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Liability for White-Collar Crimes in Ukraine: Theoretical and Enforcement Issues

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Abstract
This paper raises current theoretical and practical issues related to the implementation of a comprehensive mechanism of liability for economic criminal offences in Ukraine. The purpose of this study is to identify the main problem areas in the criminal law security of economic relations and to develop conceptual advice on their elimination. The paper uses a wide range of methodological tools (including comparative, historical, systemic, Aristotelian (dogmatic), modelling), which enabled a comprehensive and critical analysis of the current state and prospects for improving the criminal regulation of economic relations in the country. The results of the study are designed to promote the development of a unified conceptual model of protection of the national economy through criminal law. It is established that the prolonged economic crisis and distortions of market relations continue to adversely affect the state and dynamics of economic crime. The author's opinion is also argued that since criminal law measures cannot objectively have a positive effect on economic processes, they can be relied on only to eliminate certain adverse consequences of economic activity. The study substantiated that the term "criminal offences against the market economy" in the context denoting the crimes for which responsibility is prescribed by Section VII of the Special Part of the Criminal Code of Ukraine, successfully passes conditional verification for compliance with the name of this structural part of the Criminal Code. Over the past five years, Ukraine's criminal law policy on combating crimes in the sphere of economic activity has not undergone radical changes. Finally, there are hopes for the active development of legal research to become a reliable foundation for quality law-making to optimise the statutory framework in terms of criminal law response to economic and financial torts

Keywords:
white-collar crime; market economy; criminal liability; Criminal Code; decriminalisation; law-making

Introduction

Several reasons point to the relevance of the subject under study. First, due to the creation of a new law enforcement body in Ukraine (the Bureau of Economic Security) as a non-militarised "successor" of the Department of Economic Protection of the National Police as well as of the Tax Police, the issue of criminal liability for "economic crime" is once again on the agenda. For all the importance of organisational and procedural factors (including the issue of jurisdiction) and understanding

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the fact that the effectiveness of law-making is measured primarily by law enforcement, substantive criminal law provisions should remain the primary tool in fighting white-collar offences. It is the criminal law that determines which acts of conduct in the economic sphere are prohibited, and what criminal consequences should occur in case of violation of the respective prohibitions.

Second, today the repeatedly "reformed" Chapter VII of the Special Part of the Criminal Code of Ukraine[1] under the title "Criminal Offences in the Sphere of Economic Activity" is still an unbalanced, unsystematic set of insufficient quality prohibitions, which is unable to fulfil its main purpose – to provide effective criminal protection of economic activities. It is therefore unlikely to be reconstructed. This situation is, unfortunately, natural in the sense that criminal law policy in the field of economic protection in Ukraine constantly changes its vectors and legislative changes are made without proper theoretical justification, they often lack practical sense.

Third, the issue of liability for criminal offences in the field of economic activity is among the most difficult within the Special Part of the criminal law of Ukraine, not least due to the traditional formality of the relevant criminal law prohibitions and their connection with the regulatory legislation provisions (huge in volume, contradictory and extremely unstable). This creates significant difficulties in terms of both commenting on the relevant articles of the Criminal Code and identifying ways to improve criminal law prohibitions. It is worth reminding that crime is traditionally understood as an objectively dangerous behaviour of social actors in the system of social relations, which causes significant harm to human rights, social relations and vital interests of the individual, state, business, and society, thus creating a state of danger in society in general. Crime is manifested through the commission of criminal offences, which are different in social orientation, social danger, and consequences [1, p. 171].

Fourth, criminal law scholars are currently at the crossroads, since, on the one hand, there is the enforced Criminal Code and the routine practice of amending it (the situation here, in our opinion, is no longer manageable); on the other hand, our attention cannot pass the activities of the working group, which is currently drafting the new version of the Criminal Code. Within Book 6 of the new Criminal Code draft, it is proposed to single out sections 6.5-6.7, related to crimes and criminal offences against the financial system, against the order of business activities and against the interests of consumers, respectively. At the time of authoring this paper, the content of the proposed sections has been unknown.

Overall, crime in the sphere of economic activity is an urgent and complex socio-economic problem, which currently poses a real threat to the filling of state and local budgets through prompt payment of taxes, fees, and mandatory payments. At the current stage of the nation's development in the areas of law, democracy, and economy the state needs to combat economic criminal activity in its various forms [2, p. 28].

Materials and Methods

To achieve the purpose of this study, the authors employed methods of logic during the construction of the economic crime provisions, establishing trends in criminal policy against white-collar crimes; comparative-legal method – when comparing Ukrainian economic offences framework with those in the United States and some other countries; historical-legal – when establishing historical origins of white-collar crime in Ukraine, Great Britain and elsewhere. Employment of methods of analysis and synthesis, induction and deduction enabled the authors of this paper to construct the article logically by dividing it into several substantial blocks of material (including current issues, historical background, relevant foreign practices, draft law analyses, etc.), as well as to insert substance into relevant components of the article.

Based on the results of the study and using relevant research methodology the authors have formed a set of pragmatically construed conclusions aimed at improving both legal and enforcement parameters of fighting white-collar crime in Ukraine. An extensive body of academic literature as well as provisions of both enacted and draft Criminal Codes have been used while working on this paper. Works by foreign and domestic commentators have been used at length. This allowed to illustrate the current issues of white-collar crime in more depth and to elaborate solutions for strengthening the system of combating such crimes in Ukraine.

Results and Discussion

According to foreign researchers, the first documented mention of white-collar crime in the common law system dates to the 15th century in England. In 1473 a special law was passed to counteract the theft of property specifically entrusted to its carrier. This act was a reaction by the then-legislator to the theft of wool by persons, who transported it at the owners' request. Separately, the twelfth chapter of the fourth book "On Public Crimes" (1769) by famous English commentator W. Blackstone, whose works had a significant impact on American law development, is devoted to crimes against public trade – prototypes of modern economic offences. Within this section of former English law, the famous scientist carefully comments on the rules of such crimes against the economic interests of the Crown as smuggling (and the law punished not only the import of goods into England, but also the importation of goods by an armed group of at least three people, camouflage and smuggling

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

whether shooting at revenue collectors was considered an aggravating circumstance), fraudulent bankruptcy (considered one of the low manifestations of *crimen falsi* and equated with forgery and forgery), usury (loan sharking, historically the interest rate on debts ranged from 5 to 10%), which was punishable by confiscation of three times the loan amount or imprisonment for six months), fraud in trade relations (was the central feature of a group of statutes aimed at preventing fraudulent practices in certain areas of production and bidding and included, in particular, deception in the quality of bread and other foodstuffs, deception in the weight and size of products) [3, p. 154-160].

When discussing white-collar crime as a complex, cross-border phenomenon, one should refer to the fact that crime arises, exists, and develops because of the interaction between members of society, as well as with the social environment and society as a common system. Thus, crime in general is primarily related to the living conditions of society, the state of public consciousness and the system of social relations. A specific feature of the relationship between various phenomena of social life and human activities is that they pass in the form of information through the public consciousness, are mediated by collective thinking and are expressed in goal-setting (choice of ways and means of realisation of group interests, achievement of common goals, intentions to act in a certain way) [4, p. 275].

Paying attention to the fact that there are three major approaches to the category of economic crimes in academic literature – in its broad, narrow, and intermediate meanings, the authors of one fundamental work on criminal law choose the third, compromise, doctrinal approach to understanding this concept. According to such approach, economic crimes encroach on the economy, rights, freedoms, needs of participants in economic relations, disrupt the normal functioning of the economic mechanism, harm (as a rule) these social values and benefits. During the period of advancing to a market economy and returning to its diversity, interests of not only the state but also of any other entity engaged in economic activity must remain unchanged. The concept of economic crime has not yet been accurately reflected in legal scholarship, and this issue, as well as the question of relationship between the categories of "economic crime" and "economic criminality", is yet to be resolved.

Meanwhile the economic crisis and the distorted nature of market relations continue having a negative impact on the state and dynamics of economic crime [5, p. 85]. Statistics on economic crimes illustrate that the number of economic crimes in different spheres of Ukrainian economy is highly increased, which leads to dramatic damages contravened upon the country [6, p. 380]. Earlier we have been expressing the opinion that before formulating drafts of specific criminal law regulations, it would be worth trying to develop a doctrinal model of the section of the Criminal Code designed to ensure proper protection of economic relations, and at the same time the complexity of this scientific task. Perhaps the main factor of such complexity is that the definition of goals and limits of criminal law in the economic sphere should be derived from the national socio-economic policy. Currently, its directions and parameters are undergoing permanent changes in Ukraine on the "election-to-election" basis.

However, the situation has somewhat improved recently: at least some clarity has been provided by "National Economic Strategy for the period up to 2030" – a Resolution of the Cabinet of Ministers of March 3, 2021, No. 179[1]. According to experts, this document contains a well-formed vision, mission, goals, principles and main tasks, which are important for attracting investment, simplifying business conditions and sustainable economic development of Ukraine. Therefore, the content of sections 6.5-6.7 of the draft Criminal Code, obviously, should first be correlated (politically) with the mentioned program document. Overall, the history of economic development of the state, determination of its economic policy priorities can be traced through the provisions on liability for economic crimes. However, such observation can be successful only when based on meaningful law-making, which is adequate to the socio-economic realities. This is because sound criminal policy on economic crimes depends on the needs of society, the state of the economy, the balance of state and business interests and more.

At the same time, as it follows from the legislative experience of countries with developed market economies, the issues of criminal law protection of economic activity should not be approached in a simplistic way. I.A. Klepitsky has proved the erroneousness of the widespread opinion about the insignificant role of criminal law in the protection of economic activity under market conditions; in fact, developed countries with market economies are clearly and significantly superior to post-Soviet states in the level of criminal liability prohibited under the threat of criminal liability [7, p. 477-480]. Therefore, "successor" provisions of Chapter VII of the Special Part of the Criminal Code must cover at least such components as the credit system (especially the institution of bankruptcy), investment, finance (including taxes and social security contributions, money circulation and non-cash payments), foreign economic activity and customs administration, entrepreneurship, principles of fair competition and consumer market relations.

When outlining the "white-collar" segment of criminal law studies, special attention should be drawn to the study of globalisation trends in modern world

[1]Resolution of the Cabinet of Ministers No. 179 "National Economic Strategy for the Period up to 2030". (2021, March). Retrieved from https://zakon.rada.gov.ua/laws/show/179-2021-%D0%BF#Text.

and, specifically, in interstate economic relations. Today one is able to follow the processes of digitalisation, communication, erasure of language barriers, migration of labour and capital, joint space exploration, implementation of international research projects in almost all areas, doing cross-border business and more. Such endeavours, while obviously gaining momentum, cannot but affect, at least indirectly, law in general and criminal law in particular. In modern societies, the emergence of new types of economic crimes, the growth of economic crime in general and its adaptation to various socio-economic changes are widely recognised [8, p. 627-628].

Since white-collar crimes are no longer contained within national borders and instead become an international illegal phenomenon, enforcement techniques should also become international in their substance and goals. Hence, international criminal policy is a type of criminal policy, which involves efforts of at least two states to strategically combat crime. Today, such activities include participation in the ratification and implementation of international conventions, practical application of rules through them. Equally important is participation in international governmental and non-governmental organisations that work to combat crime, detect, and investigate international crimes [9, p. 290].

Regarding current globalisation environment, successful development of any national economy largely depends on the degree of interaction with other economic systems. Such conclusion seems all the more relevant when considering modern types of globalisation, especially economic one. Against such background, the priority function of public authority in Ukraine should be in establishing a harmonious, productive relationship between the national economic system and similar systems of foreign countries, as well as with the regional economic systems, in particular with the European Union economy. As a relevant example, while remaining for a long period of time the world economy leader with the national GDP making up almost a quarter of the world GDP since the end of World War II, today the United States of America is the well-established leader in many areas of global economic development. This leadership starts with the highly developed and highly capitalised stock markets as well as enormous innovative technologies and ends with free competition laws and effective bankruptcy procedures. The U.S. shows significant achievements in the functioning of a liberal market economy model to the rest of the world.

American experience, always praised for the stability of the economic development vectors and particularly by the freedom of market relations as well as pragmatic limitations, set by the state, is even more useful for Ukraine, which has recently chosen the "market" direction for its economic development. At the same time, learning from the relevant American experience leads us to a conclusion that free market relations are not immune from illegal practices. The issue of counteracting economic crimes constantly stays on the radars of the US law enforcement agencies. Global markets make up yet another dimension for white-collar crime. Since there is a multi-faceted relationship between globalisation, economy, law, government, and democracy, each one influences on one another and affects it. The totality of such interactions changes the function and even the nature of the state. Globalisation includes emergence and expansion of multinational corporations and their increasing role in the global economy [10, p. 216]. Meanwhile corporations themselves increasingly often become criminal actors involved in cross-border tax evasion, money laundering and other schemes.

When covering the topic of Ukrainian economy's integration into the global markets, one should notice that over the past three decades, the history of stock market establishment and development in Ukraine has provided many examples of the global best practices' transfer with regards to stock exchanges' supervision and organisation, depository and clearing infrastructure, etc. However, in reality, though stock market is the driving force of the global economy, it poorly performs the functions of deployment, allocation and channelling financial resources in Ukraine with the goal of stimulating economic growth and attracting foreign investment. Despite a few positive examples of integration into global capital markets (in particular, the recent provision with the access to the Ukrainian state bonds for foreign investors via the Clearstream international depository and also admission of the U.S. Treasury Bonds and several companies' stocks, including Apple stock), Ukrainian stock market is plagued by significant distortions and imbalances, it remains underdeveloped and unattractive for both domestic and foreign investors. This is clearly evidenced by the economic data [11, p. 1680].

Among various "white-collar" models of illegal, fraudulent behaviour, money laundering as a yet another threat to economic security of global proportions has raised the issue for all countries about the need to strengthen international cooperation between law enforcement agencies in the field of countering laundering schemes. In this case, international cooperation will be successful if carried out at both national and international levels. The need for law enforcement cooperation is because without international cooperation it is impossible to ensure collection of evidence outside the country, criminal prosecution of perpetrators outside the country, as well as compensation for losses or return of lost income. Accordingly, proposal to develop a methodology for the interaction of law enforcement agencies of different countries to counteract money laundering will allow taking such interaction to a new level [12, p. 226].

Reflecting on the specific manifestations of legal nihilism, legal fetishism, and legal voluntarism in Ukrainian society on the feasibility of criminal law regulation of the national economy in general and the specific limits of such regulation in particular, non-criminal

behaviour in the economy should be regulated by other means, and in no way criminal ones. Conversely, the application of criminal law measures cannot be eliminated where and when they are needed. Since criminal law measures cannot objectively have a positive effect on economic processes, they can be counted on only in terms of eliminating certain negative consequences of economic activity. At present, it can be concluded that the term "crimes against the market economy" in the context of denoting crimes for which responsibility is provided by Section VII of the Special Part of the Criminal Code of Ukraine[1], quite successfully passes a conditional test for compliance with the name of this structural part of the criminal law. The proposed concept is considered as reasonable, given the well-founded criticism of its two main "competitors" – the statutory concept of crimes in the field of economic activity and the common concept, within the legal literature, of crimes in the economy (as another practical option – crimes against economic activity). We believe that in such way it will be possible, among other things, to avoid "blurring" of one of the key sections of the Special Part of the Criminal Code of Ukraine by separating the section on liability for financial crimes. At the same time, it is obvious that the proposed clarification of the title of Chapter VII of the Special Part of the Criminal Code of Ukraine does not remove the issue of qualified, scientifically sound and, most importantly, systematic legislative changes in liability framework for crimes against market economies, from the current agenda.

Thus, we believe that Chapter VII of the Special Part of the Criminal Code should be renamed into "Crimes against the market economy". Although, we admit, not all the rules set out in Section VII of the Special Part of the Criminal Code directly indicate the infliction (threat of infliction) of damage to market economy relations (for example, counterfeiting or misappropriation of budget funds), at the same time the term "market economy" should be inserted into the title of the relevant section of the Criminal Code. The thesis on the controversial nature of the researched issues, the complexity of reforming prohibitions currently concentrated in Section VII of the Special Part of the Criminal Code, and the definition of their prospects could be illustrated through the example of criminal law protection of the stock market of Ukraine (mentioned above). As a matter of first impression, there is no doubt about the need to ensure proper functioning of the domestic stock market, in particular, through high-quality criminal law tools, which include "immersion" into regulatory legislation, development of departmental documents and law enforcement practices of the National Securities and Stock Market Commission as a state regulator of the relevant segment of the economy, as well as attracting necessary means of criminal law and financial law regulation.

However, such time-consuming path, which requires considerable professional effort, no longer seems indisputable, given the fact that the stock market of Ukraine, the legal framework of which is satisfactorily spelled out in regulatory legislation, stagnates, and degrades for several reasons, since Ukraine has an oligarchic model of organisation and functioning of the economy. Thus, the question arises: whether, under such circumstances, the "economic" structural parts of the new Criminal Code should be clogged with numerous, difficult to understand and casuistic rules on liability for stock market abuse, and whether the criminal law response to stock market abuse should remain restricted, unclear and underdeveloped. The answers to the posed and similar (for example, on the means of criminal law support of de-offshoring the national economy) complicated questions may vary. It is important for them to be moderate and well-reasoned.

As a side but nevertheless important note here, it is worth stressing out the importance of emerging oneself into the economic studies in order to better draft criminal law provisions aimed at combatting white-collar criminality. Among other things, understanding the mechanics of financial regulation is crucial for providing adequate criminal law protection of state finances, national banking system. Protecting banking system from unlawful interference is an important task for entities involved in combating crime in the banking sector, whose activities are not always effective due to the lack of cooperation in certain areas, best algorithms for individual crime prevention entities and a unified classification of bank crimes, gaps in the legislation, etc. [13, p. 143].

Criminal law, as we know it, is not meant to be a panacea for all diseases of society, so introduction of criminal liability for the illegal act should be the "last resort" option and should apply only when the fight against certain phenomena by other (non-criminal) means is ineffective, insufficient, and the negative side effects of criminalisation does not outweigh positive ones. However, regarding economic torts, implementation of the idea of criminal law as an *ultimo ratio* instrument is a particularly difficult task, and therefore requires serious professional elaboration.

Today white-collar crimes are usually committed via conspiracy by multiple actors. It is thus no surprise, for example, that the United States have at some point started aggressively enforcing Racketeer Influenced and Corrupt Organisations Act provisions aimed not only at mobsters but at white-collar criminals as well. Organised crime always poses a serious threat to the world community. Its merging with other illegal activities (primarily corruption, terrorism, economic crimes, environmental offences, peace, and security of humankind, etc.) further exacerbates the adverse effect on the international community, individual states and nations, and for

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

each member of society in particular [14, p. 177]. For the sake of academic fairness, it should be noted that scholars – authors of treatises on individual criminal offences in the field of economic activity, without going beyond the members of the working group, usually take proposed quantitative parameters randomly, "from the ceiling".

The issues of arbitrariness of quantitative indicators of criminal and qualifying features of criminal offences (in particular, in economic activities) inherent in the current Criminal Code should become the topic of a separate scientific study. Without effectively solving it, social conditionality of criminal legal prohibitions cannot be raised. The current situation with the development of reasonable cost criteria for criminal wrongdoing in the field of economic activity can be understood (but not justified): in order to develop these criteria, it is necessary to conduct special research – criminological and interdisciplinary (including participation of economists and sociologists) ones as well as research of law enforcement practice materials on certain categories of criminal proceedings. The "smart head" method in this part of the construction of criminal law prohibitions cannot be enough.

It is worth mentioning that clarified amounts of property damage appear in Article 1.3.3 of the new Criminal Code draft – insignificant, significant, serious, which are considered, in particular, in the elaborated classification of criminal offences. These parameters are determined using a unit of account: if in previous versions of the draft law such unit was equal to UAH 100, now it is UAH 200 (apparently, inflation has been taken into account). Such unification will be convenient for law enforcement application, and the proposed approach does not raise reservations in terms of compliance with legal requirements. However, it remains to be determined, to what extent these new indicators of property damage reflect the realities of life, which need adequate criminal response.

Overall, for the last five-year period, criminal law policy of the Ukrainian state in terms of combating crimes in the sphere of economic activity has not undergone radical changes. Two main trends of such policy, initiated by the Law of November 15, 2011 "On Amendments to Certain Legislative Acts of Ukraine on the Humanisation of Liability for Offences in the Sphere of Economic Activity"[1], remain: first, the preference for special (or casuistic) criminal law prohibitions, the use of which allows only to intuitively and fragmentarily respond to the presence of certain economic abuses; secondly, the hyperbolisation of the role of the repressive influence of criminal law prohibitions as a factor that worsens the business climate and hinders normal development of economic relations. As a result, there is a different and also unjustified humanisation of criminal liability for committing economic crimes. Yet another (third) trend is the quantitative increase in the volume of normative material with virtually unchanged criminalisation, when the appearance of new articles in the Criminal Code does not lead to the expected increase in prohibited behaviour and, most importantly, to the desired effect expected by the parliamentarians [15].

As a rational academic proposal, the Criminal Code of Ukraine[2] must be supplemented by a set of key provisions, which will provide for criminal liability for the most socially dangerous manifestations of violations of the established procedure for engaging in economic activity (doing business). But first relevant expert work will have to elaborate on a more or less specific list of licensed types of economic activity; extreme forms of their violation should be prosecuted based on criminal law provisions [16, p. 139].

Conclusions

Within the set of conclusive remarks, it is necessary to briefly address the scientific support of the legislative optimisation of criminal liability for criminal offences in the sphere of economic activity. There is no doubt that the development of legal science is designed to become a reliable foundation for high-quality law-making in terms of determining regulatory framework for criminal law response to economic and financial torts. It follows from the above that the situation with the improvement of the Criminal Code (in particular, regarding economic abuses) is currently not based on such components of quality law-making as scientific knowledge, legal culture and legislative technique. The era of legislative ignorance continues, and the gap between law-making and criminal law science, whose representatives are involved in the draft law projects, if sporadically and on a volunteer basis, is growing. From the point of view of ensuring the proper quality of criminal laws, the academic idea to entrust drafting relevant bills not to members of parliament, but to research institutions, universities and expert groups seems both pragmatic and promising.

Relevant ("economic") parts of the draft Criminal Code should ideally:

1) embody a compromise between public interests and interests of economic entities;

2) provide for liability for truly socially dangerous and more or less typical (widespread) torts (there is no point in reproducing provisions of the current Criminal Code within the new legislation, when there are solid zeros in judicial statistics);

3) contain optimal definition of the links between criminal law prohibitions and their relationship with administrative, financial and economic law prohibitions;

4) reflect socially justified crime-establishing elements.

[1]Law of Ukraine No. 4025-VI "On Amendments to Certain Legislative Acts of Ukraine on the Humanisation of Liability for Offences in the Sphere of Economic Activity". (2011, November). Retrieved from https://zakon.rada.gov.ua/laws/show/4025-17#Text.
[2]Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.

While working on this research paper, we tried to explore relevant criminal law research developments in Ukraine, even though most of the literature on relevant topics is devoted to criminal law characterisation of specific criminal offences in the field of economic activity. Meanwhile, there is a lack of universal works, which would provide for in-depth legal analysis of the system of such offences (their groups), reveal general laws of criminal law protection of economic and financial relations, which would highlight cross-cutting criminal law issues in the economic sphere. Therefore, such gap in criminal law research should be closed by gradually forming economic criminal law as a sub-branch of criminal law and academic discipline.

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Відповідальність за економічні кримінальні правопорушення в Україні: проблеми теорії та правозастосування

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Анотація
У статті висвітлено актуальні теоретичні та практичні питання, пов'язані з реалізацією комплексного механізму відповідальності за економічні кримінальні правопорушення в Україні. Метою дослідження є виявлення основних проблемних сфер у кримінально-правовій охороні економічних відносин і формулювання концептуальних порад щодо їх усунення. У роботі використано широкий методологічний інструментарій, зокрема такі методи, як порівняльний, історичний, системний, формально-логічний (догматичний) і метод моделювання, що дозволило всебічно та критично проаналізувати сучасний стан та перспективи вдосконалення механізму кримінально-правового регулювання економічних відносин у державі. Отримані результати дослідження спрямовані на вироблення єдиної концептуальної моделі захисту вітчизняної економіки за допомогою кримінально-правових засобів. Установлено, що наявна економічна криза та викривлення ринкових відносин продовжують негативно впливати на стан і динаміку економічної злочинності. Аргументовано авторську позицію про те, що оскільки кримінально-правові заходи об'єктивно не можуть позитивно впливати на економічні процеси, на них можна розраховувати лише в частині усунення певних негативних наслідків господарської діяльності. Обґрунтовано положення, згідно з яким поняття «кримінальні правопорушення проти ринкової економіки» в контексті позначення злочинів, відповідальність за які передбачено розділом VII Особливої частини КК України, успішно проходить умовну перевірку на відповідність назві цієї структурної частини Кримінального кодексу. Зауважено, що за останні п'ять років кримінально-правова політика України щодо протидії злочинам у сфері господарської діяльності не зазнала кардинальних змін. Висловлено сподівання стосовно того, що активний розвиток правових досліджень здатний слугувати надійним фундаментом якісної правотворчості з метою оптимізації нормативної бази в частині кримінально-правового реагування на господарські та фінансові делікти

Ключові слова:
економічне кримінальне правопорушення; ринкова економіка; кримінальна відповідальність; Кримінальний кодекс; декриміналізація; законотворчість