of the protection of economic security, the most negative risks are criminal risks, the main of which is the risk of corruption. The institution of corruption as a socially dangerous phenomenon today continues to develop steadily, despite the regular legislative work in the field of prevention of illegal activities. A significant step was the strengthening of the limits of criminal liability for corruption, which almost did not give any results.

The existence of a corruption risk entails the need to analyze all possible alternatives for the development of *economic security (the author's note)*. Depending on the content of the activity and the immediate risk situation, the choice of a solution based on the optimality criterion has a different degree of complexity. Therefore, special analysis methods are often used to solve multifactorial economic problems in order to make a rational decision. Conducting an objective assessment of

corruption risks is a necessary step in preventing violations of anti-corruption legislation. The assessment provides an opportunity to ensure the compliance of anti-corruption measures with the specifics of the activity and rational use of resources allocated for the implementation of measures to prevent corruption. Based on the results of the identification of corruption risks and in accordance with the procedure, their definition and description, classification by categories and types is carried out. Corruption risk assessment is a diagnostic tool aimed at identifying weaknesses in the entire system that may create opportunities for corruption offenses.

The purpose of identifying and assessing corruption risks is to identify specific business processes and business operations in the activities in which there is a high probability of corruption offenses by persons (Zhammal, 2017). Committing corruption acts by economic entities entails the violation of a number of processes that are integrated into the substantive essence of the national security of the state. In fact, corruption risk is a multidirectional phenomenon, which, combining related social relations, can destabilize secondary areas of public administration.

It is recommended to assess corruption risks both at the stage of developing an anti-corruption program and regularly after its approval. The process of assessing corruption risks in the activities of business entities includes the following main stages. At the first stage, it is proposed to identify and outline the areas and risks inherent in corruption that will be assessed. They may include the general area, i.e., management of the organization, human resources management, financial management, public procurement, document management, security management of the institution; the area of ethical conduct, that is, conflict of interest, gifts, bribery, whistleblower protection; special area. The latter area may include the specific functions of business entities for which it is established, as well as the identification of sources of risk (regulatory, human and practical (operational) deficiencies). The next stage of the assessment is devoted to the study of the company's activities through individual business processes and the assessment of these processes for the probability of committing a corruption offense (Zhammal, 2017). The development of anti-corruption programs should take into account the needs of both economic and legal spheres of state development, forming a symbiosis that can prevent such actions at the stage of formation of a person's criminal interest. Overcoming corruption at all levels of government, identifying potential conflicts of interest are among the priorities on the way to improving the level of economic security of the state.

Thus, the business processes with increased corruption risks include the selection of counterparties, certification of dealers and distributors, opening and closing bank accounts, sponsorship and charity, representation expenses, pricing policy, interaction with government agencies, payments, procurement, sale of non-core or unnecessary property, activities of branches, subsidiaries or joint ventures. For each sub-process related to corruption risks, a description of possible corruption offenses should be drawn up, including:

- description of illegal benefits or advantages that may be received by the enterprise or its individual employees as a result of committing a corruption offense;
- positions in the enterprise that are "key" for the potential commitment of a corruption offense, that is, whose participation is necessary for the commitment of a corruption offense to become probable;
- possible forms of committing corruption offenses.

The next stage of corruption risk assessment is to identify persons who implement each specific business process and sub-process, as well as persons who independently monitor the implementation of such processes. In addition, it is necessary to form a list of positions associated with high corruption risks. Employees holding such positions may be subject to special requirements in connection with the anti-corruption procedures, for example, conducting a check during the hiring process for previous corruption offenses, regularly filling out a conflict-of-interest form (declaration), establishing requirements for regular reporting on compliance with anti-corruption legislation and on cases of extortion or incitement of an employee to commit corruption offenses (Zhammal, 2017). Therefore, *the main corruption risks that may arise in the process of ensuring the state economic security can be differentiated into the following*: 1) risks caused by the presence of discretionary powers of the subjects of the implementation of the national economic security of the state; 2) risks caused by the presence of a conflict of interest in the subjects of the implementation of the national economic security of the state; 3) institutional risks caused by the presence of a number of determinants that contribute to the development of criminal intent to commit a corruption offense; 4) systemic risks caused by the general instability of functioning and other shortcomings of the economic sphere of the state.

5. Corruption risk management in the process of ensuring economic security of the state

The first step towards the formation of an algorithm for managing corruption risks in the

process of ensuring the economic security of the state is the identification of corruption risk, which allows to assess the environment of functioning of economic entities of the state and their compliance with the principle of non-discrimination.

The methods of risk assessment and management include: expert methods based on subjective assessment of expected parameters, the most common of which is the method of expert assessments, the essence of which is to obtain the necessary information about risks based on the processing of expert responses. The advantages are simplicity of calculation, the possibility of using for making effective decisions, which is provided by the experience of specialists and experts. The disadvantage is that risk parameters are set by experts, so they may be mathematically incorrect, their results may not be confirmed experimentally. That is, there is a high level of subjectivity in the assessment by experts. The method of rating or ranking is to take into account the individuality of a particular situation where the choice of a solution is associated with risk. It can be considered as a kind of expert evaluation method by involving experts. This method involves the following elements: a system of evaluation coefficients and, if necessary, a weighting scale of these coefficients; a scale for evaluating the values of the obtained indicators; a methodology for calculating the final rating. The advantages are the availability of certain reference values for comparison, which provide for the calculation of the rating by the method of distances or differences between actual and reference values. When determining the final rating, distances are determined rather than values. The disadvantages are that when using this method, the wrong choice of the benchmark is possible, the evaluation coefficients have limits, all factors are not taken into account, which generally limits its scope and can lead to erroneous results (Breus, 2018). Thus, when applying these methods of corruption risk management, it is necessary to pay attention to the correctness of the data selected for comparison in order to avoid errors that may complicate the process of countering illegal encroachments on economic security.

In the framework of corruption risk management, the checklist method is also relevant, which consists in the use of pre-compiled lists of risks. Each of them is given a quantitative assessment and then ranked according to the given value. A sufficient number of risks and the objectivity of determining the

numerical value of the weighting coefficients are the main requirements of this method. The advantage of the method is that it can be used to analyze past mistakes. The disadvantages of this method include: the complexity of forming the list and its interpretation; the possibility of expanding the list may lead to a loss of control over it; the possibility of using it only when identifying risks; it is not an independent method, but only a supplement to other methods (Breus, 2018). Therefore, *the main methods of managing corruption risks in economic activity* are as follows:

- 1) elimination of formalism by expanding/improving the boundaries and ways of interaction of economic entities of the state;
- 2) prevention of the existence of discretionary powers of economic entities in the state economic sphere;
- 3) provision of procedural guarantees for individuals and legal entities to influence the development of the state economy;
- 4) prevention of conflict of interest among subjects of the state economic sphere;
- 5) carrying out a regular analysis of the possible losses risk;
- 6) modeling of potentially corrupted situations in the state economic sphere;
- 7) forecasting the growth of the corruption level and eliminating its determinants by means of criminal law and criminology.

6. Conclusions

Thus, the study allowed to conclude that today the protection of economic security is the main priority of the state, which will contribute to its further development and European integration. As a result of the study, it was possible to establish a clear relationship between the spread of corruption risks and the destabilization of the state economy, which made it possible to determine the importance of creating effective methods and means of managing corruption risks in the process of increasing the level of economic security of the state. The main of them should be legal and criminological, which will prevent the commission of corruption offenses by persons before the implementation of the intention.

When creating a corruption risk management algorithm, it is also necessary to take into account the peculiarities of a socially dangerous act, which can be positively influenced by eliminating the determinants that contribute to the spread of corruption as a legal phenomenon.

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