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Rethinking the features of the object of a criminal offence in the digital age

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Abstract. The paper develops the author's concept of "rheme" as a new optional feature of the object of a criminal offence. The initial position of the study is the recognition that the contemporary criminal law theory, built on materialistic ideas about the subject of a criminal offence, loses its explanatory power in the conditions of digitalisation, virtualisation, and dematerialisation of public life. Offences in the field of information technology, cybersecurity, digital assets, and in the field of intellectual activity often do not have a material subject in the classical sense, but cause real damage to protected social values. This necessitates an update of the theoretical model of the composition of a criminal offence. Based on linguistic and semiotic concepts and interdisciplinary approaches, a three-level model of the object of the composition of a criminal offence was proposed: social relations (basic level), subject (material level), and rheme (semantic or non-material level). This model provided a holistic coverage of both material and informational forms of socially dangerous influence. The result of the research was the formulation of the concept of rheme of a criminal offence as a semiotic category that reflects the transition of criminal law thinking from the material to the informational and semantic level. Influence on rheme was interpreted as an informational or energetic form of illegal action that changes the state of social relations without physical contact with material objects. As a result, it was proved that the introduction of rheme into the system of optional features of the object of the composition of a criminal offence deepens the methodology of criminal law, expands its conceptual framework, and contributes to the adaptation of the criminal law doctrine to the realities of digital civilisation. The concept of rheme opens up new opportunities for the qualification of crimes in cyberspace and forms the basis for further development of the semiotic information paradigm of criminal law science

Keywords: criminal law; elements of the crime; subject; rheme; non-material phenomena; semiotics of law; information reality

Introduction

The current stage of development of criminal law science is characterised by the search for new approaches to understanding the basic concepts that form the structure of the composition of a criminal offence. Simultaneously, the structure and dynamics of crime is characterised by an increase in the number of those criminal offences that encroach on intangible goods – cryptoassets, energy, information, digital rights and data. The traditional doctrine of the subject of a criminal offence, which is focused on things of the material world, is conceptually unable to adequately cover such objects of influence, which gives rise to conflicts in qualification and differences in law enforcement practice. Under these conditions, there is a need for a new scientific category that will be able to fill the doctrinal gap between the classical model of crime composition and the realities of digital and post-industrial crime. The relevance of the study of the rheme of a criminal offence is also conditioned the active implementation in Ukrainian legislation of European approaches to the criminal legal protection of intangible

benefits that do not fit into the traditional construction of the subject of a criminal offence. From a practical standpoint, a clear distinction between "subject" and "rheme" will improve the accuracy of qualification, ensure legal certainty and prevent an expanded interpretation of criminal prohibitions. In theoretical terms, the development of the category "rheme of a criminal offence" will contribute to updating the conceptual framework of criminal law and the development of an adequate model of the composition of a criminal offence in the context of digital transformation of society.

The question of the content and scope of the concept of "subject of crime" has long attracted the attention of scientific communities. The researchers have repeatedly drawn attention to the fact that the so-called "intangible benefits" do not fully fit into the category of the subject of crime, and have looked for various ways to solve this problem. A. Aliieva (2021) investigating the concept, types, meaning of the subject of a criminal offence concluded that the subject of a criminal offence should be recognised as an object *tangible*

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or intangible world, by creating any influence on which subject commits encroachment on the object of criminal legal protection. O. Kryshevich & I. Roschyna (2022) explicitly recognised the economic value of cryptocurrency and its intangible nature, while keeping it within the scope of the crime. O. Pchelina (2022) analysed the criminal procedure regulation of the concept of “electronic assets obtained by criminal means”, focusing on the problem of their identification, arrest and proof of origin, and came to the conclusion that electronic assets do not correspond to the classical features of things in the material world, but act as an independent value, in respect of which the criminal result is implemented. I. Dolianovska & K. Kryvenko (2024) analysed the foreign experience of countering criminal offences related to the turnover of virtual assets, with an emphasis on criminal law and criminal procedure mechanisms and came to the conclusion that virtual assets in most law enforcement agencies are recognised as an independent object of criminal legal protection, regardless of their material form. I. Shchepak (2025), when considering the problem of terminological differentiation of cryptoassets, cryptocurrencies, virtual assets, and electronic money in the process of qualifying criminal offences against property, noted that the lack of clear terminological unification leads to errors in the qualification and mixing of intangible objects that are different in legal nature. In fact, it was emphasised that such objects are not things, but act as the focus of criminal encroachment. T. Ovsichuk (2025), investigating the theoretical and legal aspects of the definition of virtual assets as the subject of illicit enrichment, justified that virtual assets may constitute the result of illicit enrichment, but their attribution to the subject of a crime is conditional and doctrinally vulnerable. It was concluded that there is a need for a broader theoretical approach to non-material objects of criminal legal influence. V. Shtanko (2025), defining the subject of a criminal offence in the field of intellectual property, stated that this is not a thing of the material world, and noted that the embodiment of an invention (an object of industrial property) in a specific equipment or device, or the fixation in the phonogram of a musical work reproduced on any medium, allowed perceiving them by the senses. But in this case, it is not the equipment or information carrier that is subject to criminal protection.

H. Wang (2023), reflecting on the judicial dilemma of combating crimes against virtual property, noted that a large number of criminal precedents regarding crimes against virtual property give rise to problems of both theoretical and practical nature, including those related to the conceptual boundaries and legal attributes of virtual property. L. Lee (2024) examined the complex legal landscape surrounding digital assets by analysing how they are defined and regulated across jurisdictions, and concluded that cryptocurrencies and non-fungible tokens (NFTs) are increasingly integrated into the global economy, their intangible nature creating unique challenges for traditional ownership concepts that require a reassessment of legal definitions and ownership structures. The study by O. Sewell *et al.* (2024) conducted a semiotic analysis of the terms asset, token, and coin in the discourse of blockchain technologies, finding that there are no stable and consistent meanings of these concepts in professional and regulatory environments. The researchers show that terminological fragmentation creates regulatory uncertainty in the field of digital asset regulation. For

criminal law, this is of particular importance, since the vagueness in determining the legal nature of digital assets makes it difficult to qualify acts (fraud, money laundering, misappropriation), determine the subject of the crime, and establish the object of criminal protection, which directly affects the principles of legal certainty and *nullum crimen sine lege*.

These studies are evidence of extreme tension in the traditional doctrine of the subject of crime; they clearly demonstrate that the subject of a criminal offence actually loses its material nature. This confirms the tendency to expand the object structure of crimes at the expense of intangible assets. I. Hazdayka-Vasylyshyn (2024) proposed the concept of supplementing this element of the composition of a criminal offence with a new optional feature – the rheme of a criminal offence, which should reflect all non-material phenomena, through the influence of which damage can be caused to those public relations that are protected by the criminal law.

Further development of this idea requires an in-depth analysis of the theoretical, methodological, and applied aspects of understanding of the “rheme” in the structure of the composition of a criminal offence, its relationship with other elements of the object, and the possibilities of practical application of this category in the context of digitalisation, information economy, and transformation of ideas about materiality and non-materiality in law. This paper is devoted to these issues, aimed at developing and concretising the previously put forward concept of rheme as a new feature of the composition of a criminal offence, capable of providing a more adequate reflection of the realities of contemporary legal existence. Rheme is considered not as an alternative to the subject, but as its semantic continuation.

The purpose of the study was to substantiate the need to introduce into the structure of the object of the composition of a criminal offence a new optional feature – rheme, which would cover non-material phenomena (information, energy, digital code, results of intellectual activity, etc.), through the impact on which significant harm can be caused.

Materials and methods

The theoretical research was carried out within the framework of the doctrinal paradigm of criminal law based on the theory of the composition of a criminal offence and the concept of the object and subject of a crime developed in Ukrainian criminal law science. The theoretical framework of the study was the provisions on the composition of a criminal offence, understanding the subject of a crime as a thing of the material world, and current approaches to understanding digital and virtual assets. The study also considered the concepts of criminal legal protection of intangible goods and approaches to determining the object of encroachment in cases related to cybercrime. B.-J. Koops (2012) was one of the first to outline cyberspace as an independent challenge for criminal law science. It was this intention – a critical rethinking of the terminology and the boundaries of criminal law analysis in the context of technological transformation – that determined the logic and methodological optics of this research.

The methodological basis was a complex of general scientific and special legal methods of cognition. The formal and logical method (analysis, synthesis, induction, deduction) was used to construct the author’s definition of the rheme of a criminal offence, formulate its features, and distinguish it from related categories (object of crime, subject of crime, means of committing a crime). Using the system

and structural method, the place of rheme in the structure of the composition of a criminal offence was investigated and its functional significance in the mechanism of criminal legal protection was determined. The comparative legal method was used to analyse international standards and foreign approaches to criminalising encroachments on intangible assets, in particular, in the field of digital assets. The hermeneutical method was used to interpret regulatory provisions and judicial practice in cases where harm was caused without a classical material carrier. The sequence of the study included: analysis of doctrinal approaches to determining the subject of a crime; identification of cases in which non-material objects actually act as the focus of criminal encroachment; research of normative and judicial practice; formulation of the author's concept of rheme and its theoretical substantiation. The methodological basis of the research was a complex of interdisciplinary approaches that combine the tools of classical criminal law theory with the achievements of semiotics, information philosophy, and cognitive jurisprudence. This approach allowed not only expanding the conceptual framework of criminal law, but also to identifying new epistemological bases for its development in the context of rapid digitalisation.

Results and discussion

Evolution of the concept of the subject of a criminal offence: from materiality to non-materiality. The concept of the subject of a criminal offence traditionally occupied a clearly defined place in the system of elements of the composition of a crime (and later – the composition of a criminal offence). In the Ukrainian criminal law doctrine, it was considered as material things of the external world, which are directly affected by the criminal, causing harm or creating a threat of harm to the object of criminal law protection. Such an approach corresponded to the classical positivist methodology, which was based on the idea of materiality as a mandatory prerequisite for reality. However, during the 2010s and 2020s, this approach began to lose its universality. The rapid development of information technologies, digital environments, artificial intelligence, electronic communication, and the virtual economy has called into question the ability to describe crime solely through material categories (Demydova, 2015; Aliieva, 2021). The reality of the contemporary world is not only things that have a physical form, but also information processes, digital codes, energy influences, algorithms, network structures that can cause real harm to social values without having a material substrate.

Contemporary criminal law science faces the phenomenon of “dematerialisation of legal reality”, when the subject of encroachment increasingly exists in a form that does not lend itself to sensory perception, but has quite tangible legal and economic consequences. Examples include electronic money, cryptoassets, virtual objects in digital spaces, the results of creative or intellectual activity, and information that has public or state value. Cybercrime is also a prime example of the dematerialisation of reality (Serkevych *et al.*, 2019). In such cases, an attempt to describe the composition of the offence through the category of the subject in the traditional sense inevitably leads to logical contradictions. Ultimately, the subject in the literal sense is “a specific material phenomenon perceived by the senses” (Dictionary, n.d.), while most non-material phenomena are information structures, energy states or digital reflections that do not have a bodily form,

but are endowed with the property of social effectiveness. For example, the electronic journal of a checkpoint is referred by the Cassation Criminal Court of the Supreme Court to the subject of a criminal offence: “the electronic journal of a passenger checkpoint of the automated customs clearance system “Inspector” is an official document, the subject of a criminal offence under Article 366 “Official Forgery” (Decision of the Criminal Cassation Court of the Supreme Court No. 715/758/20, 2022). Such phenomena demonstrate that materiality ceases to be a necessary condition for criminal legal existence. It gives way to functionality – the ability to influence social relations, cause harm, or create danger. In this context, it is appropriate to speak about the “semantic reality” of the non-material world, as the ability of non-material phenomena to act as objects of criminal legal protection (Debons *et al.*, 1988).

Accordingly, there is a change in the ontological focus: if earlier the basis for identifying an object was its material form, now the central criterion is the presence of “social energy” – the ability to influence social relations protected by criminal (and not only criminal) law. In the doctrine of criminal law of Ukraine, attempts are made to “fit” intangible benefits into the concept of “the subject of a criminal offence”. For example, L. Demydova (2015) proposed to recognise “intangible things” as the subject of crimes; A. Aliieva (2021) suggested that the subject of a criminal offence should be understood as “the object of the material or non-material world specified in the criminal law by creating any influence on which the subject commits an encroachment on the object of criminal legal protection”. However, information, energy, digital code, or intangible asset are not “objects” in the classical sense (Strassler, 2012), although they can undoubtedly cause significant harm to a person, society, or the state by influencing them.

Hence, there is a need for a new concept that would cover non-material phenomena that function as carriers of illegal influence. Such a concept does not deny the meaning of the object as a material category, but only expands the boundaries of knowledge, introducing another semantic (or semiotic) level into the structure of the composition of a criminal offence. It was at this intersection of the tangible and the intangible that the idea of the rheme of a criminal offence was born (Hazdayka-Vasylyshyn, 2024). Rheme acts as a generalising characteristic of those non-material phenomena through which the subject realises their encroachment, that is, as a certain “semantic energy” that mediates the criminal action. Thus, the evolution of the concept of the subject of a criminal offence has led to the awareness of the need for a category that can describe new forms of criminal-illegal influence – the category of rheme, which enriches the traditional structure of the composition of a criminal offence with a new conceptual content. The practical significance of identifying the rheme of a criminal offence lies in the possibility of eliminating a number of systemic qualification difficulties that arise in cases where a socially dangerous act is aimed at objects of the intangible world. In such cases, the traditional constructions of the object or subject of a criminal offence are conceptually insufficient to adequately reflect the nature and area of the criminal encroachment.

Criminal proceedings related to the illegal seizure of cryptocurrencies or other virtual assets are indicative. In law enforcement practice, such encroachments are qualified as

theft or fraud, and crypto assets are recognised as the subject of a crime. However, the lack of material form, physical possession, and the classic “seizure of an item” leads to difficulties in proving the objective side, the moment of completion of a criminal offence, and the amount of damage caused. The introduction of the rheme category allows considering cryptocurrency not as a conditional “thing”, but as an intangible object, about which criminal offences are committed, which eliminates the need for artificial adaptation of the classical “material” construction of the subject of crime. Similar problems arise in cases of unauthorised access to information systems, theft, or destruction of data. In such situations, harm is caused not to the material carrier of information, but to the information itself as a value. Qualification of an act through the method of committing a crime (interference in the operation of the system) or through an object of protection (information security) does not always allow reflecting the real focus of encroachment – information as an intangible object that has an independent economic or managerial value. The category of rheme allows clearly recording that it is information that acts as the centre of criminal influence, and technical actions are only a way to access it.

The practical feasibility of using rheme can also be traced in cases of illegal enrichment or legalisation of proceeds from crime in the form of electronic or virtual assets. In such cases, the subject of the crime is actually “dissolved” in financial and digital structures, and attempts to reduce it to material carriers (wallets, servers, access keys) do not reflect the essence of the criminal result. Thus, the introduction of the category of rheme of a criminal offence allows eliminating the existing doctrinal and applied gaps between the classical construction of the subject of a crime and modern forms of encroachments on intangible values. It provides a more accurate reflection of the orientation of the criminally illegal act and the nature of the damage caused, increases the certainty of qualification, and creates prerequisites for further improvement of criminal legislation considering the digitalisation of public relations.

Rheme as a semiotic category of criminal law thinking. The idea of the rheme of a criminal offence appears not only as a terminological innovation, but also as an attempt to conceptually rethink the very nature of criminal law reality. To understand the essence of rheme, it is necessary to go beyond traditional dogmatic logic and turn to an interdisciplinary field, in particular: semiotics, linguistics, and philosophy of language. In linguistics, rheme (from the Greek *rhema* – “expressed”, “said”) is defined as the content centre of an utterance – its semantic dominant, which carries new information about the topic of the sentence (Kocherhan, 2001). Rheme is always the part of the utterance that “moves” the content, gives it dynamics and determines the direction of meaning. Transferring this idea to the legal plane, it can be argued that each criminal offence has its own “semantic centre”, through which illegal influence on public relations is realised. If the subject as part of a criminal offence reflects the material basis of the encroachment, then the rheme fixes its information and semantic axis – the way in which the non-material component of the act affects the object of criminal legal protection. In a certain sense, rheme is a form of “energy communication” between the subject and the object of the offence, that invisible structure through which the subject causes harm without touching material things. This approach brings criminal law closer to

a semiotic understanding of legal reality, according to which legal phenomena are not only systems of norms, but also systems of signs, meanings, and communication processes (Pavlyshyn, 2018). In this paradigm, the subject of a crime is the “material sign” of an act, and rheme is its “semantic sign”; through these “signs”, law interprets the illegality of behaviour. Rheme, thus, performs the function of a semantic mediator in the composition of a criminal offence. It is not a subject in the physical sense, but has its own ontological nature: rheme is an information and energy structure that acquires legal significance at the moment when an encroachment on certain social relations is implemented through influence on it.

For example, in cases of interference with information systems, unauthorised access to data, manipulation of digital assets, or the creation of artificial images (deepfake), damage is caused not through a real object, but through a change in the information state. It is this state – informational, semantic, energetic – that is the rheme of a criminal offence. It has no shape, but it has structure, it has no weight, but it has consequences. Rheme in this sense is a semiotic form of harm reflection that overcomes the limitations of materialistic legal logic. It embodies the transition from material to information thinking in criminal law. This is not only a new level of categorisation, but also a new type of legal perception: not “visible”, but “semantic”. Thus, the rheme is not just an optional feature of an object, but a category of a new type – semiotic, reflecting a change in the epistemological paradigm of criminal law thinking. It allows seeing the offence not only a material impact, but also a semantic transformation – a change in the state of social reality through immaterial mechanisms. Rheme in the criminal-legal sense can express the “semantic energy” of a crime, an information carrier of illegality, through which contemporary law will be able to cover new forms of socially dangerous behaviour that arise in the post-material world.

Three-level model of the object of the composition of a criminal offence. The problem of the structure of the object of a criminal offence is conventionally reduced to the definition of its mandatory and optional features. According to the doctrinal approach, the object of a criminal offence is social relations that are targeted by encroachment, and the object is a thing of the material world that is directly affected by illegal influence (Dudorov & Stryzhevskaya, 2025). This model has historically provided a logical completion of the theory of the composition of an offence, but in the digital age it turned out to be methodologically insufficient. Today’s legal reality demonstrates that significant harm can be caused through non-material channels of influence – information, energy, digital, and communication. In such cases, there is no material object in the classical sense, but there is a real change in the state of protected relations. This indicates the need to expand the conceptual structure of the object of a criminal offence by including a new semantic level.

Thus, a three-level model of the object of the composition of a criminal offence is proposed, which allows systematically covering both material and non-material manifestations of socially dangerous influence:

1. Social relations (social values) as a basic (ontological) level. This is the core of criminal law protection, what criminal law exists for. Social relations (and social values) are intangible in nature, but have very specific manifestations (life, property, security, law and order, etc.). They determine

the area of the criminal prohibition and are the end point of the damage caused.

2. Subject as a material level. This is a specific physical thing that the subject's action is directed at, or through which the impact on social relations is realised. It can act as a carrier of a harmful effect or a material indicator of encroachment. In traditional theory, the subject serves as a criterion for specifying the composition of a criminal offence, but its role is limited only to those situations where there is a material substrate of action.

3. Rheme, as a semantic (non-material) level. This is a new optional feature of an object that covers all non-material phenomena that can cause significant harm due to their impact. These include information structures, energy states, digital objects, artificial algorithms, intangible assets, results of intellectual activity, etc. Rheme captures the way criminal influence manifests itself in the intangible dimension – where the subject is missing or not a key one.

Thus, rheme does not replace the object, but complements it, reflecting not the material form of encroachment, but its semantic structure. This allows building an integrated system in which each level reflects a certain aspect of legal reality. Within the framework of this model, each level determines a different one: social relations determine the boundaries of criminal legal protection, the subject concretises the material embodiment of encroachment, and rheme reveals non-material forms of offence. This approach allows harmonising the traditional theory of the composition of a criminal offence with new social realities, not destroying the classical construction, but only expanding its epistemological horizon.

A similar multi-level logic is observed in contemporary interdisciplinary theories. In particular, the philosophy of information emphasises the existence of three interrelated levels of reality: physical, informational, and social (Floridi, 2011). A similar triad can be traced in the proposed criminal law construction: physical (subject), informational (rheme), social (object). Thus, the three-level model of the object allows overcoming the materialistic limitations of the traditional theory of the composition of an offence; to ensure the methodological integrity of the description of both material and non-material encroachments; to adapt criminal law to the challenges of the digital age, in which information and energy are full-fledged objects of illegal influence. Rheme in this system serves as a “conceptual bridge” between the material and the non-material, concrete and semantic, while providing a link between classical criminal law categories and new forms of public danger. It not only clarifies the structure of the composition of a criminal offence, but also opens the way to rethinking the methodology of criminal law as a science – towards semiotic, energy, and information integration.

Epistemological significance of the concept of rheme for criminal law science. The introduction of a new optional feature into the structure of the composition of a criminal offence has not only terminological or dogmatic, but above all epistemological significance. This refers to changing the very way of thinking in criminal law science on the transition from a materialistic to a semiotic and informational model of cognition of legal reality. Traditional criminal law thinking is based on a material metaphor: crime is an action directed at an object; harm is a change in its physical condition; responsibility is the reaction of society to this

change. Such a paradigm emerged in the era of industrial civilisation, when the physical world was the only obvious reality. However, in a digital society, the centre of gravity is gradually moving from material existence to the information process. Humans are the only known semantic engines and conscious “information organisms” that can develop a growing knowledge of reality; and reality is a collection of information (Floridi, 2011). A person acts, thinks, and even violates the law not only in the space of things, but also in the space of data, images, signs, energies, and meanings.

In this context, the concept of rheme appears as an instrument of a new epistemology of criminal law, which considers the immaterial nature of the modern world, but does not reduce it to abstraction. Rheme embodies the sphere of legal reality where an act exists not in the form of physical impact, but in the form of a semantic event, a change in the information state of social value. This vision allows moving from an ontological approach (“what is a criminal offence”) to an epistemological one (“how crime is cognised and recorded in the intangible world”). It is here that rheme becomes fundamental as a category that removes the contradiction between being and knowledge in criminal law theory: it simultaneously exists as a phenomenon (through which harm is caused) and as a way of knowing this harm (through the semantic interpretation of its manifestations).

The rheme paradigm forms a new cognitive space of criminal law analysis, in which an offence is considered not only as an action, but as an information act that transforms the system of public relations; harm can be not material, but semantic – a change in the state of communication, trust, privacy, or digital integrity; proof covers not only material traces, but also information and communication consequences of the act. This opens up opportunities for a new interpretation of criminal law categories. For example, in the most daring ideas, guilt can be considered as a form of information intent, as the subject's orientation to change the semantic state of reality; the method of committing an offence can be analysed as an algorithm of non-material influence; socially dangerous consequences – as changes not only in the material, but also in the information, communication or digital sphere.

Rheme thus transforms the very logic of criminal law doctrine, complementing it with a new dimension of knowledge. This dimension (semiotic, informational, energetic) can make criminal law more sensitive to new social processes that do not fit into the framework of physical reality, but have obvious social value. From a philosophical standpoint, the concept of rheme asserts the idea of multidimensional criminal law reality. In this sense, rheme is not only an analytical category, but also a metaphor for a new type of legal thinking – thinking that can combine material and non-material, fact and meaning, law and communication. This change in epistemological optics is consistent with the general trend in the development of the humanities, which is manifested in the transition from a substantive to a procedural vision of reality. Law ceases to be only a system of norms and becomes the language of describing social events, and an offence becomes not just a violation of a legal norm, but a change in the semantic state of social order. It is in this dimension that rheme reveals its main methodological function – integrative. It combines conventional legal categories (object, subject, victim) with new interdisciplinary concepts (information, energy, algorithms, cryptoassets). Rheme becomes

a kind of “point of contact” between classical criminal law and the postmodernist world of digital reality, in which harm can be caused not physically, but “energetically”, “meaningfully”; not through action, but through information.

The idea of complementing the construction of the composition of a criminal offence with such a feature as rheme is new for the science of criminal law, so it has not yet been the subject of wide discussion. In the contemporary Ukrainian science of criminal law, the problem of non-material objects of encroachment is actively developed, however, mainly within the framework of the conventional construction of the subject of crime. In this context, it is advisable to compare the proposed concept of rheme of a criminal offence with the findings of other authors. O. Kryshevich & I. Roschyna (2022) concluded that cryptocurrency, despite its lack of material form, can be considered as a subject of crime due to its economic value and turnover. However, the above analysis showed a different picture – the need to distinguish intangible assets from the subject of a crime and separate them into a separate feature of the composition of a criminal offence. The reason for the discrepancy between these positions is conditioned by a different methodological approach: the researchers proceed from an expanded interpretation of the subject of the crime, while in this study its classical material understanding was preserved.

T. Ovsichuk (2025) examined virtual assets as the subject of illicit enrichment, recognising their intangible nature and the conventionality of classifying them as the subject of a crime. This opinion is fully consistent with the conclusion that virtual assets do not correspond to the traditional features of the material world. The difference in positions lies not in the content of the assessment of the nature of assets, but in the level of theoretical generalisation: T. Ovsichuk (2025) explored the specific composition of crime, while this paper offered a universal categorical model. I. Shchepak (2025) supported the thesis about the need for a clear differentiation of intangible objects and the elimination of mixing of different legal categories, considering the problem mainly as terminological and qualifying, while this article proved its deeper categorical nature. I. Dolianovska & K. Kryvenko (2024) analysed the international experience of countering crimes related to the turnover of virtual assets, recognising them as an independent object of criminal legal protection. The conclusion that intangible assets are actually recognised as an object of protection in contemporary law and order is fully supported. However, the researchers focused on the criminal-political and comparative aspects, while this paper offered a theoretical model of their integration into the structure of the crime structure.

The comparison showed that most contemporary studies actually recognise the existence of intangible objects of criminal encroachment, but try to integrate them into the conventional construction of the subject of crime or consider the problem within separate compositions. The proposed concept of rheme of a criminal offence does not challenge their conclusions about the nature of digital assets, but differs in the level of theoretical generalisation and the desire for a systematic solution of the identified contradictions.

Disagreements with other researchers are methodological, not essential, which indicates the evolutionary development of the doctrine, and not its denial.

Conclusions

The development of criminal law science in the 21st century is inextricably linked with the processes of digitalisation, virtualisation, and dematerialisation of public life. Under these conditions, the traditional construction of the composition of a criminal offence, focused on material features, loses its ability to adequately reflect new forms of socially dangerous behaviour. The answer to this challenge is the proposed concept of rheme of a criminal offence – a new optional feature of an object that covers non-material phenomena, through the influence of which harm can be caused in the process of committing criminally illegal encroachments.

The three-level model of the object of the composition of a criminal offence proposed in the paper provided a systematic coordination of material and non-material forms of illegal activity. It avoids both excessive formalism and unlimited expansion of the criminal offence, creating a balanced methodological framework for the legal assessment of all types of encroachments. Incorporation of rheme into the system of optional features of the object will contribute to: improving the accuracy of criminal law qualification of acts in the field of cybersecurity, information technologies, artificial intelligence, digital assets; unification of approaches to harm assessment in cases where the subject has no material nature; updating the conceptual framework of criminal law in accordance with the realities of the information society.

From an epistemological standpoint, rheme is a symbol of the transition from a materialistic to a semiotic and informational type of criminal law thinking. It reveals the multi-dimensional nature of legal reality, in which crime can exist not only as an action, but as a semantic event – an act of communication, manipulation or influence that changes the structure of social relations. Thus, the concept of rheme deepens the methodology of criminal law science, introducing categories of information, energy, and meaning into it; complements the classical theory of the composition of a criminal offence with a new non-material dimension; forms the basis for responding to offences in virtual and information spaces.

Prospects for further research consist in the development of criteria for distinguishing rheme from the subject, tool, and means of committing a criminal offence; description of the victim from a criminal offence through the prism of a combination of material and non-material; development of a new typology of objects of criminal law protection, considering both material and semantic levels of public danger.

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Переосмислення ознак об'єкта кримінального правопорушення у цифрову епоху

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Анотація. У статті розвивається авторська концепція реми як нової факультативної ознаки об'єкта складу кримінального правопорушення. Вихідною позицією дослідження є визнання того, що сучасна кримінально-правова теорія, побудована на матеріалістичних уявленнях про предмет кримінального правопорушення, втрачає пояснювальну силу в умовах цифровізації, віртуалізації та дематеріалізації суспільного життя. Правопорушення у сфері інформаційних технологій, кібербезпеки, цифрових активів, а також у сфері інтелектуальної діяльності часто не мають матеріального предмета у класичному розумінні, але завдають реальної шкоди охоронюваним соціальним цінностям. Це обумовлює потребу в оновленні теоретичної моделі складу кримінального правопорушення. На основі лінгвістичних і семіотичних концепцій та міждисциплінарних підходів запропоновано тривірневу модель об'єкта складу кримінального правопорушення: суспільні відносини (базовий рівень), предмет (матеріальний рівень) і рема (смісловий, або нематеріальний рівень). Така модель забезпечує цілісне охоплення як матеріальних, так і інформаційних форм суспільно небезпечного впливу. Результатом дослідження було формулювання поняття реми кримінального правопорушення як семіотичної категорії, що відображає перехід кримінально-правового мислення від матеріального до інформаційно-сміслового рівня. Вплив на рему інтерпретувався як інформаційна або енергетична форма протиправної дії, яка змінює стан суспільних відносин без фізичного контакту з матеріальними предметами. У результаті доводиться, що введення реми у систему факультативних ознак об'єкта складу кримінального правопорушення поглиблює методологію кримінального права, розширює його понятійний апарат та сприяє адаптації кримінально-правової доктрини до реалій цифрової цивілізації. Концепція реми відкриває нові можливості для кваліфікації злочинів у кіберпросторі та формує підґрунтя для подальшого розвитку семіотично-інформаційної парадигми кримінально-правової науки

Ключові слова: кримінальне право; склад злочину; предмет; рема; нематеріальні феномени; семіотика права; інформаційна реальність

Erasing identity through culture: Towards the formation of a legal framework for cultural genocide

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Abstract. The relevance of this study is due to the growing number of documented practices of destruction of cultural identity in the context of the Russian Federation's armed aggression against Ukraine and the lack of a comprehensive legal conceptualisation of these practices within international criminal law. Despite active research into war crimes and crimes against humanity, the cultural dimension of violence is often considered secondary or auxiliary, which prevents a proper assessment of its systemic nature and legal significance. The aim of the article was to systematise established practices of influencing the cultural identity of the Ukrainian people and to justify the possibility of their legal interpretation within the framework of international criminal law as a comprehensive model of influence relevant for assessing specific intent. The study used formal legal, comparative legal and content analysis methods. The application of these methods made it possible to analyse international legal norms, judicial practice and documented facts of violations, as well as to structure the forms of influence on cultural identity into analytically independent categories. The main results of the study were the identification and systematisation of key forms of destruction of cultural identity, in particular interference in the linguistic sphere, education, religious life, traditions and customs, the activities of cultural institutions, material cultural heritage, as well as the intergenerational dimension of identity through influence on children. It was shown that these practices are not fragmentary, but interconnected and repetitive in nature, which allows them to be considered as elements of a coherent systemic policy. It has been proven that the combination of established actions, in particular the combination of cultural destruction and systematic violence, in the relevant ideological context, provides grounds for their assessment as legally significant indicators of specific intent derived from a pattern of behaviour. The practical value of the work lies in the possibility of using the results obtained in law enforcement activities, in documenting international crimes, as well as in scientific research devoted to the issues of genocide and the protection of cultural identity in the context of armed conflicts

Keywords: erasure of cultural identity; forced assimilation; destruction of cultural heritage; deportation of children; violation of cultural rights; international criminal law

Introduction

The Russian Federation's armed aggression against Ukraine has not only a military dimension, but also a clear civilisational and cultural dimension. Along with massive violations of international humanitarian law, war crimes and crimes against humanity, the full-scale invasion is accompanied by the systematic destruction of the cultural identity of the Ukrainian people. The destruction of cultural heritage sites, the suppression of the Ukrainian language in public spaces in the temporarily occupied territories, the destruction of educational institutions, the persecution of religious communities, the forced deportation of children and the imposition of a foreign historical and cultural paradigm form a consistent pattern of actions aimed at breaking cultural continuity (Bakalchuk, 2022; Chopyak & Lonchyna, 2024).

The problem of identity destruction as a specific form of violence is receiving increasing attention in contemporary

international legal doctrine. Genocide was first considered by R. Lemkin as a complex process involving cultural, social, linguistic and religious aspects of the destruction of a group. However, during the codification of the Convention on the Prevention and Punishment of the Crime of Genocide (1948), these elements were excluded, leading to the dominance of a narrow, predominantly biological approach. In recent literature, in particular J. Heiskanen (2021) and F.A. Raihany *et al.* (2023), there is an active debate on the need to rethink classical approaches and include cultural forms of destruction in the modern legal framework. According to Article 6 of the Rome Statute of the International Criminal Court (1998) and Elements of Crimes, the crime of genocide is characterised by a combination of objective and subjective elements and is committed in a specific context. In particular, it includes: (1) an objective element (*actus*

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reus) – the commission of one or more prohibited acts, as provided for in paragraphs (a)-(e) of Article 6, against members of a protected national, ethnic, racial or religious group; (2) a subjective element (*dolus specialis*) – a specific intent to destroy such a group in whole or in part as such. At the same time, such acts must take place in the context of a clear pattern of similar acts directed against the group in question, or be such that they are capable of causing its destruction.

Despite this, in the current system of international criminal law, acts aimed at destroying culture, language, education and other elements of identity are mostly classified as war crimes or crimes against humanity. This approach does not always fully reflect the true nature of the practices in question, especially when cultural destruction is used as an instrument of deliberate state policy. In this context, the Ukrainian case is of particular interest for scientific analysis, as it demonstrates the systematic and multi-level nature of the impact on cultural identity during armed conflict. At the same time, such a classification does not mean that there is no connection between the relevant practices and the crime of genocide. The shelling of cultural heritage sites, interference in the linguistic, educational and religious spheres, and the destruction of cultural infrastructure do not in themselves constitute genocide within the meaning of Article 6 of the Rome Statute of the International Criminal Court (1998). However, their repetition, selectivity and combination with other forms of violence give such acts legal significance at another level – as elements of the context from which *dolus specialis* to destroy a protected group as such can be inferred. It is this distinction between the classification of individual acts and the assessment of their cumulative effect that necessitates a separate analysis of the cultural dimension of genocidal impact.

Despite the growing number of works devoted to war crimes and crimes against humanity, the issue of cultural genocide in the context of the Russian Federation's aggression against Ukraine remains only partially researched and still lacks a comprehensive legal conceptualisation. Recent literature from 2023-2025 focuses mainly on the protection of cultural heritage in armed conflict and on the classification of relevant offences within the established categories of international criminal law, primarily as war crimes or crimes against humanity (Popov & Orobets, 2025). At the same time, the destruction of cultural heritage is seen primarily as evidence of genocidal intent rather than as an independent element of the crime of genocide (Wierczyńska, 2025). Some studies, in particular D. Azarov *et al.* (2023), analyse the systematic destruction of cultural heritage and the suppression of elements of cultural identity not as an independent legal category, but as contextual evidence of the presence of *dolus specialis* when assessing the possibility of qualifying actions as genocide. Such fragmentation of approaches leads to a persistent scientific gap in the legal conceptualisation of cultural genocide.

The aim of this article was to study the possibility of forming a legal framework for cultural genocide in the system of international criminal law based on an analysis of practices of destruction of the cultural identity of the Ukrainian people in the context of the Russian Federation's armed aggression against Ukraine. To achieve the aim of the study, the following objectives were set: to analyse the evolution of approaches to understanding the cultural dimension of genocide; to examine the main forms of destruction of

tangible and intangible elements of cultural identity; to determine the possibilities and limits of the legal classification of such actions as cultural genocide. The scientific novelty lies in the attempt to conceptualise cultural genocide as a legal category of international criminal law, taking into account the Ukrainian context, which demonstrates the systematic nature of cultural destruction as a tool for undermining the existence of the national community.

Literature review

Contemporary genocide studies increasingly demonstrate a tendency to conceptualise genocide not as a single act of mass violence but as a prolonged process directed at the destruction or transformation of a national group. A. Fox (2021), analysing Russian-Ukrainian relations in the 20th century, views them as a continuous “arc process of genocidal practices” combining phases of overt violence with prolonged periods of systematic suppression of Ukrainian identity. The author draws on the concepts of Raphael Lemkin and Martin Shaw, showing that the destruction of culture, language and institutions was an integral part of imperial policy. A similar procedural approach is developed by I. Kravets (2024), who traces the evolution of ideas about genocide from the categories of “act of barbarity” and “act of vandalism” to an understanding of it as a deliberate campaign to destroy a national group. The author emphasises the primary nature of the cultural dimension of genocide in Raphael Lemkin's concept, which envisaged the destruction of the national pattern of the oppressed group with the subsequent imposition of the oppressor's pattern. At the same time, it is emphasised that the definition of genocide enshrined in the Convention on the Prevention and Punishment of the Crime of Genocide (1948) does not reproduce all the components of the original concept, which leads to contemporary legal and cultural conflicts.

Some studies focusing on the normative formulation of the concept of cultural genocide point out that this concept was considered during the preparation of the Convention on the Prevention and Punishment of the Crime of Genocide (1948), but was ultimately not included in its text. M. Hamilton (2022) emphasises that the concept of cultural genocide is based on the idea that cultural groups can be destroyed by destroying the material manifestations of their culture, in particular cultural heritage objects. This approach emphasises the close link between cultural heritage and the preservation of cultural identity. At the same time, the author notes that international law has not yet developed a comprehensive approach to assessing the consequences of the loss of material carriers of culture for the existence of cultural groups, especially in the context of armed conflicts. Further development of this issue can be traced in works that consider cultural genocide as an “invisible” process of systematic destruction of language, traditions, education, religion and historical memory. K. Lekić (2022) emphasises that such practices can lead to the disappearance of a group as a cultural entity even without direct physical extermination, as they are often legitimised as elements of social or civilisational policy. The author also draws attention to the fact that the absence of a direct provision for cultural genocide in international criminal law contributes to its neglect in legal classification, despite its significant long-term consequences for the preservation of cultural diversity and social stability at the global level.

Contemporary studies of genocide are increasingly focusing on its intangible and procedural dimensions, particularly through the prism of memory, culture and social ties. In the collective monograph by S. Wolfe *et al.* (2023), genocide is viewed not only as an act of physical destruction, but as a prolonged process of destroying the cultural, symbolic and institutional foundations of a group's existence. The authors emphasise that the destruction of memory, the distortion of historical narratives and the undermining of cultural continuity are integral components of genocidal practices, and that ignoring them in legal assessments leads to a fragmented understanding of the scale of the crime. This approach conceptually continues Raphael Lemkin's original vision and provides a theoretical basis for analysing the cultural dimension of genocide in contemporary conflicts. From the perspective of this approach, O. Bartov (2023) emphasises the importance of integrating personal testimonies: diaries, interviews, memoirs and court testimony in the study of genocide, emphasising their evidential value on a par with official documents and their role in revealing not only mass violence, but also mechanisms of survival, resistance and the destruction of social ties.

At the same time, studies devoted to the investigation of war crimes emphasise that only the correlation of the testimony of victims and witnesses with open sources and the results of investigative actions makes it possible to establish connections between individual episodes and to reconstruct the broader context of criminal conduct (Shulha *et al.*, 2023). A separate area of contemporary research on cultural genocide focuses on the destruction of material carriers of collective memory, in particular archives. In the introduction to their work, H. Khalaf & A. Dorval (2023) emphasise that archives are a key element of cultural heritage, ensuring historical continuity, institutional memory and the possibility of shaping future state policy. Using the example of the destruction and appropriation of Iraqi archives, the author argues that such actions go beyond internal damage to a single state and constitute a form of international cultural genocide, as they lead to the irreparable loss of humanity's common heritage and call into question the effectiveness of existing international mechanisms for its protection.

S. Mapp & K. Smith Rotabi-Casares (2023) analyse the practice of state separation of children from their families as a form of cultural genocide, demonstrating its recurrence in different regions of the world – the United States, Africa, and Asia. The authors emphasise that such actions are deliberate cultural assimilation and control, as well as a gross violation of international standards for children's rights enshrined in relevant UN conventions. Particular attention is paid to contemporary examples, including Russia's policy towards Ukrainian children and US practices on the southern border. O. Brynzanska (2024) argues that damage to the environment can be considered a sign of genocide, provided that such actions create deliberate living conditions aimed at the complete or partial physical destruction of a protected group. The researcher notes that environmental destruction may correspond to the elements of genocide defined by the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Rome Statute of the International Criminal Court (1998). At the same time, there is a view that environmental damage can simultaneously constitute signs of both ecocide and genocide, if there

is a specific intent to destroy a national, ethnic, racial or religious group in whole or in part.

In examining the situation of indigenous peoples in Bolivia, J. Linstroth (2022) highlights the insufficient level of international awareness of ongoing genocidal processes and emphasises the need for more systematic approaches to the protection of indigenous peoples at the global level. In the scientific work of P. Chaney (2025), the key point is the well-founded assertion that cumulative, prolonged and systematic violations of the rights of indigenous peoples can create conditions that lead to cultural genocide, even if at a certain stage they have not yet reached its "classical" threshold.

Materials and methods

The study was conducted within the framework of qualitative legal analysis based on the methodology of international criminal law and interdisciplinary approaches to the study of mass international crimes. The conceptual framework of the work was based on the classic definition of genocide enshrined in the Convention on the Prevention and Punishment of the Crime of Genocide (1948), as well as the provisions of Article 6 of the Rome Statute of the International Criminal Court (1998) and Elements of Crimes. In addition, doctrinal approaches to the analysis of the cultural dimension of genocide and ethnocide, initiated by R. Lemkin and developed in contemporary scientific literature, were taken into account. The main method of scientific inquiry was the formal legal method, which was used to analyse the normative content of the crime of genocide, in particular its objective and subjective elements, as well as to clarify the legal significance of cultural forms of destruction in the structure of international crimes. The comparative legal method was used to compare the approaches of international judicial institutions to the assessment of the destruction of cultural, linguistic, educational and religious elements in cases of international crimes. This method was used to analyse the decisions of the International Criminal Court, the International Tribunal for the Former Yugoslavia and the European Court of Human Rights, which made it possible to identify common criteria and differences in the interpretation of the cultural dimension of violence.

Content analysis was used to process a set of documented facts recorded in reports by the ICC (2023), OHCHR (2023), and Human Rights Watch (2024). Based on this analysis, the main forms of influence on cultural identity were identified and classified. The classification methodology was based on approaches relevant to understanding the cultural dimension of genocidal influence, in particular on positions supported or confirmed by the results of this study (Gavira Díaz, 2022; Raihany *et al.*, 2023; Mapp & Smith Rotabi-Casares, 2023). The systematic analysis method made it possible to consider the established practices not as isolated violations, but as interrelated elements of a holistic model of influence on cultural identity, as reflected in the analytical diagram. This method was used to reproduce the logic of interaction between different forms of influence and their cumulative sociocultural effect.

Results and discussion

An analysis of the practices implemented by the Russian Federation in the temporarily occupied territories of Ukraine has revealed a systematic, multifaceted and targeted impact on the tangible and intangible elements of cultural identity.

The totality of the recorded actions indicates the formation of a persistent pattern of destruction of the cultural foundations of the Ukrainian people. It has been established that the destruction of objects of tangible cultural heritage is not accidental and covers religious buildings, museums, libraries, archives, historical monuments and places of collective memory. Such objects are subjected to deliberate damage, destruction or unlawful removal followed by their transfer beyond the territory of Ukraine. The cumulative effect of these actions consists in the loss of material carriers of historical memory and the disruption of mechanisms of inter-generational cultural transmission.

The systematic nature of the impact on intangible elements of cultural identity has been separately established. This refers to the displacement of the Ukrainian language from the public sphere, the transformation of educational programmes, changes in the content of academic disciplines, and the imposition of alternative historical narratives and ideological constructs. These practices are aimed at changing the models of self-identification of the population, especially children and young people, and forming an alternative cultural identity. An analysis of documented practices of forcible displacement of Ukrainian children from temporarily occupied territories, as reflected in the materials of the International Criminal Court on the illegal transfer and deportation of children (Mentzelopoulou, 2025) and in thematic reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR, 2023), as well as in detailed

studies of violations of educational rights during the occupation (Human Rights Watch, 2024), shows that such actions are accompanied by restrictions on access to the Ukrainian language, culture and educational environment.

It is important to note that the deportation of Ukrainian children is currently being prosecuted by the International Criminal Court as a war crime, which does not exclude its legal significance for assessing possible genocidal intent. Within international criminal law, the classification of a particular act and the assessment of its evidentiary role in establishing *dolus specialis* are different levels of analysis. The forcible transfer of children, even if their lives are spared, is explicitly provided for in the Convention on the Prevention and Punishment of the Crime of Genocide (1948) as one of the possible mechanisms for the destruction of a group as such. A separate group of established facts concerns interference in religious life: there have been reports of persecution of religious communities, seizure of religious buildings, restrictions on freedom of religion, and the subordination of religious institutions to structures controlled by the aggressor state. Such actions undermine the spiritual foundations of the national community as a component of cultural identity. In order to typologise the described forms of influence on cultural identity and determine their potential international legal significance, Table 1 summarises examples of international judicial practice in which similar actions were considered legally relevant for assessing the specific intent or context of international crimes.

Table 1. Forms of destruction of cultural identity

Category	Judicial decisions	Brief description of manifestations
Cultural heritage, traditions, connection to place	Prosecutor v. Ahmad Al Faqi Al Mahdi (Judgment of the International Criminal Court No. ICC-01/12-01/15-171, 2016)	Attacks on historical monuments and buildings dedicated to religion, including nine mausoleums and one mosque in Timbuktu, Mali.
	Prosecutor v. Pavle Strugar (Judgment of the International Criminal Tribunal for the former Yugoslavia No. IT-01-42-T, 2005)	Deliberate shelling and damage to the historic centre of Dubrovnik, a cultural heritage site, without military necessity.
	Prosecutor v. Kordić & Čerkez (Judgment of the International Criminal Tribunal for the former Yugoslavia No. IT-95-14/2-A, 2004)	Deliberate destruction and damage to religious and cultural sites (including mosques) as part of a campaign of violence against the civilian population.
	Prosecutor v. Prlić et al. (Judgment of the International Criminal Tribunal for the former Yugoslavia No. IT-04-74-A, 2017)	Systematic destruction of religious and cultural sites (including mosques) as part of a campaign of persecution against the civilian population and the creation of an ethnically homogeneous territory.
	Sargsyan v. Azerbaijan (Judgment of the European Court of Human Rights No. 40167/06, 2015)	Prolonged deprivation of access to housing, land and culturally significant sites as a result of armed conflict, in violation of the right to respect for private life and peaceful enjoyment of property.
Language	Catan and Others v. Moldova and Russia (Judgment of the European Court of Human Rights No. 43370/04, 8252/05, 18454/06, 2012)	Forced interference in education and language policy as a form of prolonged influence on cultural identity under the effective control of a foreign state.
Religion, education	Cyprus v. Turkey (Judgment of the European Court of Human Rights No. 25781/94, 2001)	Obstruction of access to places of worship, restrictions on religious rites, interference in the functioning of educational and cultural institutions under the effective control of a foreign state.
Children's identity	Prosecutor v. Vladimir Vladimirovich Putin (Judgment of the International Criminal Court, Situation in Ukraine, No. ICC-01/22, 2022)	Illegal deportation and forced displacement of Ukrainian children from the temporarily occupied territories of Ukraine to the Russian Federation as a war crime.
	Prosecutor v. Maria Alekseyevna Lvova-Belova (Judgment of the International Criminal Court, Situation in Ukraine, No. ICC-01/22, 2022)	Organisation and facilitation of the illegal displacement and assimilation of Ukrainian children, including transfer to guardianship and change of cultural environment.

Source: developed by the author based on international judicial practice

A summary of the above facts allows to establish the complex nature of the influence, in which the destruction of material culture is combined with the transformation of language, education, religion, and the forced change of the environment of socialisation of children (Fig. 1). This set of actions indicates not isolated violations, but the implementation of a comprehensive model of influence on identity as a socio-historical category. A synthesis of the established practices allows to determine their social consequences. The influence exerted causes the gradual destruction of group

identity, whereby the community loses the ability to reproduce itself as a separate socio-cultural entity. It has been established that such processes occur mainly without the use of overt physical violence, through assimilation and administrative mechanisms, which makes it difficult to identify their destructive nature in a timely manner. The latent and gradual nature of these practices leads to their long-term legitimisation as acceptable forms of managerial or educational influence, which exacerbates their destructive effect on social ties and cultural continuity.

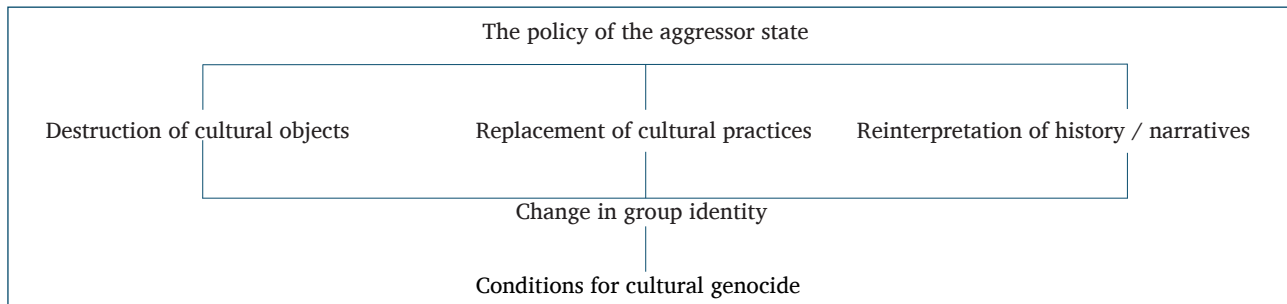


Figure 1. The mechanism of cultural aggression as a process of destroying cultural identity

Source: developed by the author based on the generalised forms of influence presented in Table 1

The results obtained allow to join the current scientific debate on the possibility of conceptualising cultural genocide within the framework of international criminal law. In particular, they correlate with the conclusions of V. Bakalchuk (2022), who, analysing the actions of the Russian Federation in the temporarily occupied territories of Ukraine, substantiates the presence of signs of cultural genocide through the systematic destruction of cultural heritage sites, the displacement of language and the transformation of the educational space. At the same time, the above analysis shows a different, more complex picture, since the established practices are not limited to cultural heritage and education, but also cover the religious sphere, the environment of children's socialisation, and the mechanisms of collective memory reproduction. Thus, the results of this study support the general logic of V. Bakalchuk's (2022) argument, but expand it by identifying a comprehensive model of influence on identity as a socio-historical category.

A similar emphasis on the procedural nature of identity destruction can be found in the works of J. Heiskanen (2021), who considers ethnocide and cultural destruction as tools for transforming groups without physically exterminating them. This scholar's conclusions are methodologically important because they allow to move away from a narrow, biologised understanding of genocide. At the same time, the results of this study do not fully agree with this position, because in the case of Ukraine, cultural destruction is not a self-sufficient or isolated phenomenon, but is combined with war crimes and crimes against humanity. The reason for the different interpretations may lie in differences in the empirical basis: J. Heiskanen (2021) analyses mainly cases of cultural assimilation without an active phase of armed conflict, while the Ukrainian context is characterised by the overlap of several forms of international crimes. In this sense, the statements of J. Siekiera (2023) seem debatable, as she believes that the crimes committed by the Russian Federation on the territory of Ukraine should be considered primarily as a tool for restoring territorial control, rather than as a manifestation of

genocidal intent (Siekiera, 2023). This is inconsistent with the results of the above analysis, as the established practices of influencing language, education, religion and the environment of children have no direct military significance and are aimed at the long-term transformation of group identity. Thus, territorial control in this case is more of an intermediate goal, while the ultimate goal is to undermine the national community's ability to reproduce itself.

Within the framework of a realistic approach, post-Soviet states, including Ukraine, are not actually considered fully sovereign actors in international relations, and their foreign and security policies must be consistent with the "security interests" of neighbouring great powers (Mueller, 2021). At the same time, the discussion about the relationship between territorial motives and genocidal intent is methodologically important. Within the framework of international criminal law, the motive of "territory" is not mutually exclusive with the existence of a specific intent to destroy a protected group in whole or in part as such. The practice of international criminal tribunals consistently confirms that *dolus specialis* can be established by inference from a set of circumstances and patterns of behaviour, even in the absence of direct evidence in the form of declarative statements (Judgment of the International Criminal Tribunal for the former Yugoslavia in Case No. IT-98-33-A, 2004). In this context, massive and repeated shelling, systematic targeting of civilian objects, and destruction of cultural and social infrastructure are significant not only as war crimes. They can be seen as part of a general pattern aimed at undermining the ability of Ukrainians to exist as a national group "as such" by destroying the environment in which their identity is reproduced and simultaneously depriving them of basic security. It is this cumulative effect – the combination of cultural destruction and systematic violence – that strengthens the argument for the deliberate nature of the policy in question. Of particular importance for assessing possible genocidal intent is the treatment of persons who have ceased to participate in hostilities. The executions of captured military personnel and

the torture of prisoners of war cannot be explained by military necessity and serve another function: the demonstrative devaluation of the lives of members of a particular national group, the normalisation of the practice of “taking no prisoners”, and the creation of a regime of fear and breaking resistance. The UN Human Rights Monitoring Mission in Ukraine reported a sharp increase in the number of executions of captured Ukrainian military personnel, as well as the continuation of torture and deaths in places of detention in 2025.

In the literature, more and more researchers are questioning the rigid distinction between physical and cultural destruction of groups. F. Raihany *et al.* (2023), analysing the boundary between ethnic cleansing and genocide, emphasise the complexity of the legal classification of contemporary forms of violence. Their conclusions are generally supported by the results of this study, but given the established complex nature of the impact on identity, they can be considered in a different light. In particular, the cultural dimension of violence in the case of Ukraine is not auxiliary or secondary, but forms an independent level of destruction that goes beyond the classical models of ethnic cleansing. A number of contemporary studies draw attention to the specific nature of the Russian ideological narrative regarding Ukraine, within which the destruction of Ukrainian cultural identity is presented as a form of “liberation” or “rescue”. Unlike classic models of dehumanisation, this discourse denies the distinctiveness of Ukrainians as a group, asserting their “identity” with Russians, while those who bear Ukrainian identity are seen as subject to elimination. Under such conditions, the destruction of culture, language and historical memory appears not as violence, but as a supposedly legitimate form of ideological correction. Such rhetoric fits into a long tradition of Russian nationalist thought, in which the “Ukrainian question” is seen as an existential threat (Laryš, 2025).

Comparative and empirical studies of genocide also confirm that the cultural dimension of violence cannot be considered secondary or auxiliary. For example, analysis of the Rohingya genocide in Myanmar shows that the systematic destruction of religious institutions and the prohibition of religious practices lead to the loss of a group’s social viability, while demographic restrictions and birth control policies directly affect its physical reproduction. In this context, genocide emerges as a tripartite practice combining political, cultural and physical mechanisms of destruction motivated by fear of political transformation of the dominant group (Anwary, 2025). Studies of the colonial experience in Africa and the Caribbean also show that cultural genocide can be implemented through the institutional imposition of religion as a tool for assimilation and the destruction of local value systems and identities, which has historically been legitimised as a “civilising mission”. V. Chopyak & V. Lonchyna (2024) rightly emphasise the destruction of education and science as an instrument of genocidal policy. At the same time, the results obtained allow to assert that the educational component is only one link in a broader chain of influence aimed at transforming identity as a whole.

In view of this, the position of P. Gavira Díaz (2022) is relevant, who emphasises that the destruction of language, religion, cultural heritage, archives and symbolic foundations of identity is not always recognised as genocide as a separate crime, but is crucial for establishing a specific intent to destroy a group as such. The results obtained in this study confirm this position, demonstrating that systematic

interference in the tangible and intangible elements of the cultural identity of the Ukrainian people cannot be considered a side effect of armed conflict, but rather indicates the deliberate nature of the relevant policy. Even in legal systems with an established democratic tradition, practices that had long been legitimised as “social policy” were later reinterpreted as forms of cultural genocide, particularly in connection with the systematic destruction of the family and cultural ties of indigenous peoples (van Krieken, 2024). Studies of cultural genocide in contemporary conflicts show that one of the key tools for destroying identity is the criminalisation of traditional cultural practices. The example of the Amhara in Ethiopia shows that state prohibition and persecution of traditional forms of social organisation and conflict resolution can serve as a deliberate mechanism for undermining the cultural identity of a group. Such practices are combined with politically motivated violence, forced displacement and manipulation of traditional institutions, which together form a systematic pattern of cultural destruction (Wondie, 2025).

A similar approach is developed by A. Arciola (2025), who argues that the destruction of language, religion and symbolic foundations of identity creates living conditions incompatible with the continued existence of the group as such. This author’s conclusions are close to the results obtained, but this study shows that such conditions are not formed spontaneously, but through systemic administrative, educational and ideological mechanisms that are disguised as legitimate state policy. It is this latency and gradualness, as noted in the Results section, that explains why cultural destruction often remains outside the scope of timely legal assessment. A comparison with studies of the forced displacement and assimilation of children is also important for interpreting the results obtained. S. Mapp & K. Smith Rotabi-Casares (2023) consider the separation of children from their families as a form of cultural genocide aimed at breaking the intergenerational transmission of identity. The results obtained in this study support this position, but complement it by demonstrating that the deportation of children, combined with the transformation of the educational and linguistic environment, creates conditions for identity change not only at the individual level, but also at the group level.

In some of the contemporary political-realist and security literature, the Russian Federation’s armed aggression against Ukraine is interpreted primarily through the prism of geopolitical and territorial interests, in particular the desire to control strategic spaces, sea routes and port infrastructure, as well as to influence the architecture of European security (Moisio, 2022; Jin *et al.*, 2025). Within such approaches, interference in the linguistic, educational, religious and cultural spheres is usually considered a derivative or instrumental element of the management of occupied territories, rather than an independent object of legal assessment. At the same time, the results of this study show that such an interpretation does not explain the systematicity, repetitiveness and lack of immediate military necessity in practices aimed at transforming cultural identity, in particular through language displacement, changes in educational programmes, interference in religious life and the disruption of intergenerational cultural transmission. Under such conditions, territorial control appears not as an end goal, but as an intermediate condition for the implementation of a broader policy aimed at long-term change in group identity.

Thus, the study not only aligns with contemporary scientific approaches but also expands upon them, demonstrating that the destruction of cultural identity in the context of the Russian Federation's armed aggression against Ukraine has the characteristics of a comprehensive systemic policy that can be conceptualised within international criminal law as a specific form of genocidal influence. The combination of established practices, in particular the combination of cultural destruction (implemented mainly through assimilation and administrative rather than overt physical mechanisms) and systemic violence, combined with ideological narratives of denial as a contextual factor, allows to reasonably consider these actions as corresponding to the indicators of specific intent derived from a pattern of behaviour, as understood in international criminal law.

Conclusions

The subject of this article was to explore the possibility of establishing a legal framework for cultural genocide in the system of international criminal law based on an analysis of practices of destroying the cultural identity of the Ukrainian people in the context of the Russian Federation's armed aggression against Ukraine. The aim was achieved through a comprehensive analysis of the evolution of doctrinal approaches to the cultural dimension of genocide, as well as a generalisation of established forms of influence on the tangible and intangible elements of cultural identity.

The study revealed that the actions of the aggressor state regarding cultural heritage, language, education, religion, and the socialisation environment of children are systematic and purposeful. An analysis of recorded practices has established that the destruction of objects of material culture is combined with the transformation of intangible elements of identity, in particular through the suppression of the Ukrainian language, changes to educational programmes and the imposition of alternative historical narratives. The analysis revealed a persistent pattern of influence aimed at disrupting intergenerational cultural transmission and undermining the mechanisms of self-reproduction of the national community. It was established that the forced displacement of Ukrainian children is accompanied by their inclusion in a foreign linguistic, cultural and legal system, which creates

the preconditions for the transformation of identity. These data indicate that the influence on cultural identity is not realised in isolation, but within the framework of a holistic model. The results obtained allow to assert that these practices are not limited to the side effects of armed conflict, but have the characteristics of a conscious policy.

Summarising the results, it can be noted that the destruction of cultural identity in modern armed conflicts requires independent conceptual consideration within the framework of international criminal law. The analysis shows that the cultural dimension of genocidal influence cannot be considered solely as an auxiliary element of war crimes or crimes against humanity. Conceptually, the above indicates the need to broaden the legal vision of genocidal practices, taking into account latent, administrative and assimilationist mechanisms of destruction of group identity. This deepens the understanding of genocide as a multi-level process combining physical, cultural and social dimensions. Promising areas for further research in this field include an in-depth analysis of the evidence of the cultural dimension of genocidal intent in international and national criminal proceedings, as well as exploring the possibilities of integrating the category of cultural genocide into the practice of international justice.

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Conflict of interest

None.

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Стирання ідентичності через культуру: до формування правової рамки культурного геноциду

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Анотація. Актуальність дослідження зумовлена зростанням кількості документованих практик знищення культурної ідентичності в умовах збройної агресії Російської Федерації проти України та відсутністю їх цілісної правової концептуалізації в межах міжнародного кримінального права. Попри активне вивчення воєнних злочинів і злочинів проти людяності, культурний вимір насильства часто розглядається як допоміжний або вторинний, що не дозволяє належним чином оцінити його системний характер і правове значення. Метою статті була систематизація встановлених практик впливу на культурну ідентичність українського народу та обґрунтування можливості їх правової інтерпретації в межах міжнародного кримінального права як цілісної моделі впливу, релевантної для оцінки спеціального наміру. У дослідженні використано методи формально-юридичний, порівняльно-правовий методи та контент-аналіз. Застосування цих методів дозволило проаналізувати міжнародно-правові норми, судову практику та документовані факти порушень, а також структурувати форми впливу на культурну ідентичність за аналітично самостійними категоріями. Основні результати дослідження полягають у виявленні та систематизації ключових форм знищення культурної ідентичності, зокрема втручання в мовну сферу, освіту, релігійне життя, традиції та звичаї, діяльність культурних інституцій, матеріальну культурну спадщину, а також у міжпоколінний вимір ідентичності через вплив на дітей. Показано, що ці практики мають не фрагментарний, а взаємопов'язаний і повторюваний характер, що дозволяє розглядати їх як елементи цілісної системної політики. Доведено, що сукупність встановлених дій, зокрема поєднання культурного знищення та системного насильства, у відповідному ідеологічному контексті, створює підстави для їх оцінки як юридично значущих індикаторів спеціального наміру, виведеного з патерну поведінки. Практична цінність роботи полягає в можливості використання отриманих результатів у правозастосовній діяльності, під час документування міжнародних злочинів, а також у наукових дослідженнях, присвячених проблематиці геноциду та захисту культурної ідентичності в умовах збройних конфліктів

Ключові слова: стирання культурної ідентичності; примусова асиміляція; знищення культурної спадщини; депортація дітей; порушення культурних прав; міжнародне кримінальне право

Paternalistic limits of procedural guarantees: Psychological and legal aspects of appealing a notice of suspicion

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Abstract. The article presents a critique of the paternalistic architecture of the suspicion appeal process, with the aim of formulating criteria for procedural equality through the integration of the concepts of Justice, behavioural economics, and role conflicts. Using the method of doctrinal analysis, the normative structure of appealing a suspicion was examined, which revealed systemic paternalistic features due to the deferred appeal periods for one or two months, the lack of positively defined criteria for the validity of suspicion, and legal gaps in the mechanism for allocating pre-trial investigation materials. The practice of the Supreme Court and the Supreme Anti-Corruption Court was examined using case studies and content analysis, which showed the dominance of a formal and procedural approach to checking suspicion. Using the functional analysis of official statistics, it is established that the share of satisfied complaints about suspicion in the High Anti-Corruption Court is 58.3% in the first half of 2025, while 35.07% of procedural appeals are completed without consideration on the merits due to procedural grounds. The results of the study showed that the application of an interdisciplinary theoretical framework allowed operationalising the mechanisms of transformation of normative architecture into the psychological effect of powerlessness due to the lack of components of voice, neutrality, and respect. Role conflicts arising from transitions between institutional roles in the criminal justice system further limit the willingness to use formal safeguards. The comparative legal method showed that the French and German systems mitigate institutional dominance through formalised criteria for the validity of suspicion and immediate judicial control. The results supported the hypothesis that the low efficiency of appealing a suspicion is a systemically determined interaction of legal constructs with cognitive biases and role conflicts of participants in the proceedings. The practical significance of the study lies in the development of a system of organisational, procedural, and behavioural recommendations for the transformation of the procedural architecture from a paternalistic to a partner model

Keywords: institutional dominance; pre-trial investigation; judicial control; role conflict; investigating judge; cognitive bias

Introduction

The relevance of the study is due to the systemic need to ensure real, rather than declarative, procedural equality at the early stages of criminal proceedings, where the accusatory version is formed, and the trajectory of further investigation is determined. In the context of the reform of criminal justice in Ukraine and the implementation of European standards of fair justice, the question of how normative guarantees are transformed into the actual ability of a person to counteract unfounded accusations becomes critical. The issue of appealing a notice of suspicion has become particularly important, as it is at this early stage that the procedural framework for future prosecution is formed, and it is practically determined whether a person will have real, rather than declarative, scope for defence. In the Ukrainian criminal process, the paternalistic-accusatory vector remains, in which the institutional superiority of the prosecution is combined with

high psychological pressure on the suspect and their tendency to subordinate behaviour. This makes not only the legal design of safeguards crucial but also how the suspect perceives the fairness of the procedure and their own ability to benefit from it. The normative design of appealing a notice of suspicion creates a number of systemic problems: conflicts of professional loyalty in the case of transitions of lawyers between institutional roles, uncertainty in calculating the terms of appeal in cases of allocation of pre-trial investigation materials, lack of clear criteria for judicial verification of the validity of suspicion, which creates risks of inconsistency of practice and default defer to the position of the prosecutor, which require interdisciplinary analysis.

The focus of the doctrinal analysis of the mechanism for appealing a notice of suspicion was the thesis of its predominantly formalised nature. A. Maksymenko (2020) showed

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that the introduced procedural right to appeal a suspicion largely worked as a tool for monitoring the form and procedure of notification, and not as an effective means of verifying the substantive validity of a suspicion. The author concludes that the normative uncertainty of the limits of judicial control in practice caused an asymmetry when the defence received a formal option, but with a limited ability to influence the criminal procedure trajectory of proceedings. S. Sharenko (2020) underlined that the lack of clear criteria for judicial review in the procedures for appealing suspicion gave rise to variability in the decisions of investigative judges and default deferral to the prosecutor's position as a carrier of discretion. The study effectively outlined the institutional dominance of the prosecution as a systemic prerequisite for the fact that, even in the presence of formal adversarial proceedings, guarantees were implemented selectively and unevenly. In the plane of systematisation of scientific approaches, S. Krymchuk (2020) noted that research into the institution of notification of suspicion and the procedure for appealing it remained fragmented: different authors described the legal nature of suspicion in different ways, and this directly affected what should be subject to judicial review. V. Lavrova (2021) revealed the problem of urgent appeal construction: delaying the possibility of filing a complaint reduced the preventive potential of judicial control and turned the defence into a reactive format. The researcher argued that the time barrier often legitimised the inertia of the prosecution and worsened the procedural situation of the suspect, precisely when psychological vulnerability and the need for an effective means of defence were at their maximum. O. Atamanov (2020) reasoned that the mechanism for changing the notification of suspicion in a practical dimension often served the function of correcting the initial versions of the prosecution, but also created risks of expanding the incrimination without proper procedural transparency for the defence. The paper emphasised that when a change in suspicion was not accompanied by adequate information and guarantees of an immediate response from the defence, this exacerbated paternalistic imbalance and reinforced accusatory inertia.

At the level of conceptual consequences for challenging a suspicion, the conclusions of A. Volobuyev (2024) became indicative. The author argued that a notice of suspicion is, by its nature, an interim procedural decision with inherent variability in content, and therefore, attempts to overturn it through a discussion of the sufficiency of evidence after the initial deadlines for the pre-trial investigation had expired had no practical effect. The author's observation about a side effect was indicative: the prosecution, reacting to the possibility of appeal, tended to over-detail the suspicion, which stylistically and psychologically brought the document closer to a quasi-verdict, increasing pressure and a sense of institutional superiority of the state. Y. Horinetskyy *et al.* (2024) drew attention to the pre-trial segment, where individual rights remained less protected, and effective means of countering procedural abuse were used to a limited extent. The authors' conclusions demonstrated that the longer a person was under procedural influence without a full set of guarantees, the stronger the paternalistic scenario of interaction was fixed, and the more difficult it was to turn the right to challenge suspicion into a real tool for restoring balance. V. Hahach (2024) specified the psychological dimension of pressure on a suspect, showing that certain communication

styles and interrogation tactics can increase suggestibility and the risk of false reports, especially in conditions of status inequality and deficits in defence control.

In the international literature, it is precisely the interdisciplinary angle of view on the validity of the procedure and its behavioural effects that has been strengthened. H. Baker *et al.* (2020), justifying the need for European rules on pre-trial detention, stressed that uneven standards and weak judicial control in the early stages of proceedings created an environment in which procedural decisions actually acquired a coercive character for a suspect. For this topic, it was significant that the authors associated the quality of guarantees with the risks of system pressure and the need for early, effective control. D. Schaap & E. Saarikkomäki (2022) rethought procedural justice in police practice and emphasised that a polite procedure without structural accountability can mask real power asymmetries. The authors' conclusion was relevant for the Ukrainian context because it explained that the formal correctness of the actions of the authorities did not guarantee a subjective sense of justice and a person's readiness to actively exercise their rights, including complaint mechanisms.

H.-H. Kuen (2024) empirically showed that the experience of procedural justice in interaction with the police influenced legitimacy in the perception of citizens and the willingness to comply with legal prescriptions in the dynamics of time; therefore, the psychological component of justice was not rhetoric, but a factor of behaviour. This led to a practical conclusion for criminal proceedings: if the primary communication of the state with a person is unfair or dominant, then it is methodologically naive to expect a suspect to actively and rationally use complex procedural tools. M. Catlin *et al.* (2024), in a systematic review of interview and interrogation techniques, concluded that accusatory and psychologically oppressive approaches increased the risk of false confessions and worsened the diagnostic value of the information received. In the context of challenging a suspicion, this meant that procedural safeguards had to compensate not only for legal defects but also for cognitive-behavioural distortions that were produced by an imbalance of power at the start of proceedings. The analysed studies revealed a gap in the scientific understanding of the mechanism of appealing a notice of suspicion: previous works focused mainly on the normative analysis of procedural structures, leaving out the psychological mechanisms through which the paternalistic architecture of criminal proceedings is transformed into the actual behaviour of suspects and their defenders.

The study aimed to critically evaluate the existing procedures for appealing a notice of suspicion in the Ukrainian criminal process to identify psychological mechanisms of institutional dominance. This goal was determined by the hypothesis that the paternalistic nature of the criminal process in Ukraine forms the psychological effect of institutional dominance, which reduces the effectiveness of the exercise of the right to appeal against suspicion, even if there are formal procedural guarantees.

Materials and methods

The study was conducted in an interdisciplinary methodological framework that combined regulatory analysis with psychological and behavioural theories. The theoretical basis consists of three conceptual approaches analysed by the method of doctrinal analysis of scientific literature. The

concept of procedural fairness of T.R. Tyler (2006) operationalises the perception of justice through the components voice (ability to be heard), neutrality (impartiality), respect, and trustworthy motives (trust in motives). The Behavioural Law approach, in a version of C. Jolls *et al.* (1998), formalises the cognitive biases of process participants. Socio-psychological optics of E. Goffman (1959; 1967) interprets role conflicts through mechanisms to maintain a public image. The principle of avoiding conflicts of interest is analysed through the study by V. Zaborovskiy & V. Manziuk (2015).

The legal framework consists of Constitution of Ukraine (1996), Criminal Procedure Code of Ukraine (2012), Law of Ukraine No. 5076-VI “On the Bar and Legal Practice” (2012), Law of Ukraine No. 889-VIII “On Public Service” (2015), Law of Ukraine No. 2147-VIII “On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and Other Legislative Acts” (2017), Code of Criminal Procedure of French (1959), and Code of Criminal Procedure of Germany (1877). The Constitution of Ukraine is analysed by the method of systematic interpretation through Articles 8, 19, 55, 62, and 64 to establish the limits of permissible state interference. The Code of Criminal Procedure is subject to a doctrinal analysis of articles 276-278 on notification of suspicion, paragraph 10 of Part 1 of Article 303 on appeal against suspicion, Part 1 of Article 304 on the ten-day period for appeal against decisions of an investigator or prosecutor, and Article 217 on allocation of materials. Continental models are examined by the method of comparative legal analysis to identify mechanisms for mitigating institutional dominance.

Judicial practice is studied through the categories of law in books and law in action. The empirical basis was the decisions of the Supreme Court in Case No. 601/473/20 (2021) and Case No. 169/867/21 (2023), official practice reviews of Supreme Court (2021), Decision in Case No. 760/24486/19 (2019) and the official practice review for September 2019 – April 2020 (High Anti-Corruption Court, 2020). The content analysis method is applied to the definitions in Case No. 991/2386/22 (2022) and Case No. 991/4108/24 (2024) to identify typical argumentative patterns and repetitive formulations in the motivational parts of definitions. The international legal standard of reasonable suspension is analysed by the method of teleological interpretation through the decisions of the European Court of Human Rights in the case of Fox, Campbell and Hartley v. The United Kingdom (1991), Case of Murray v. The United Kingdom (1994), and the case of Nechiporuk and Yonkalo v. Ukraine (2011).

The empirical basis consists of the official statistical reports of the High Anti-Corruption Court (2023; 2025a; 2025b) for 2023 and the first half of 2025, the analytical report of the judiciary for 2024 and the results of a national public opinion survey (European Union Advisory Mission Ukraine, 2024). Psychological and legal analysis was applied to evaluate the influence of procedural architecture on the behaviour of a suspect through the theoretical concepts of Tyler, Behavioural Law, and Hoffman.

Results

Regulatory structure for appealing a notice of suspicion. The analysis of the mechanism for appealing a notice of suspicion correlates with the right to judicial protection

and judicial appeal against actions and decisions of authorities, enshrined in Article 55 of the Constitution of Ukraine, and the principle of the rule of law and the direct operation of constitutional norms, established in Article 8, which requires the existence of a real, rather than formal, means of controlling state interference. The constitutional principle of the legality of the activities of public authorities, enshrined in Article 19 of the Constitution of Ukraine, and the general framework on the inadmissibility of arbitrary restrictions on rights and their proportionality and public necessity, established by Article 64, are taken into account to determine the limits of permissible restriction of rights in the pre-trial stage, which provides for operationalising paternalism as a verifiable issue of legitimate purpose, necessity, and minimal interference with the rights of a person at the stage of pre-trial investigation. Separately, the study relies on the presumption of innocence enshrined in Article 62 of the Constitution of Ukraine (1996) as a constitutional barrier against the *de facto* presumption of the correctness of a suspicion, and on the principle of legal certainty as an element of the rule of law requiring foreseeability of legal consequences and understandable criteria for applying procedural restrictions to assess whether a national procedure for challenging a suspicion provides sufficient certainty of the moment and subject matter of judicial control over the validity of a charge.

The Criminal Procedure status of notification of suspicion in Ukraine is formally embedded in the system of guarantees of the right to defence, but the very architecture of these norms demonstrates a paternalistic approach to the balance between public interest and individual autonomy. According to articles 276-278 of Criminal Procedure Code of Ukraine (2012), a notice of suspicion is a procedural decision of an investigator or prosecutor based on the availability of sufficient evidence for a reasonable suspicion of committing a criminal offence and must contain the wording of the suspicion, its legal qualification, a statement of factual circumstances, and an explanation of the procedural rights of the suspect. The legislator establishes three grounds for mandatory notification of suspicion: detention of a person, election of a preventive measure before notification, or availability of sufficient evidence for suspicion. The Code of Criminal Procedure does not contain a positive definition of the criteria for the validity of suspicion, limiting itself to procedural requirements for the form and content of the notification and leaving the issue of sufficiency of evidence to the discretion of the prosecution. Such legislative uncertainty is a manifestation of the paternalistic approach: it is assumed that the state knows better than the addressee of suspicion when the standard of validity has been reached, which directly corresponds to the hypothesis put forward about the paternalistic nature of the criminal process as a source of institutional dominance.

The introduction of the possibility of judicial appeal of a notice of suspicion was due to the need to eliminate the systemic gap in the primary edition of the Criminal Procedure Code of Ukraine (2012), which did not provide for a separate procedural means of verifying the validity of suspicion by an investigating judge at the stage of pre-trial investigation. Law of Ukraine No. 2147-VIII “On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the code of Administrative Procedure of Ukraine and Other Legislative Acts” (2017) the first part of

Article 303 Criminal Procedure Code of Ukraine was supplemented by paragraph 10, which introduced a mechanism for appealing suspicion with temporal restrictions: the right to file a complaint arises after one month for criminal cases misdemeanours or two months for crimes and is terminated from the moment the criminal proceedings are closed or the indictment is sent to the court. This normative construction is directly aimed at preventing a person from staying in the status of a suspect for a long time without effective judicial control over the validity of the charge and corresponds to the pan-European standards of fair trial formulated in the practice of the European Court of Human Rights.

The European Court of Human Rights has formulated standards for the validity of suspicion and judicial control, which are directly applicable to the assessment of the Ukrainian mechanism for appealing a notice of suspicion. In the case of *Fox, Campbell and Hartley v. The United Kingdom* (1991), the European Court of Human Rights emphasised that reasonable suspicion presupposes the existence of facts or information capable of convincing an objective observer that a person may have committed an offence. Even in cases involving terrorism or security, the state must provide a minimally specific factual basis for suspicion for judicial verification; otherwise, the standard turns into a presumption of the rightness of the prosecution. The European Court of Human Rights has explained that the guarantee of notification of the reasons for an arrest under Article 5 §2 of the Convention makes practical sense only when a person is proved to have substantial legal and factual grounds for initiating a test of the lawfulness of a deprivation of liberty. In the case of *Murray v. The United Kingdom* (1994), the European Court of Human Rights specified that a notice must contain a core of legal and factual grounds for a person to assess the legality of an arrest and challenge it, while a bare reference to a rule of law without a factual outline is insufficient. Delayed or narrowed control over the validity of suspicion undermines the perception of procedural fairness and encourages self-restraint of the defence's procedural activity. In the case of *Nechiporuk and Yonkalo v. Ukraine* (2011), the European Court of Human Rights applied the reasonable suspicion standard directly to the Ukrainian context and stated that in the absence of reasonable suspicion, a state cannot detain a person for the purpose of obtaining confessions or facts that will only then create grounds for suspicion. The European Court of Human Rights found a violation due to the lack of a clearly articulated suspicion, which leaves a person in a state of uncertainty and makes it impossible to appeal effectively, and also critically assessed detention without timely judicial review, emphasising the need for a really accessible substantive review of validity at the relevant moment.

However, the very method of securing this right demonstrates a paternalistic character: the legislator limited the range of subjects of appeal to the suspect, his defence lawyer and legal representative, and also introduced a deferred period for the implementation of this right, which actually depends on the pace of the investigation controlled by the prosecution. Additionally, the paternalistic potential is strengthened due to a legal gap in the mechanism for allocating pre-trial investigation materials. Supreme Court (2021) in Case No. 169/867/21 stated that the Criminal Procedure Code does not contain a mandatory norm regarding the calculation of Investigation terms for a person to whom

suspicion is reported after the allocation of materials. This creates an opportunity for procedural manipulation: separating an episode into separate proceedings as the deadline approaches allows the deadlines to be effectively reset to zero, and the moment when the right to appeal the suspicion arises to be postponed.

According to paragraph 10 of Part 1 of Article 303 Criminal Procedure Code of Ukraine (2012), reports of an investigator or prosecutor on suspicion may be appealed during a pre-trial investigation, and such a right arises only after the expiration of 1 month from the date of notification of suspicion of committing a criminal offence or 2 months in case of suspicion of committing a crime and is lost at the time when the prosecutor closes criminal proceedings or applies to the court with an indictment. In contrast to the general ten-day period for appealing most decisions, actions, or omissions of an investigator or prosecutor provided for in Part 1 of Article 304 Criminal Procedure Code of Ukraine, the legislator creates a special deferred regime specifically for suspicion. This leads to situations where the right to appeal becomes declarative: in proceedings with a short period of pre-trial investigation, in the case of a quick referral of the indictment to the court before the expiration of a month or two months, the suspect is factually deprived of the opportunity to file a complaint with the investigating judge. This construction demonstrates paternalistic logic, where the need not to overload the investigating judge with formal complaints in the early stages of the investigation dominates the logic of protection against unjustified criminal repression.

An analysis of the judicial practice of the Supreme Court and the high anti-corruption court indicated the dominance of a formal and procedural approach to the consideration of complaints against a notice of suspicion: judicial control is mainly limited to checking compliance with the procedural form of delivery of the notice and the competence of the official who drew it up, without checking the factual validity of the charges stated in the suspicion. The Supreme Court in its decision in Case No. 601/473/20 (2021) effectively recognised as relevant, first and foremost, the arguments concerning the jurisdiction of the entity and the procedure for service, emphasising that the service of the written text of the suspicion by an investigator other than the one who drafted it does not violate the rights of the suspect, provided that the suspicion was signed by an authorised person and the investigator was a member of the investigation team, thus, the scope of judicial review is limited to the legality of the procedure, rather than the persuasiveness of the evidence. The position of the Cassation Criminal Court regarding the subjects of appeal against decisions on the cancellation of suspicion is recorded in the official review for October 2021: the prosecutor and the victim are not entitled to appeal against the decision of the investigating judge to cancel the notice of suspicion since the reasoning is based on the literal interpretation of paragraph 10 of Part 1 of Article 303, Part 2 of Article 309, and paragraph 7 of Part 1 of Article 393 Criminal Procedure Code of Ukraine (2012). This demonstrates the asymmetry of procedural levers: even when the defence wins at the investigating judge level, the follow-up model remains limited to the prosecution, reinforcing the conclusion that priority is given to procedural certainty and authority, and substantive objections to the evidence base are deferred to other stages of the proceedings.

In the practice of handling complaints about a notice of suspicion under paragraph 10 of Part 1 of Article 303 of the Criminal Procedure Code of Ukraine (2012), the key methodological line is to distinguish between checking whether there is a sufficient factual basis for reporting a suspicion and a full assessment of evidence in the sense of establishing guilt or proof beyond a reasonable doubt. In its official review of court practice for the period from September 2019 to April 2020, the High Anti-Corruption Court (2020) accentuated that the subject of the investigating judge's review covers not only compliance with the procedure for service but also the prosecution's achievement of the minimum standard of sufficient grounds or evidence in accordance with paragraph 3 of Part 1 of Article 276 of the Criminal Procedure Code of Ukraine, i.e. the existence of evidence that objectively links the person to a criminal offence and justifies the continuation of the investigation; nevertheless, the court does not substitute the consideration of the case on its merits, does not establish the presence or absence of a crime, does not verify the correctness of the qualification, and does not assess the evidence as sufficient for a conclusion of guilt. A substantial part of the defence's complaints is formulated as a denial of the unreasonableness of the suspicion due to the lack of sufficient evidence, the inconsistency of the suspicion with factual circumstances, or a reference to a standard beyond a reasonable doubt, in particular, in the case No. 1-ks/4910/268/19 (2019).

The High Anti-Corruption Court (2020) explicitly states that in practice, these arguments shift the subject of verification towards an assessment of evidence on the merits, while courts tend to interpret their role as checking whether there is a minimum sufficient data for the procedural status of a suspect, and not as a mini-examination of the prosecution. In this context, the review formulates a boundary: the standard of sufficient reasons for the purpose of reporting suspicion is lower than the standard of reasonable suspicion, and criminal proceedings require consideration of the European Court of Human Rights' approach to reasonable suspicion as the availability of facts and information capable of convincing an objective observer of a person's possible involvement in an offence. The approach in Decision in Case No. 760/24486/19 (2019) is indicative, where the investigating judge, refusing to dismiss the suspicion, proceeded from the fact that the collected data reached the minimum level of the standard of sufficient grounds, and arguments regarding the proof of guilt and a full assessment of the evidence were dismissed as beyond the scope of review at this stage. The Appeals Chamber of the High Anti-Corruption Court upheld this approach. The cancellation of suspicion is an atypical phenomenon and occurs mainly on procedural grounds, when the court establishes significant defects in the procedural architecture of suspicion, which further confirms the dominance of the formal procedural approach over the substantive verification of the validity of suspicion and reinforces the thesis about the paternalistic nature of judicial verification at the stage of pre-trial investigation.

Empirical data indicate the limited effectiveness of the mechanism for appealing suspicion and the major role of procedural barriers in the exercise of the right to judicial control. According to official statistics of the Supreme Anti-Corruption Court for the first half of 2025, the category of complaints against the investigator's or prosecutor's notice of suspicion amounted to only 37 appeals that were under

consideration in the reporting period, of which 36 were considered. Of the complaints considered, 21 were satisfied, which is 58.3%, 8 complaints were returned without consideration on the merits due to procedural grounds (22.2%), and 1 was rejected. Aggregated data on all categories of complaints against the actions of pre-trial investigation bodies demonstrate a systemic problem of accessibility of judicial control: out of 536 complaints considered, 188 (35.07%) were completed without consideration on the merits, and the return of complaints is almost half of this category (High Anti-Corruption Court, 2025b). According to official HACC statistics, in 2023, out of 218 complaints considered, 13 were satisfied with the notice of suspicion, which is only 6%, while 177 complaints were rejected (81%) (High Anti-Corruption Court, 2023). According to the analytical report of the judiciary for 2024, almost 80 thousand complaints were received about the decisions, actions or inactions of the investigator or prosecutor during the pre-trial investigation; 11.4 thousand complaints were returned, and 56.6% of those that were not returned were satisfied (Supreme Court, 2024a). The high share of procedural appeals for which proceedings end without consideration on the merits is an empirical indicator of the formalisation and complexity of access to judicial control at the pre-trial stage. According to the official analytical report of the High Anti-Corruption Court (2025a) for the first half of 2025, 188 of the 536 complaints against the actions of the investigator and prosecutor, that is, 35%, were completed without considering the merits of the requirements, including the return of complaints as a barrier procedural action. In such a context, the approach of the Criminal Court of Cassation is fundamental, according to which the investigating judge's order to return the complaint cannot be interpreted as a neutral technical action since it effectively blocks the applicant's access to the examination of the merits of the arguments at this stage, and accordingly, such a decision is subject to appeal review. This conclusion is reflected in the official review of the practice of the Cassation Criminal Court for February 2024 with reference to the decision in case No. 761/16819/23 of 01.02.2024, corresponding to the provisions of the Criminal Procedure Code, which expressly allows for an appeal against the decisions of the investigating judge to return or refuse to open proceedings on the complaint (Supreme Court, 2024b).

In terms of legal realism, this means a structural gap between law in books and law in action. At the level of formal legislation, the Criminal Procedure Code of Ukraine (2012) recognises the impugnability of a notice of suspicion, but does so in conditions of postponement for 1 or 2 months and limiting the window of filing a complaint to the framework of a pre-trial investigation until it is closed or an indictment is applied to the court. The basic term of investigation after suspicion for a crime is defined as 2 months, that is, the situation is set normatively when the right to complain and the period within which suspicion determines the trajectory of production significantly overlap. Thus, the normative design of the appeal of suspicion confirms the hypothesis about the paternalistic nature of the criminal process: the postponed terms, the closed list of appealed decisions, the formalistic judicial control, and the manipulative potential of the allocation of materials create a structural gap between formal guarantees and real practice, which is the quintessence of the institutional dominance of the state over the suspect in criminal proceedings.

Psychological mechanisms of institutional dominance and perception of procedural justice. The legal structure constructed in this way forms a specific context for the perception of the process as fair or unfair. The concept of procedural fairness of T.R. Tyler (2006) allows transferring the described phenomena of feelings of powerlessness, distrust, and institutional dominance from an intuitive level to a proven theoretical framework. In the theory of T.R. Tyler, the key determinant of legal behaviour is not only the outcome of the decision but also the perception of the quality of the procedure. There are four central components: voice (the ability to be heard and to have a real influence on the procedure), neutrality (impartiality and consistency of standards), respect (respect and dignity in treatment), trustworthy motives (the belief that decisions are made for legitimate reasons). It is this matrix that explains the mechanism for reducing the effectiveness of appealing a suspicion: even if there is a formal right to complain, the procedure is designed in such a way that the suspect does not expect an honest hearing, and therefore either does not initiate an appeal, or does it symbolically.

The regulatory design of challenging suspicion reinforces the lack of the voice component. The above-described construction of deferred appeal periods and their overlap with the basic terms of pre-trial investigation creates a structural psychological effect: a person who suffers the consequences of suspicion through searches, temporary access to property and documents, reputational losses, a change in status in the eyes of the employer receives a signal that the state recognises the appeal of suspicion as ripe only when the key period has already passed. This affects the neutrality component: suspicion is perceived as an act that is presumed to be correct *de facto*, and judicial control as optional and deferred. In T.R. Tyler's theory, such an architecture reduces the legitimacy of institutions in the perception of the addressee and transforms legal behaviour into avoidance or passivity. A typical situation is when the lawyer, having received a notice of suspicion for the client, advises not to challenge it immediately, arguing that the court will support the investigation at this stage, and suggests waiting for the trial on the merits of the charge, which is a manifestation of acquired impotence.

These behavioural effects are not declarative generalisations: they can be traced in the typical argumentation patterns of the parties and in the repeated wording of the reasoning parts of the decisions of investigative judges. An analysis of the High Anti-Corruption Court's practice (2020) in considering complaints against notices of suspicion shows that in most cases, the defence builds its complaints around allegations that the suspicion is unfounded and that there is insufficient and objective evidence, or that it has not been proven beyond a reasonable doubt. Meanwhile, there is a parallel discussion about the limits of judicial review: whether the investigating judge should assess the evidence base and the validity of the suspicion, or limit the review exclusively to procedural aspects of the delivery of the notification and formal defects in the procedure. It is this inconsistency in determining the subject of verification that forms the ground for acquired helplessness: the participant in the process rationally predicts that their voice will be minimised, and adjusts the procedural behaviour in advance to the expected formalism of the judicial procedure.

At the level of specific court decisions, this is evident in two demonstrative repetitive patterns. The first model – a procedural cut-off of the complaint as premature: the investigating judge states that the suspect did not have the right to appeal before the expiration of the established one-month or two-month period, and the corresponding decision is not subject to appeal; in addition, the court records that even the absence of a copy of the notice of suspicion in the complaint materials makes it impossible to check the procedure and determines the formal return of the complaint. The second model is self-limiting of the defence's reasoning as a manifestation of self-censorship: in practice, the defence sometimes specifically emphasises that additional explanations do not contain an analysis of evidence and are reduced exclusively to procedural defects and violations of the right to defence, that is, the defence adjusts the complaint in advance to the expected acceptable verification format, avoiding a substantive discussion about the actual validity of the suspicion. This strategy is an empirical marker of institutional dominance: formally, the right to appeal is implemented, but the actual component of the voice is reduced to narrow procedural comments, which psychologically reduces the readiness for procedural confrontation and increases the default of passive procedural behaviour.

An additional factor in the formation of institutional dominance is the general background of public confidence in law enforcement agencies and the judiciary. According to the results of a nationwide public opinion poll conducted by the rating sociological group in September 2024 commissioned by the European Union Advisory Mission in Ukraine, the level of trust in the Prosecutor General's Office and the National Anti-Corruption Bureau is about 33%, while more than 60% of respondents express distrust of these institutions; the lowest level of trust is recorded in the judiciary, where only 25% of respondents trust it, while 72% – do not (European Union Advisory Mission Ukraine, 2024). These data demonstrate that for a notable part of the population, interaction with pre-trial investigation bodies, the Prosecutor's Office, and the courts takes place in conditions of a lack of basic trust. In this context, any manifestation of normative paternalism is perceived not as a rational technical condition for organising the process, but as a confirmation of the asymmetry of power and opportunities between the prosecution and the suspect.

The Behavioural Law approach allows formalises what is traditionally described as fear, demoralisation, and resource inequality, showing that the low effectiveness of challenging suspicion is the result of people's predictable behaviour under pressure from risk, uncertainty, and authority. The classical framework of Behavioural Law is based on the fact that participants in legal relations systematically deviate from the model of a completely rational subject due to limited rationality (inability to process all information), limited willpower (tendency to delay complex decisions), and bounded egoism (influence of social norms on decision-making) (Jolls *et al.*, 1998). In the context of reporting suspicion, this manifests itself in several cognitive mechanisms. The default effect and status quo: if the norm establishes a deferred appeal period of 1 or 2 months, the default becomes non-appeal during the most psychologically critical period. Avoidance of losses: the person is afraid of worsening the situation due to conflict with the system because of the risks of harsher procedural decisions, so they overestimate the

potential losses from active procedural behaviour. Accessibility and authority heuristics: the information field in which the suspect receives a signal that the state has already made the decision supports the cognitive attitude that the accusatory version is a priori stronger. Procedural complexity effect: formally neutral procedural requirements for a non-specialist become the cost of entry, and the person acts according to the rule of minimising cognitive costs. Shift to the present: the advantage of immediate stress reduction over a delayed chance of a positive legal effect. The decision of an investigator or prosecutor and the subsequent reaction of the court may be vulnerable to systemic cognitive biases: the anchor effect (the initial version of the prosecution sets the perception framework), confirmation bias (the tendency to confirm the initial suspicion), authority bias (increased confidence in the position of a state body), status quo bias (inertia to support a procedural decision already made). Combined with a lack of a full-fledged voice of defence, this creates a psychological effect of institutional dominance: the procedure formally exists, but its behavioural design systematically shifts the result towards confirming suspicion.

Role conflict in the context of appealing a notice of suspicion is a manifestation of a broader phenomenon of transitions between institutional roles in the criminal justice system: a lawyer with previous experience as a judge or prosecutor, a judge with experience as a prosecutor, or a prosecutor with previous practice of law. Each of these professional trajectories forms a specific set of institutional loyalties, procedural habits, and internal regulatory guidelines that can influence strategies for procedural behaviour and perception of the limits of acceptable procedural resistance. A judge swears to administer justice objectively and impartially (Article 54 of the Law of Ukraine No. 1402-VIII “On the Judicial System and the Status of Judges” (2016)), and the Code of Judicial Ethics (2013) establishes the obligation to avoid conflicts of interest and conduct that may raise reasonable doubts about impartiality. Law of Ukraine No. 1697-VII “On the Prosecutor’s Office” (2014) establishes in Article 18 the principles of impartiality, the rule of law, and the prevention of conflicts of interest in the activities of the prosecutor. Law of Ukraine No. 5076-VI “On the Bar and Legal Practice” (2012) sets out in Article 11 the text of the oath of a lawyer of Ukraine, where the lawyer undertakes to comply with the Constitution of Ukraine (1996), the laws of Ukraine, and the rules of lawyer ethics, while Article 4 establishes the principles of independence, confidentiality, and priority of the client’s interests as the basis of advocacy. These normative oaths function as psychological markers of professional identity and form different normative expectations regarding priorities, style of procedural communication, and boundaries of procedural activity.

The transition between institutional roles generates cross-loyalty not automatically, but in the presence of specific conditions related to the intensity of previous professional experience, the length of stay in the previous role, the nature of preserved professional networks, and the degree of internalisation of institutional norms. A legal conflict of interest in a narrow sense requires the existence of a specific private interest or connection capable of affecting impartiality. Instead, in socio-psychological optics, the previous role can influence procedural strategies through internalised institutional behaviour scenarios, preserved professional connections, reputational risks in narrow professional communities,

and the habit of an institutionally acceptable argumentation style. The legislation establishes preventive mechanisms for situations of increased risk of interinstitutional mobility: in particular, Article 26 of the Law of Ukraine No. 1700-VII “On Preventing Corruption” (2014) establishes restrictions on part-time work and combining with other types of activities, in addition to the limitations after the termination of activities related to the performance of state or local government functions, which provides for a ban for a year to engage in activities that may lead to a conflict of interest.

The previous role in the opposite institutional position can influence the perception of procedural fairness when challenging a notice of suspicion through two mechanisms. Firstly, at the level of the voice component of T.R. Tyler’s concept of procedural justice, a lawyer with experience in court or the prosecutor’s office can adjust the complaint in advance to the expected formalism of judicial review and avoid substantive criticism of the validity of the suspicion, reducing the argument to procedurally safe formal objections. Secondly, at the level of the neutrality component, there is an increased sensitivity to informal norms of institutional interaction, which can give rise to self-censorship and strategic minimalism as a rational adaptation to the dominant expectations of the criminal justice system. According to the theory of E. Goffman (1967), professional roles are sets of expectations and behaviour scenarios, and institutions reproduce them through mechanisms to maintain public image and reinforce the authority of institutional speech. E. Goffman (1959) uses a theatrical metaphor, distinguishing between the front stage (the space of public performance of a role) and the back stage (behind the scenes, where deviations from formal prescriptions are possible). In criminal proceedings, this is manifested as the tendency of the actors of the system to maintain a consistent image of the legality of the actions of pre-trial investigation bodies, which psychologically complicates the recognition of suspicion as unfounded for those who previously themselves were in the role of a representative of the criminal justice system. Nevertheless, with formal safeguards in place, such as self-recusal or recusal, restrictions on representing interests related to a former body, ensuring transparency of procedural contacts, and sufficient time between roles, these psychological effects can be neutralised and should not be presumed inevitable.

The patterns of self-limiting argumentation and procedural cut-off of complaints described above are consistent with the theoretical model of role conflict, where participants in the process with previous experience in state criminal justice bodies tend to minimise confrontation with institutionally close bodies, choose careful procedural strategies, and engage in self-censorship in assessing realistic chances and procedural risks. In a study by V. Zaborovskiy & V. Manziuk (2015), the principle of avoiding conflicts of interest is considered as one of the principles of advocacy, ensuring the implementation of the principles of independence and confidentiality. The authors analyse the legal nature of this principle, which is both the right of a lawyer in relations with other entities to preserve confidential information and the obligation not to disclose it. The study explores situations when a lawyer who previously held the position of a civil servant finds himself in a situation of conflict between loyalty to the public service and the independence of professional protection of the client’s interests, which creates a normative and ethical context of

double loyalty in the practice of law. The authors stress that a trusting relationship between a lawyer and a client is impossible if there is even a potential conflict of interest. The oath functions as a psychological and normative marker of the role, and the role as an explanatory variable for the

behaviour of a participant in the process at the stage of appealing a suspicion. A systematisation of the application of theoretical concepts of procedural justice, behavioural economics, and role conflicts to specific stages of the suspicion appeal procedure is presented in Table 1.

Table 1. Matrix of applying psychological theories to the stages of appealing a suspicion

Stage	Tyler: procedural justice	Behavioural Law: cognitive mechanisms	Goffman: role conflicts
1) Notification of suspicion	Voice: a symbolic voice without influence. Neutrality: a formal guarantee with no real access. Respect/Motives: the state's position as "ripe"	Authority heuristic: authorities are right. Loss aversion: fear of making things worse. Default: non-appeal as the norm	The role of "suspect" is imposed. Previous experience in the opposite institutional role can shape role conflict and cross-loyalty
2) Waiting time (1-2 months)	Voice: delayed justice destroys timeliness. Neutrality: the procedure supports the state through time	Default: passivity becomes the norm. Present bias: immediate stress > delayed benefit. Heuristics: low efficiency demotivates	Minimisation of confrontation with the "institutional team". A participant in the process with previous experience in criminal justice bodies (court/prosecutor's office/investigation) is more likely to choose soft, non-confrontational strategies
3) Preparation of an appeal	Neutrality: the court as "part of the system". Respect: 14% of returned complaints as disrespect. Motives: 10-15% success rate undermines trust	Heuristics: knowledge of failures reduces readiness. Loss aversion: uncertain costs with low probability. Framing: complexity as an "entry cost"	Impression management: building the "right" role before the court. Cross-loyalty: maintaining a "face" before the institution and its informal norms may dominate over confrontational tactics
4) Consideration by the court	Voice: formal provision without consideration. Neutrality: formalism instead of evaluating validity. Respect: motivation with the presumption of the correctness of the accusation	Framing: the process as a "technical check". Authority bias: trust in the government agency. Confirmation bias: confirmation of the original version	Court session as a "front stage": compliance with assigned roles. Previous institutional experience reinforces conformity in criticism of the investigation/prosecutor's office and the tendency to act within the framework of "acceptable" discourse for the institution
5) Decision and strategy	Negative decision: undermines all components, creates a perception that formal guarantees are meaningless. Positive: rarity (10-15%) as an exception	Acquired helplessness: giving up on resistance. Sunk cost: expenses do not motivate repetition. Loss aversion: fear of repeated losses	Consolidating the role of "loser to the system". Professional self-censorship: failure as confirmation of the limits of institutional resistance

Source: compiled by the authors on the basis of the E. Goffman (1959; 1967), C. Jolls *et al.* (1998), T.R. Tyler *et al.* (2015), Law of Ukraine No. 5076-VI "On the Bar and Legal Practice" (2012), High Anti-Corruption Court (2025a)

The matrix presented in Table 1 demonstrates the cumulative nature of psychological pressure on a suspect during all stages of the suspicion appeal procedure. The three theoretical concepts mutually reinforce each other: T.R. Tyler's lack of procedural justice components creates a favourable environment for the cognitive biases described in Behavioural Law, and Hoffman's role conflicts further limit the willingness to use formal safeguards. At each subsequent stage of the procedure, negative experience accumulates, which systematically reduces the legitimacy of institutions in the perception of the suspect and transforms legal behaviour from active use of guarantees to passive acceptance of the imposed status. The matrix allows operationalising abstract theoretical concepts through their application to specific procedural situations, enabling the empirical testing of the institutional dominance hypothesis. The methodological value of such systematisation lies in the fact that it explains the mechanisms through which the paternalistic architecture of the criminal process is transformed into the psychological effect of impotence and passivity. Particularly, the matrix explains statistical data on the low efficiency of appealing suspicions, the high proportion of returned complaints, and general distrust of judicial institutions not as random phenomena, but as natural consequences of the sys-

temic interaction of regulatory restrictions, cognitive biases, and institutional role conflicts, which confirms the systemically determined nature of institutional dominance in the Ukrainian criminal process.

Thus, the application of the theories of T.R. Tyler, Behavioural Law, and Hoffman demonstrates that the low efficiency of challenging a suspicion is a systemically deterministic paternalistic architecture of the process: psychological mechanisms turn formal law into a tool that suspects rationally avoid using, which confirms the hypothesis of institutional dominance as a psychological effect of the paternalistic nature of the criminal process.

Criteria for real procedural equality and recommendations for minimising institutional dominance. Real procedural equality in the field of challenging a suspicion can be determined through a system of criteria that correlate with the mechanism of the Criminal Procedure Code of Ukraine (2012), can be tested in practice through the category of law in action and covers the psychological component of perception of justice. The test of accessibility of control presupposes the existence of a real window of Appeal at the moment when a suspicion gives rise to the most significant consequences, which can be measured through an analysis of whether the suspect has an actual

opportunity to challenge the suspicion before irreversible procedural consequences occur or the proceedings are closed. The information symmetry criterion means the minimum standard of access of the defence to the factual basis of reasonable suspicion before or during the examination of the complaint, which can be verified by the existence of an evidence disclosure procedure at the stage of consideration of the complaint of suspicion. The procedural time criterion provides for the possibility for a suspect to receive a court decision within a time limit that makes practical sense, given the general terms of investigation after suspicion, which can be measured by the average time for consideration of complaints of suspicion by investigating judges. The test neutrality criterion requires the court to apply a consistent standard for assessing the validity of a suspicion, which is not replaced by the presumption that the prosecution's position is correct, which can be verified through an analysis of the reasoning parts of court decisions as to whether the court is investigating the factual basis of the suspicion or is limited to formal verification. The resources non-discrimination criterion means the absence of practices where a prosecution gains a procedural advantage through control of access to materials or the pace of proceedings, which can be measured by the frequency of cases where the allocation of materials is used to circumvent the investigation deadlines. The criterion of respect and procedural dignity implies fixed requirements for the motivation and communication style of the court and the prosecutor, ensuring the component of

respect in T.R. Tyler's sense, which can be verified through the existence of standards for motivating decisions to refuse to revoke suspicion.

For comparison, it is useful to refer to Continental models of criminal proceedings. In France, the *mise en examen* institute is associated with the requirement for indicators graves "ou concordants" (serious or consistent indicators), and the decision to maintain or review the status must be motivated; at the same time, the procedural model provides for appeal mechanisms for the person in respect of whom the instruction is performed (Code of Criminal Procedure of France, 1959). The Code of Criminal Procedure of Germany (1877) demonstrates a different logic: intensive judicial control of suspicion is concentrated primarily in the nodes of coercion, for example, detention is possible only if there is a *dringender Tatverdacht* (urgent suspicion) and a corresponding *Haftgrund* (grounds for imprisonment), and the *Beschwerde* tool (complaint against procedural decisions) ensures that court decisions and orders are reviewed within certain limits. For the Ukrainian theme, this is a control standard: in Continental models, institutional dominance is softened by the fact that the threshold of suspicion and its judicial review are formalised through criteria and procedural channels, while the Ukrainian design of challenging suspicion requires a clearer behavioural design and motivation standards. The systematisation of key parameters of the Ukrainian mechanism for appealing suspicion in comparison with the French and German models is presented in Table 2.

Table 2. Comparative analysis of suspicion standards and judicial control mechanisms

Parameter	Ukraine	France	Germany
Regulatory status name	Suspect (status via notification of suspicion)	"Mise en examen" (taking under investigation by an investigating judge)	"Beschuldigter" (accused; status due to the actions of the prosecutor)
Validity standard	"Sufficient evidence"; the criteria are not specified in the Criminal Procedure Code of Ukraine	"Indices graves ou concordants" (serious/consistent indicators)	"Anfangsverdacht" (initial), "hinreichender Tatverdacht" (sufficient), "dringender Tatverdacht" (urgent for the guard)
The moment when the right to appeal arises	After 1 month (misdemeanour) or 2 months (crime)	After notification of "mise en examen"; procedure "demande de requalification"	Appeal against specific restrictions (<i>Haftprüfung</i> , <i>sofortige Beschwerde</i>)
Terms of initiation	1-2 months of delay + until the closure of the proceedings or applying to the court with an indictment	10 days from notification; to change the status every 6 months	"Haftprüfung" periodically; "sofortige Beschwerde" no strict deadlines
Subjects of appeal	Suspect, defence lawyer, legal representative	Person under "mise en examen"; decisions of the investigative chamber	The accused, through "Haftbeschwerde" and appeal
Subject of verification	Formal legality/validity; de facto formal verification	Assessment of the preservation of grounds through "indices graves ou concordants"	Standard of specific intervention (<i>dringender Tatverdacht</i> + grounds)
Instantiation	Investigating judge; limited appeal (prosecutor/victim does not appeal cancellation)	"Chambre de l'instruction" (appeal instance, 10 days)	"Beschwerde/sofortige Beschwerde" to the Supreme Court; special "Haftprüfung"
Consequences of cancellation	Decision to cancel suspicion; consequences are not detailed	Status "témoin assisté" (assisted witness) with fewer restrictions	Release from custody; the prosecutor's office may close the proceedings (<i>Einstellung</i>)

Source: compiled by the author based on the Code of Criminal Procedure of Germany (1877), Code of Criminal Procedure of France (1959), Law of Ukraine No. 5076-VI "On the Bar and Legal Practice" (2012)

The presented comparative analysis in Table 2 shows structural differences between the Ukrainian paternalistic model of judicial control over suspicion and European

continental analogues. The main difference is that the French and German systems formalise the criteria for the validity of suspicion through specific standards of proof

and provide immediate or periodic judicial control without significant time delays. The Ukrainian mechanism is characterised by the lack of clear criteria for the sufficiency of evidence, a deferred appeal period, and the mostly formal nature of the judicial review. In Continental models, institutional dominance is mitigated through multi-level standards of suspicion and extensive procedural channels of Appeal, while the Ukrainian construction requires a clearer behavioural design and standards of motivation to ensure real, rather than declarative, procedural equality. The comparison reveals systemic shortcomings of the Ukrainian model, which are directly related to the proposed hypothesis of the study: the lack of formalised criteria for validity and delayed access to judicial control create a space for the arbitrary use of procedural powers by the prosecution. Continental experience shows that the effectiveness of judicial control over suspicion is ensured not only by declaring the right to appeal but also by specifying standards of proof, minimising time barriers and ensuring meaningful, rather than formal, verification of the validity of suspicion by the court.

Recommendations are structured in three areas: organisational, procedural, and behavioural. Organisational recommendations include the introduction at the judicial administration level of standardised minimum requirements for the processing and admissibility of complaints through the development of procedural templates and methodological recommendations for suspects and defenders, considering the high share of returned complaints, which is about 14% of the total number filed, according to official statistics for 2024. Statistical monitoring of the category of complaints about suspicion and publication of generalisations of practice in official analytical reports of the judiciary with the allocation of separate indicators for complaints under paragraph 10 of Part 1 of Article 303 Criminal Procedure Code of Ukraine (2012) increases predictability and reduces institutional fear due to better awareness of the participants in the process about the chances of success of the appeal. Training modules for investigating judges and prosecutors on the psychology of procedural justice, according to T.R. Tyler, as a practical standard for communication and decision motivation, are necessary since trust in procedure is a behavioural resource for the implementation of rights, and the components of voice, neutrality, respect, and trustworthy motives should be integrated into judicial practice through appropriate training programs.

The procedural recommendations provide for amendments to the Criminal Procedure Code of Ukraine (2012) by adding Part 1 of Article 303 of the Criminal Procedure Code of Ukraine with a provision that allows immediate appeal against a notice of suspicion in cases where a preventive measure has been chosen on the basis of suspicion, property seizure, or other significant restrictions on a person's rights since postponing an appeal for 1 or 2 months in such cases deprives the remedy of practical meaning. Establishing a minimum package of disclosure of the factual basis of suspicion for the purposes of consideration of a complaint by supplementing Article 303 Criminal Procedure Code of Ukraine with the requirement that the prosecutor, together with the response to the complaint, provide the investigating judge with an extract from the materials of the proceedings justifying the suspicion, with the possibility of familiarising the defence with these materials in a mode that does not violate the secrecy of the pre-trial investigation. Unification of the

rules for calculating the terms and time of occurrence of the right to complain in cases of allocation of materials or changes in qualifications through amendments to Articles 217 and 303 of the Criminal Procedure Code, which clearly define that the allocation of materials in relation to an already suspected person does not change the moment of occurrence of the right to appeal against suspicion and does not reset the terms of pre-trial investigation, which are counted from the date of initial entry of information into the Unified Register of Pre-trial Investigations. Establishing clear criteria for the reasonableness of suspicion in Article 276 of the Criminal Procedure Code of Ukraine by setting the requirement that sufficient evidence for suspicion must include specific factual data that objectively links a person to a criminal offence and complies with the reasonable suspicion standard formulated by the European Court of human rights in case of *Fox, Campbell and Hartley v. the United Kingdom* (1991) and case of *Murray v. the United Kingdom* (1994).

Behavioural recommendations cover the standards of communication of the prosecution through the approval at the Office of the Prosecutor General of methodological recommendations on the content of the notice of suspicion, which provide for written explanations of rights in a clear format without using complex legal terminology, avoiding threatening rhetoric in the text of suspicion, and fixing neutral wording that describes factual circumstances without value judgments. For lawyers in situations of potential double loyalty, it is recommended to introduce self-declaration and conflict of interest management procedures. The rules of lawyer ethics should contain provisions obliging the lawyer to inform the client about the existence of past ties with the pre-trial investigation bodies or the prosecutor's office and obtain the client's informed consent to representation, subject to such communication. This requirement follows from the principle of avoiding conflicts of interest described above in the context of role conflicts of advocacy. It is mandatory for the court to give reasons for decisions in a language that demonstrates neutrality and respect, through the approval of standards for the motivation of decisions refusing to quash suspicion, which provide not only a reference to procedural rules but also a specific analysis of the factual basis of suspicion with an explanation of why the court considers it sufficient in accordance with the standard of reasonable suspicion. The proposed criteria and recommendations are aimed at minimising institutional dominance through the transformation of the procedural architecture from a paternalistic to a partner model, where judicial control over suspicion is a real tool for verifying the validity of charges, and not a symbolic procedure for confirming the position of pre-trial investigation bodies.

Discussion

The results obtained allow interpreting the current Ukrainian model of appealing a notice of suspicion as a construction in which formal recognition of judicial control is combined with procedural parameters that narrow the timeliness and intensity of verification of the actual basis of suspicion. The normative design, which includes the absence of positively defined criteria for sufficient evidence, the delayed emergence of the right to appeal for one or two months, the limitation of the window for filing a complaint within the framework of a pre-trial investigation until the time of closing the proceedings or applying to the court with an

indictment, along with the potential for procedural manoeuvring through the allocation of materials, gives grounds to consider suspicion both as a tool for informing a person about the grounds for criminal prosecution and a mechanism capable of structuring the further trajectory of proceedings until control becomes available. G. Jansen (2021) analyses the need to update the roadmap of procedural safeguards in Europe from the perspective of a practising lawyer and formulates the thesis that procedural safeguards only work if there is a workable design of remedies that provides real access at an early stage. The delayed nature of access to control revealed in the results reduces its effectiveness precisely at a time when the consequences of suspicion are most intense due to searches, property seizures, reputational, and organisational losses. L. Graham (2023), examining the relationship between freedom and its exceptions in an internationally comparative plane through the prism of Article Five of the European Convention on human rights, demonstrates that the legal justification of early restrictions on rights in criminal proceedings requires control over the factual basis of interference, which correlates with the problem of normative uncertainty of the standard of sufficiency of evidence for suspicion, which factually transfers the establishment of the threshold of suspicion to the discretion of the prosecution. E. Turkut & A. Garahan (2020) analyse the reasonable suspension Test in the Turkish emergency regime after the coup attempt and highlight the role of judicial deference to the state, providing analytical optics to explain how the formal presence of the European standard can co-exist with practices that actually reduce the intensity of its application. The results of the study demonstrate a different mechanism of differentiation: not through an emergency regime, but through a combination of deferred appeal deadlines and procedural-oriented control, which basically does not go to the assessment of the actual basis of suspicion of content close to the objective verification of the standard of the European Court of Human Rights.

The problem of judicial control formalism, which is recorded in the results based on the material of national practice through the approaches of the Supreme Court and the generalisation of the High Anti-Corruption Court regarding the limits of verification, receives additional explanation through research on cognitive mechanisms of legal decision-making and the inertia of the primary version of the prosecution. C. Winter (2020) examines the importance of behavioural economics for judicial decision-making in the European Union and describes that even with formally neutral procedures, judicial thinking can be sensitive to anchors, inertia, and heuristics that affect the way information is interpreted, which correlates with the fact that the initial proclamation of suspicion sets the stage for further procedural logic, and delayed access to appeal reinforces the status quo effect. D. Teichman *et al.* (2023) compare biases in the legal decisions of prosecutors, defence lawyers, law students, and non-professionals and demonstrate that role positions in the criminal justice system influence the assessment of probabilities and the evidentiary value of information, which is consistent with the thesis about the asymmetry of resources and information between the prosecution and the defence at the suspicion stage. E. Elaad (2022) examines tunnel vision and confirmation bias in investigators and ordinary citizens in hypothetical criminal contexts and finds that the

primary version of an event can stabilise in the minds of procedural actors and create selective information selection that reduces the likelihood of early-stage suspicion revision. A. Melcarne *et al.* (2022) analyse the interaction of prosecutors and judges on the material of French traffic violation cases through the prism of imbalances in punishment decisions and demonstrate that institutional interactions in criminal justice can influence results even if there are formally uniform rules, which can be seen as an explanatory framework for why judicial verification of suspicion tends to a minimum standard and why the cancellation of suspicion occurs mainly due to procedural defects, and not due to a reassessment of the factual basis. J. Cabell *et al.* (2020) describe a taxonomy of the effects of interrogation techniques and their impact on guilty and innocent suspects through an assessment of the effects of different methods of obtaining information, which supports the thesis that the quality of primary information and the way it is obtained affect the reliability of suspicion, and therefore the content of the minimum standard that the investigating judge actually checks, and if judicial control is focused on the form and access to its initiation is delayed, then the mechanisms for correcting possible errors in early information are transferred to later stages, where the status of the suspect has already managed to create procedural and social consequences.

The high percentage of satisfied complaints against the notice of suspicion in the High Anti-Corruption Court (58.3% in the first half of 2025) is combined with a high proportion of procedural returns of complaints without consideration on the merits (35.07% of all categories of complaints), which gives grounds to consider the availability of judicial control as a parameter subject to measurement and institutional audit. A study by S. St. Louis (2023) determines that early procedural decisions on preventive measures affect the subsequent outcome of a case, in particular, the propensity for plea agreements, convictions, and severity of penalties, which is applicable as an explanation for why timely monitoring of suspicion can influence the behaviour of participants in proceedings through a change in the balance of risks and incentives and push for strategies to minimise losses and delay active procedural actions. A. Martufi & C. Peristeridou (2020) analyses the objectives of pre-trial detention and the search for alternatives in the European context and demonstrates that the early stages of criminal proceedings require safeguards since it is at this stage that disproportionate consequences may arise in conditions of institutional inertia, which correlates with the conclusion that a delayed appeal against suspicion and a narrow window of its implementation weaken the proportionality mechanisms at the moment when suspicion actually determines the procedural regime.

The psychological block of results through the theoretical matrix of T.R. Tyler, Behavioural Law, and Hoffman finds support in foreign empirical works on the perception of procedural justice in criminal proceedings. J. Ansems *et al.* (2021) examine the subjective perception of procedural justice among defendants and accused persons and establish a link between how institutions provide the opportunity to be heard through the voice component, demonstrate neutrality through the neutrality component, and show respect through the respect component, which, within the scope of the results obtained, correlates with a deficit of voice,

institutionally embedded in the deferred right of appeal, where the procedure formally exists, but the signal of its admissibility appears after a period when the suspicion has already had consequences. M. Van Hall *et al.* (2024) review the perception of procedural justice among detainees through qualitative interviews and its connection to satisfaction and legitimacy of institutions describe that for the addressees of the process, not only the outcome matters, but also the manner of interaction with the police, the prosecution and the court, and demonstrate that the experience of fair treatment increases cooperation and acceptance of institutional decisions. While the results obtained describe a situation where the very design of access to control and the high proportion of procedural appeals returned shape the perception of the system as one that does not encourage early procedural activity, and therefore, even with proper communication in specific proceedings, structural time, and procedural barriers may have a greater impact on behaviour than interpersonal aspects of interaction, which is explained by differences in institutional contexts, where in the compared foreign data sets, procedural accessibility of control is often considered a given condition, where the results obtained indicate its deficiency as a separate variable.

The results of the study show that the Ukrainian design of appealing a notice of suspicion functions as a combination of delayed access to control and practices that tend towards procedural verification instead of analysing the actual basis of suspicion. The revealed gap between the norm on paper and the practice of its implementation is formed through the interaction of normative design, cognitive decision-making mechanisms by procedural actors, and the perception of procedural justice by suspects in conditions of limited access to control. Early procedural decisions on suspicion can influence the trajectory of the case and the behaviour of participants through the structure of incentives and risks, and the lack of a voice component through time barriers reduces the legitimacy of institutions in the perception of suspects. The inertia of the initial version of the prosecution, reinforced by delayed judicial control, creates conditions for stabilising the suspicion without checking its factual basis at an early stage, which transfers the mechanisms for correcting possible errors to later stages of the proceedings.

Conclusions

The study was devoted to the analysis of paternalistic limitations of procedural guarantees for appealing a notice of suspicion in criminal proceedings of Ukraine through the prism of normative construction, psychological mechanisms, and criteria for real procedural equality. The hypothesis that the paternalistic nature of the criminal process forms the psychological effect of institutional dominance, which reduces the effectiveness of the exercise of the right to appeal against suspicion even if there are formal procedural guarantees, was confirmed through a comprehensive normative, empirical, and theoretical analysis.

The normative design of the appeal against suspicion revealed systemic paternalistic features: the time limits for appeal were postponed for 1 or 2 months, the lack of positively defined criteria for the validity of suspicion, a legal gap in the mechanism for allocating pre-trial investigation materials, and a limited window for filing a complaint until the proceedings were closed or an indictment was

applied to the court. The analysis of the judicial practice of the Supreme Court and the High Anti-Corruption Court indicated the dominance of the formal procedural approach, when the border of judicial control is drawn along the line of legality of the procedure, and not the persuasiveness of evidence, which confirms the structural gap between formal guarantees and real practice. Empirical data demonstrate the limited effectiveness of the mechanism: according to the statistics of the Supreme Anti-Corruption Court for the first half of 2025, the share of satisfied complaints against reports of suspicion is 58.3%, while 22.2% of complaints are returned without consideration on the merits due to procedural grounds, and aggregated data on all categories of complaints against the actions of pre-trial investigation bodies indicate that 35.07% of procedural appeals are completed without consideration on the merits of claims. The application of T.R. Tyler's theories of procedural justice, the behavioural economics of law, and Hoffman's role conflicts allowed operationalising the mechanisms for transforming normative architecture into the psychological effect of impotence due to the lack of components of voice, neutrality, respect, and trust in motives, which systematically reduces the legitimacy of institutions in the perception of a suspect. Role conflicts that arise in the context of transitions between institutional roles in the criminal justice system, particularly when a lawyer has previously held the position of judge, prosecutor, or worked in pre-trial investigation bodies, further limit the willingness to use formal guarantees due to the tendency to minimise confrontation with bodies perceived as institutionally close, which increases the psychological barrier to the exercise of the right to appeal against suspicion. A comparative analysis of the French and German models has exhibited that continental systems mitigate institutional dominance through formalised criteria for the validity of suspicion, multi-level standards of proof, and immediate or periodic judicial review without significant time delays. Based on the criteria of real procedural equality, a system of organisational, procedural, and behavioural recommendations for the transformation of the procedural architecture from a paternalistic to a partner model is formulated.

The results obtained are of conceptual importance for understanding the mechanisms of institutional dominance in criminal proceedings as a systemically determined phenomenon that occurs not only through regulatory defects but also through the interaction of legal structures with cognitive biases and role conflicts of participants in proceedings. Promising areas of further research are the empirical analysis of the impact of amendments to the Criminal Procedure Code on the effectiveness of appealing a suspicion, the examination of the practice of applying procedures for managing conflicts of interest of lawyers, and the study of the relationship between the style of motivating court decisions and the perception of procedural justice by suspects.

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Патерналістські межі процесуальних гарантій: психологічні та правові аспекти оскарження повідомлення про підозру

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Анотація. У статті представлено критику патерналістської архітектури процесу оскарження підозри, з метою формулювання критеріїв процесуальної рівності через інтеграцію концепцій справедливості, поведінкової економіки та рольових конфліктів. Методом доктринального аналізу досліджено нормативну конструкцію оскарження підозри, що виявило системні патерналістські риси через відкладені строки оскарження на один або два місяці, відсутність позитивно визначених критеріїв обґрунтованості підозри та правові прогалини у механізмі виділення матеріалів досудового розслідування. Методом кейс-стаді та контент-аналізу досліджено практику Верховного Суду та Вищого антикорупційного суду, що засвідчила домінування формально-процедурного підходу до перевірки підозри. Методом функціонального аналізу офіційної статистики встановлено, що частка задоволених скарг на підозру у Вищому антикорупційному суді становить 58,3 % у першому півріччі 2025 року, водночас 35,07 % процесуальних звернень завершується без розгляду по суті через процесуальні підстави. Результати дослідження демонструють, що застосування міждисциплінарної теоретичної рамки дозволило операціоналізувати механізми трансформації нормативної архітектури в психологічний ефект безсилля через дефіцит компонентів голосу, нейтральності та поваги. Рольові конфлікти, що виникають за умови переходів між інституційними ролями у системі кримінальної юстиції, додатково обмежують готовність використовувати формальні гарантії. Порівняльно-правовий метод виявив, що французька та німецька системи пом'якшують інституційне домінування через формалізовані критерії обґрунтованості підозри та негайний судовий контроль. Результати підтверджують гіпотезу, що низька ефективність оскарження підозри є системно детермінованою взаємодією правових конструкцій із когнітивними упередженнями та рольовими конфліктами учасників провадження. Практична значимість дослідження полягає в розробці системи організаційних, процесуальних та поведінкових рекомендацій щодо трансформації процесуальної архітектури від патерналістської до партнерської моделі.

Ключові слова: інституційне домінування; досудове розслідування; судовий контроль; рольовий конфлікт; слідчий суддя; когнітивні упередження

Value-based principles of professional training for police officers: Paradigm approach

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Abstract. The relevance of the study is conditioned by the growing public demand for accountable, human-centred and law-oriented police activities, and the need to coordinate the national training model with international standards in the field of human rights and professional ethics. The purpose of the study was a systematic analysis and conceptualisation of approaches to understanding the value principles of professional training of police officers in contemporary scientific discourse and determining their socio-legal significance for Ukraine. To achieve this goal, a set of complementary methods was applied: a systematic review of scientific sources, thematic classification of research, logical deductive and conceptual analysis, and a comparative legal method. It was established that contemporary scientific discourse develops within the framework of three main approaches: normative, axiological and identification, and institutional and competence. The first considers values as principles consolidated in legal acts and codes of ethics; the second – as internal beliefs and a component of professional identity; the third – as integrated elements of educational standards and learning outcomes. However, there is no complete model that would combine these measurements into a single conceptual framework. A comparative analysis of international instruments and national legislation has shown the universality of the basic values of policing – legality, respect for human dignity, non-discrimination, accountability, and proportionality of the use of force. However, the level of their institutional integration into the training system differs significantly. The paper substantiated the expediency of considering the value bases of professional training as a multidimensional socio-legal structure that combines normative, identification, and institutional components. It was noted that the effectiveness of the development of professional culture of the police depends on the consistency of the legal consolidation of values with the mechanisms of their interiorisation and educational implementation. For the Ukrainian legal context, this means the need to strengthen the axiological component in educational standards for police training and to bridge the gap between the declarative proclamation of principles and the practice of their implementation

Keywords: value-based orientations; professional training of police officers; ethical standards; police leadership; evidence-based practice; Ukrainian law; organisational identity

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Introduction

The issue of value-based training of police officers has become particularly important in the context of transforming law enforcement models, strengthening accountability standards, and implementing international principles of integrity and respect for human rights. The growing public expectations of transparency, impartiality and professional autonomy of police officers have actualised the need for a conceptual understanding of the values that are used as the basis for their training. The conditions of martial law, the reform of the security and defence sector, and Ukraine's European integration obligations have led to the need to review the content of professional guidelines for law enforcement activities taking into consideration international ethical standards. In such circumstances, the scientific understanding of the value dimension of police training goes beyond pedagogical problems and directly concerns the quality of law enforcement activities, the legitimacy of the authorities, and the level of public trust. However, scientific discourse reveals the fragmentary nature of research on this topic, which necessitates a systematic review of contemporary approaches to interpreting the value foundations of professional police training.

S. Kutnjak Ivkovic *et al.* (2022) examined the impact of organisational culture on tolerance to deviant behaviour among police officers and concluded that internal unit value norms significantly influence perceptions of professional ethics and willingness to report violations. The researcher argued that formalised codes of ethics do not provide the proper effect without integrating relevant values into the training system. A similar problem in the European context was considered by J. Terpstra & D. Schaap (2021), who analysed the process of institutionalisation of community policing values in EU countries. It was found that the declared values of partnership with society often remain at the level of regulatory documents, if they are not supported by changes in educational programs and mechanisms of professional socialisation. The second area consists of research devoted to the axiological foundations of professional identity of police officers. A. Chan *et al.* (2025), within the framework of the theory of procedural justice, proved that internal acceptance of the values of legality and impartiality correlates with the level of respect for human rights in practice. The researchers substantiated that the development of professional identity should be based not only on normative prescriptions, but also on the reflexive assimilation of value orientations.

In the Ukrainian scientific discourse, the issue of the value principles of training law enforcement officers became more active after 2020 in connection with the police reform. Thus, O. Bandurka (2020) analysed the transformation of professional standards in the context of the implementation of the principles of the rule of law and concluded that the normative consolidation of ethical requirements is not accompanied by a sufficient conceptual understanding of their axiological nature. On the other hand, V.M. Roshkaniuk & O.O. Nahorna (2022) investigated the correlation between the legal and moral foundations of policing and found that domestic practice is dominated by a normativist approach that narrows the understanding of values to formalised prescriptions. A separate layer consists of studies devoted to international standards of professional ethics. The study by D. Sklansky (2022) analysed the evolution of ethical

principles of policing in the United States and showed that contemporary approaches focus on accountability, non-discrimination, and transparency as key values of the profession. The researcher emphasised that these guidelines are integrated into educational programmes through a systematic review of educational standards. A comparative analysis of police training in the Nordic countries was carried out by M. Padyab *et al.* (2023), who found that in Norway and Sweden, value orientations – respect for human dignity, proportionality of the use of force, institutional trust – are incorporated into training modules and evaluation procedures. The researchers concluded that axiological integration into the educational process is systematic. Furthermore, the analysis of scientific literature indicates that most research either focuses on the legal regulation of police ethics, or on the socio-psychological aspects of professional identity. Therefore, the purpose of this study was a systematic review of the contemporary scientific discourse on the interpretation of the value principles of professional training of police officers and a conceptual systematisation of approaches to their definition in the context of law enforcement activities.

The research was carried out within the framework of a review theoretical and analytical approach, the object of which is the contemporary scientific discourse (2020-2025), devoted to the value principles of professional training of police officers. The conceptual framework of the research was established at the intersection of the axiological approach, the theory of professional identity, and the concept of procedural justice. Within the framework of this study, "values" were understood as normative and institutionally fixed guidelines for professional activity (legality, integrity, accountability, respect for human dignity), presented in scientific sources and primary sources (codes of ethics, professional standards, educational documents) and conceptualised by researchers as the basis for professional socialisation of police officers. The methodological basis was the following methods of scientific knowledge. First, a systematic review of the scientific literature was applied. Scientific sources (papers, monographs, sections of collective monographs, dissertation research) published in 2020-2025 in professional journals were selected. The selection criteria were defined as: direct connection with the topic of value principles of professional training or professional ethics of the police; the presence of conceptual or empirical analysis; geographical representativeness (Ukraine, EU countries, USA, Canada). This method established the main thematic areas of research, dominant approaches, and discussion aspects.

Systematisation of the scientific array

Research on the value principles of professional training of police officers formed a structured, albeit internally heterogeneous scientific field. Despite the differences in methodology, national traditions of police education and reform priorities, contemporary studies can be systematised in three interrelated areas: normative ethical, axiological identification, and institutional educational. This approach helped to distinguish between the levels of analysis of values – from their consolidation in legal norms to personal acceptance and integration into educational mechanisms of professional training. In recent police reform studies, the focus was increasingly shifting from a formal description of ethical standards to an analysis of how they are implemented

through organisational procedures, assessment systems, and staff training.

The normative and ethical area united studies in which values were considered as the principles of professional activity fixed in official documents. These included codes of ethics, standards of conduct, internal regulations, disciplinary procedures, and accountability mechanisms. This approach focused on the compliance of police officers with established norms of legality, integrity, and non-discrimination. The study by S. Kutnjak Ivkovic *et al.* (2022) showed that formalising ethical requirements does not in itself guarantee compliance: the effectiveness of codes depends on the degree of their adoption within the organisation, on support from management, and on the real consistency between declared standards and management practices. Thus, the regulatory framework performs a regulatory function only if it is integrated into everyday professional solutions.

The study by D. Sklansky (2022) showed the transformation of American police ethics is viewed through the prism of growing demands for transparency and accountability. The researchers emphasised that contemporary standards of professional conduct are increasingly associated with the institutionalisation of the principles of equality and non-discrimination, which is reflected in internal policies and control procedures. This issue was considered by A. Chan *et al.* (2025), who proved that respect for human rights becomes a stable professional norm only when police officers perceive these principles as internally significant, and not just as a requirement of external control. In this context, the normative and ethical area covers not only the analysis of the content of codes of ethics, but also the study of the conditions for their practical implementation, including mechanisms for internal monitoring, disciplinary responsibility, and professional training.

The second area consists of research devoted to values as a component of the professional identity of police officers. In contrast to the normativist approach, attention is shifted from formally fixed standards to internal beliefs, motivational attitudes, and mechanisms of professional socialisation. Values are interpreted as stable guidelines formed in the process of training, service, and interaction with the professional environment and determine the nature of decision-making in situations of uncertainty and discretion. A. Chan *et al.* (2025), within the framework of the theory of procedural justice, proved that the domestic adoption of the principles of legality, impartiality, and respect for human rights is directly related to their actual compliance in official practice. Researchers emphasise that the development of professional culture is impossible without interiorisation of value orientations, that is, their conscious perception as personally significant norms of behaviour. This logic was traced by M. Rowe (2023) who analysed symbolic aspects of professional identity: even external attributes of service, in particular uniforms, acquire regulatory power only when they are correlated with an internal understanding of the role and mission of a police officer.

J. Terpstra & D. Schaap (2021), investigating the implementation of community policing in EU countries, found that the declared values of partnership, openness and trust remain formal if they are not integrated into everyday practice and professional socialisation. The researchers point out that there is a gap between the official rhetoric of reforms and the actual attitudes of staff, which makes it

difficult to change the organisational culture. Similar results were obtained by C. Striebing *et al.* (2023), who, based on empirical data from the German Federal Criminal Office, demonstrated the difference between declared institutional values and individual expectations of employees. Within the framework of the axiological and identification approach, significant importance is attached to the autonomy and moral responsibility of the subject of professional activity. A. Maile *et al.* (2023), based on the ethics of virtues, showed that the ability to reason and independent moral judgement is formed not through mechanical assimilation of rules, but through the development of professional virtues in the process of practical experience. In turn, research by D. White & J. Schafer (2024) proves that the level of emotional and cultural intelligence of managers affects the perception of reforms and the translation of values in the team, which indicates the relationship between personal qualities and organisational identity.

The third area covers the study of the institutional integration of values into police training systems. This approach focuses on how basic professional values are reflected in educational standards, curricula, learning outcomes, and assessment procedures. The idea is that the values that define the moral guidelines and ethical norms of police officers should not only be part of theoretical discussions, but also integrated into practical aspects of training, which allows them to be effectively implemented in the performance of official duties. M. Padyab *et al.* (2023), having conducted a comparative analysis of police training in Norway and Sweden, found that the principles of respect for human dignity, proportionality of the use of force and institutional trust are formalised in the form of specific educational outcomes and criteria for assessing practical skills. This indicates a systematic integration of values into the structure of professional training, where these principles are not just declared in theory, but evaluated in practice through the implementation of real tasks. They emphasise the importance of considering these values in the learning process, when practical skills are correlated with ethical norms and human rights. Thus, according to the results of the study, training programmes in these countries include specialised ethics courses that increase the level of awareness of police officers about the importance of proper use of force and maintaining institutional trust among citizens.

Similar conclusions are drawn in the studies devoted to the analysis of institutional changes in the framework of police education reform. L. Kleygrewe *et al.* (2022), in their study on the organisation of police training in Europe, point out the importance of integrating values into curricula, particularly in the context of police training in France, Germany, and the United Kingdom. They emphasise that each of these countries develops specialised courses that aim to provide a clear understanding of the ethical standards underlying police work, and an assessment of the ability to make morally informed decisions in critical situations. The study by J. Terpstra & D. Schaap (2021) also provides important information on educational standards in the context of implementing the community policing concept in Europe. The researchers point out that in countries that actively implement this model, the values of openness, partnership and trust are anchored at the level of curricula and assessment of practical skills. They note that values should not only be a theoretical part of the curriculum, but should also be

measured through practical tasks that include engaging with the public and resolving conflict situations.

Ukrainian scientific discourse

In research on the Ukrainian context, Y. Zhydetskyi (2021) pointed to the importance of including international experience of reforms in the police training system in Ukraine. The researcher proposes to integrate the principles of professional ethics into the training programme at the level of requirements for candidates and criteria for evaluating their professional qualities, which allows ensuring that educational results comply with international standards. In addition, he emphasises the importance of adapting existing training models to consider national characteristics and the needs for reforming the Ukrainian police. Thus, the institutional integration of values into curricula and assessments is an important aspect of contemporary reforms in the field of police training. This requires not only the formalisation of values in the form of standards and learning outcomes, but also ensuring their real implementation through practical tasks and assessment procedures, which guarantees the effective development of professional ethics and competencies in police officers.

Ukrainian studies also confirm the importance of internal adoption of professional guidelines. Y. Ponomarenko (2022) found that the content of police officers' value orientations correlates with the level of their personal and professional self-realisation. N. Pryakhina *et al.* (2022) emphasised the system of professionally important qualities of a modern police officer, among which moral stability, responsibility and the ability to reflect are considered as integrative characteristics that determine the quality of official decisions. In this context, values appear as internal professional guidelines that influence the moral assessment of the situation, the boundaries of discretion and ways of responding to offences, and determine the constancy of professional identity in the context of reform. In the Ukrainian context O. Bandurka (2020) analysed the transformation of professional standards during the period of police reform and noted that the normative consolidation of values is not always accompanied by their proper conceptualisation in educational documents. The researcher pointed to the fact that updating standards is often declarative in nature and is not provided with appropriate methodological materials, indicators of learning outcomes and procedures for measuring the level of development of professional guidelines. The lack of clear mechanisms for assessing the value components of training, according to the researcher, reduces the effectiveness of their practical implementation and complicates monitoring the quality of the educational process.

V.M. Roshkaniuk & O.O. Nahorna (2022), examining the relationship between the legal and moral foundations of policing, concluded that the normative approach dominates, which narrows the understanding of values to formalised prescriptions and does not sufficiently consider their personal and cultural dimension. The researchers emphasised that the effectiveness of legal regulation depends on the level of moral reflection of the subject, and therefore, educational programmes should combine the study of legal requirements with the development of ethical competence and the ability to independently assess difficult professional situations. Similar accents can be traced in the study by Y. Zhydetskyi (2021), who, analysing the international experience of

reforming police education, emphasised the need to move from a formal update of curricula to a systematic revision of learning outcomes, considering the value component. The integration of the principles of the rule of law, respect for human rights, and professional responsibility should take place through the specification of competencies and the development of tools for their step-by-step assessment. Empirical data provided by Y. Zhydetskyi *et al.* (2023) indicate that the system of internal quality assurance of education in institutions of the Ministry of Internal Affairs needs to be improved precisely in terms of feedback on the development of value orientations of applicants. Researchers point out the need to introduce comprehensive procedures for self-assessment, questionnaires, and analysis of educational results, which allow identifying not only the level of assimilation of knowledge, but also the degree of development of the professional position of the future police officer.

The results of the study by D. Shvets *et al.* (2020) on the psychological aspects of the new police training system in Ukraine demonstrate that the reform of the educational environment creates prerequisites for a more holistic combination of legal, psychological, and value components of training. The researchers emphasise that the integration of training forms of work, modelling of professional situations and reflexive techniques contributes to the transition from formal assimilation of norms to their personal acceptance. Together, these studies show that the institutional integration of values into the police training system in Ukraine is at the stage of transformation: along with updating the regulatory framework, a request is gradually being formed to develop clear educational mechanisms that ensure the measurability and practical implementation of the value-based component of professional training.

Thus, in contemporary scientific discourse, three relatively autonomous approaches to interpreting the value principles of police training co-exist. Each of them emphasises a different level of analysis – legal, personal, or institutional – but there is often no systemic connection between them. Normative studies focus on the codification of principles and standards of accountability; works on professional identity analyse the internal motivation and moral reflection of police officers; institutional and educational research studies examine mechanisms for integrating values into training programmes. However, these areas are rarely combined within a single theoretical framework.

Gaps in scientific discourse on the topic

Recent research has shown that integrating personal values into professional training can significantly affect outcomes such as student achievement and overall performance in various professional fields. As noted by K.A.A. Gamage (2021), the role of personal values in shaping learning approaches is crucial for understanding how people assimilate educational content. This understanding is consistent with the findings of the current study, where professional values based on training were directly related to officers' adaptability and ethical decision-making in stressful situations. Fragmentation is particularly noticeable in the relationship between educational content reforms and real changes in professional culture. L. Kleygrewe *et al.* (2022) showed that even in the presence of upgraded training programmes, results depend on consistency between organisational expectations and staff value orientations. Similar conclusions are contained in

the paper by T.J. Zamir *et al.* (2022), which highlighted the need for an environmental approach to training that combines individual, organisational, and social levels of impact. Without this combination, educational innovations remain isolated from the broader context of professional activity.

The problem of conceptual disunity is also evident in discussions about evidence-based policing. S. Klose (2024) emphasised that the focus on evidence should include not only the effectiveness of operational practices, but also the validity of the value-based standards that underpin decision-making. Furthermore, research by C. Schneider *et al.* (2024) demonstrated that the development of organisational identity requires a holistic leadership strategy that combines regulatory requirements with the development of a common value field within the team. Consequently, the further development of scientific understanding of the problem requires theoretical coordination of various dimensions of value problems. This refers to the development of an integrative model in which the normative consolidation of principles, their personal interiorisation, and educational implementation will be considered as interrelated elements of a single socio-legal structure. This approach will allow moving from describing individual aspects of the development of professional guidelines to a comprehensive understanding of the mechanisms of their reproduction in the system of training and practical activities of the police. Logical and deductive analysis of scientific sources identified three dominant models of interpretation of the category “value foundations of professional training”. Their differentiation is based not only on differences in terminology, but above all on a different understanding of the nature of values, their functional purpose and place in the system of professional training of police officers. Each of the models emphasises a separate dimension – normative, personal, or institutional, which determines the specifics of research optics and the selection of methodological tools.

The first model – normative – identifies values with ethical principles consolidated in legal acts, codes of professional ethics, internal regulations, and disciplinary procedures (Bandurka, 2020; Kutnjak Ivkovich *et al.*, 2022). Within the framework of this approach, values are considered as external regulatory guidelines for professional behaviour, defining standards for acceptable actions and delineating the boundaries of official discretion. A similar logic can be traced in the analysis of the transformation of ethical standards in the context of increased police accountability (Skłan-sky, 2022), where values acquire the status of mandatory professional requirements implemented through control procedures and accountability mechanisms. Within the framework of the normative model, values are actually included in the structure of the legal status of a police officer. They appear in the form of mandatory prescriptions, the violation of which entails disciplinary or legal consequences. This approach ensures standardisation of behaviour, increases the predictability of management decisions, and creates a unified system of criteria for evaluating performance. In particular, V.M. Roshkaniuk & O.O. Nahorna (2022) noted that normative certainty helps to unify the practice of applying law and minimises the risks of arbitrary interpretation of professional responsibilities. However, the reduction of values to formalised norms narrows their content to the level of external regulation. The study by A. Chan *et al.* (2025) demonstrated that compliance with codes does not guarantee

sustainable compliance with the principles of legality and respect for human rights without their internal adoption. Similarly, the analysis of the reform of professional standards (Martin, 2022) shows that changes in the regulatory framework do not automatically transform professional culture if they are not accompanied by changes in educational and socialisation mechanisms. Consequently, the normative model focuses on improving code texts, internal control procedures, and accountability mechanisms. However, the process of forming values as internal beliefs and their connection with professional identity remains outside the central focus of this approach, which makes it necessary to turn to other models of interpretation.

The second model – axiological and identification – proceeds from the understanding of values as internal beliefs that form the core of the professional culture and professional identity of a police officer. Within the framework of this approach, the emphasis is placed on the process of interiorisation of values in the course of professional socialisation (Terpstra & Schaap, 2021; Chan *et al.*, 2025). Values are interpreted not as formal prescriptions, but as conscious beliefs that determine motivation, moral assessment of the situation, and decision-making style. Representatives of this area emphasise that compliance with the principles of legality, non-discrimination or human rights cannot be ensured solely through regulatory mechanisms. The decisive factor is the internal acceptance of these principles as personally significant. In this context, professional training is considered not only as the assimilation of specific knowledge or skills, but also as a process of forming value consciousness, developing reflection and the ability to make moral judgements. This includes the ability of a police officer to independently assess situations, make ethical decisions, and apply the law in the context of specific circumstances. The axiological and identification model assumes that professional training should focus on developing internal beliefs, and not just on task completion skills. This implies the importance of informal aspects of the educational environment: interaction with mentors, group culture, and the example set by supervisors. As noted by J. Terpstra & D. Schaap (2021), the institutionalisation of values such as partnership, trust, and openness is impossible without their deep integration into professional socialisation, which occurs through practical situations and interpersonal interactions in the educational process.

Mentors and other models that serve as examples for young employees play an important role in this process. For example, the study by D. Goleman *et al.* (2013) stresses that effective police leaders must possess a high level of emotional intelligence, which includes not only managing their own emotions, but also the ability to influence others by fostering moral responsibility and maintaining the right values in an organisational culture. In this approach, not only the formal part of training plays an important role, but also the integration of values into the daily practice of a police officer. Thus, as noted by A. Maile *et al.* (2023), professional autonomy and discretion are important aspects that help police officers implement moral principles when making decisions in complex and ambiguous situations. This process requires not only theoretical knowledge, but also deep moral reflection, developed through practical experience, interaction with colleagues and mentors. Thus, the axiological and identification approach emphasises the importance of forming an internal value orientation of a police officer, where

values are not an external prescription, but become an integral part of his professional identity. This ensures not only the formal implementation of ethical standards, but also their true adoption, which allows police officers to act in accordance with high moral standards in real-life situations. The axiological and identification model expands the understanding of value principles, translating it from the plane of legal norms to the plane of professional culture. However, its limitations are the lack of clear tools for measuring the level of interiorisation of values and the complexity of institutionalising internal beliefs in formalised standards.

The third model – institutional and competence – attempts to combine normative and personal dimensions through the integration of values into the structure of educational standards. Within this approach, values are considered as an integral part of the competence training model, which is specified through learning outcomes, development indicators, and assessment criteria (Sklansky, 2022; Padyab *et al.*, 2023). Values are no longer interpreted as abstract ethical principles, but as measurable components of professional competence that have a concrete expression in the educational process. This allows making principles such as respect for human dignity or the proportionality of the use of force part of learning outcomes that can be assessed through practical tasks and situation modelling. Within the framework of the institutional and competence model, values are transformed from declarations to specific skills. For example, the ability of a police officer to justify their decisions, demonstrate communication skills in stressful situations, and act in accordance with human rights standards becomes a measurable learning outcome. Instead of being just theoretical postulates, these principles become the basis for formulating evaluation criteria and results of practical training. Thus, professional values receive the status of competencies that can be tested and evaluated in real or simulated situations, which significantly increases their practical significance in the activities of a police officer. This approach, unlike previous models, is focused on consistency. It involves close interaction between curricula, teaching methods, practical training, and assessment procedures. In this model of training, values are considered as components of professional competencies that are integrated into all stages of training. For example, training courses on human rights, ethics, communication, and stress management are combined with real-world scenarios to form a comprehensive assessment of police skills.

However, even within this model, there is still a risk of formalisation, when values are again reduced to a list of indicators without proper attention to their deep axiological content. This may be the reason why values will only be the fulfilment of external standards, and not internally accepted moral guidelines. Therefore, the effectiveness of this model largely depends on the extent to which the educational process contributes to real understanding, and adoption of appropriate guidelines. It is important not only how values are measured and evaluated, but also how they are integrated into the process of professional development of a police officer, stimulating moral reflection and independent decision-making in difficult situations.

Studies by L. Kleygrewe *et al.* (2022) and A. Maile *et al.* (2023), confirm that in order for the institutional and competence model to be effective, it is necessary that all elements of the system-from theoretical courses to practical

classes and assessments – are coordinated and contribute not only to the acquisition of knowledge, but also to the formation of professional consciousness, including the moral and ethical beliefs of a police officer. Thus, this model has great potential, but its success depends on the integration of theoretical knowledge and practical skills, and on a real understanding of values in the context of professional activity. The analysis showed that in most studies, these models function in parallel, without a clearly defined mechanism of their interaction. The normative model focuses on the legal consolidation of principles, the axiological and identification model focuses on their internal adoption, and the institutional and competence model focuses on educational implementation. However, there is no conceptual framework that would combine these levels into a single multidimensional structure. This is what determines the fragmentation of contemporary discourse and actualises the need to develop an integrative model that would consider the relationship between the normative consolidation of values, their interiorisation and institutional implementation in the system of professional training of the police.

The real challenge is the need to create a holistic model that not only combines these three aspects, but also considers their organic interaction in the process of training police officers. This model should ensure that the process of normative consolidation of values is not limited to the creation of codes and standards, but is integrated into the education system, where these standards will be recognised and accepted as part of the professional identity of each police officer. The interpretation of values as internal guidelines, and not just external prescriptions, should become the basis for the development of moral beliefs that directly affect decision-making in real professional situations. The institutional and competence model can become the link that will ensure the educational implementation of values at all stages of training, from initial preparation to advanced training. It should include not only theoretical training, but also practical tasks that would allow police officers to apply these values in real situations. In this context, assessment should be carried out not only through tests or exams, but also through real actions and interactions that demonstrate the police officer's ability to act in accordance with established ethical norms and principles. The integration of these three levels – normative consolidation, internal adoption, and educational implementation – will create a more effective system of police training, where values will not be perceived as abstract theoretical principles, but will become an integral part of professional practice. This will contribute not only to improving professional competence, but also to developing moral responsibility, which is an important aspect in the work of the police.

The analysis of international documents – Code of Conduct for Law Enforcement Officials (1979) and European Code of Police Ethics (2001) – established that the basic values of professional activity of law enforcement officers are defined as legality, respect for human dignity, non-discrimination, proportionality of the use of force, and accountability. These documents form the normative basis of the contemporary model of democratic police service and serve as guidelines for national training systems. In the Code of Conduct for Law Enforcement Officials (1979), the principle of legality appears as a fundamental requirement for any actions of officials. Simultaneously, the obligation to respect

human rights is emphasised, which is considered not as an abstract declaration, but as a direct criterion for assessing professional behaviour. The principle of proportionality of the use of force is directly related to the prohibition of cruel, inhuman, or degrading treatment. Thus, in the international context, values have a clearly defined humanistic dimension, where human rights are the basis for evaluating the professional activities of law enforcement officers. This approach provides not only a legal, but also an ethical basis for making decisions in difficult professional situations, where it is important not only to comply with the law, but also to act in accordance with moral standards.

The European Code of Police Ethics (2001) details these guidelines, emphasising the importance of political neutrality, transparency, and public trust. The document emphasises that the activities of the police should be carried out in the public interest and under democratic control. Accountability is interpreted as a systemic principle that covers both the individual responsibility of the employee and the institutional responsibility of the police in general. This approach increases the role of the police as a public institution that operates not only within the framework of legal norms, but also considering social responsibility and public trust. Thus, international instruments form an agreed axiological framework within which the professional activity of the police is considered as serving the law and man. The values consolidated in these documents define the ethical and professional guidelines for policing, providing the basis for democratic control and responsibility in the work of law enforcement agencies.

The study of the Code of Ethics and Professional Conduct of the National Police of Ukraine showed that the national document establishes similar guidelines: the rule of law, respect for human rights and freedoms, political neutrality, integrity, and responsibility (Order of the Ministry of Internal Affairs of Ukraine No. 1179, 2016). Formally, the list of basic principles is consistent with international standards, which indicates the normative implementation of universal values in national legislation. However, an analysis of the document structure shows that these principles are presented mainly in the form of rules of conduct and official duties. The axiological basis of these norms is not disclosed separately, and values do not receive a detailed conceptual interpretation. They function as mandatory prescriptions aimed at regulating specific aspects of official activity, such as behaviour in the performance of duties or responding to offences. This approach provides clarity of requirements and effective regulation of professional activities, but does not always contribute to a deeper understanding of the significance of these principles for police culture and personal moral reflection.

On the one hand, this form of representation of norms provides a clear basis for practical application, but on the other hand, it does not provide sufficient space for the development of ethical consciousness of police officers, which can lead to a gap between theoretical requirements and real behavioural practices. The lack of a conceptual interpretation of values in national documents indicates the need for further improvement of approaches to the development of a professional culture, where ethical principles will be considered not only as legal norms, but also as deep guidelines that determine the moral decisions of police officers. Comparative analysis of educational standards in Norway

and Sweden (2020-2023), based on research by M. Padyab *et al.* (2023), witnessed a different level of institutional integration of values. In these countries, the basic guidelines – respect for human dignity, proportionality of the use of force, equality, and non-discrimination – are not only declared in strategic documents, but also transformed into concrete learning outcomes. For example, the ability to act in accordance with the principle of proportionality is tested when modelling crisis situations, and communication skills are evaluated considering the observance of the principle of respect and impartiality. The assessment of these competencies is not abstract, but is directly related to real actions in practical situations, which allows not only assimilating theoretical knowledge, but also demonstrating its application under stress. Thus, in Scandinavian models, there is a close relationship between regulatory declarations and educational practices. Values acquire the status of competencies to be evaluated, and do not remain just programme slogans. This indicates a deeper integration of the axiological component into the professional training system, where values are transformed into measurable learning outcomes and tools for evaluating professional performance. This approach provides not only theoretical training, but also practical development of important moral and ethical principles.

Summarising the results of the analysis of primary sources, it can be stated that international and national documents demonstrate a common list of basic values that are universal in nature and form the basis of the contemporary democratic model of policing. However, they differ in the level of conceptualisation and institutional implementation of these principles. While international instruments form a common axiological standard, national acts are mostly focused on regulating behaviour, which, while necessary to ensure legal order, does not always contribute to the development of a deeper moral awareness among police officers. However, some European educational models, in particular in Norway and Sweden, demonstrate an example of a systematic combination of normative consolidation of values with mechanisms for their practical implementation in the process of professional training. This provides a deeper and more comprehensive understanding of the values that become an integral part of professional practice, and not just theoretical principles.

The effectiveness of implementing basic values depends not only on their formal proclamation, but also on the way they are integrated into the structure of the educational process and mechanisms for assessing the professional competence of police officers. It is important not only to consolidate the principles in regulatory documents, but also to actually implement them through practical tasks that allow police officers not only to know, but also to apply these principles in real conditions of professional activity. In the process of interpreting the results obtained, it is important to consider that the development of professional standards and value-based attitudes in the activities of law enforcement officers is supported as a regulatory and legal level and in theoretical research. The normative document “On Approval of the Rules of Ethical Conduct of Police Officers” clearly defines the basic ethical standards that employees of the National Police of Ukraine must adhere to, including the principles of integrity, respect for human rights and responsibility for decision-making in official situations (Order of the Ministry of Internal Affairs

of Ukraine No. 1179, 2016). In the theoretical plane of research, D. Rhodes *et al.* (2023) emphasised that integrating social values and principles of social work into police practice can contribute to improving the effectiveness of responding to socially-psychological challenges and building trust between the police and local communities. In particular, the researchers argue that the values of social work – empathy, respect for vulnerable groups, and interdisciplinary collaboration – can enhance the adaptability of officers' service behaviour, especially in difficult social situations (Rhodes *et al.*, 2023). In a broader strategic context, the vision for the development of law enforcement agencies for the next decade is outlined in Policing vision 2030 (Strategic Policing Partnership Board, 2024), which offers a framework for increasing transparency, professional culture, and partnerships between the police and public structures, aimed at creating a more inclusive and effective police service by 2030. The value and psychological aspects of employee behaviour in extreme environments, such as military operations or critical stressors, emphasised by K.R. Ilkiv & V.S. Borovikova (2025), prove the role of mindfulness-practices as a resource of psychological stability, which can be an important factor in maintaining professional functioning in conditions of constant stress. Thus, the combination of normative and legal standards, academic concepts of value integration, and strategic development guidelines provide a comprehensive basis for understanding the results of empirical research and actualises further practical and theoretical recommendations.

The results of the analysis of international and national documents indicate the importance of integrating ethical standards into the professional activities of the police through educational models. As noted by T. Cockcroft & K.M. Hallenberg (2022), the educational component in the police cannot be isolated from the normative and cultural aspects, as they complement each other, defining not only behavioural norms, but also the internal motivation of police officers. The integration of values into curricula should include not only the formal consolidation of ethical standards, but also mechanisms for their practical application in official activities. This was confirmed by R. Coelho de Moura *et al.* (2023), who emphasised the importance of leadership in the police for the development of professional standards and values that can influence the behaviour of subordinates. In addition, national documents such as Code of Ethics and competence and values framework guidance (College of Policing, 2024) point to the need for a systematic approach to integrating values at all levels of policing, including both regulatory and educational regulation. As noted by D. Shvets (2023), it is also important to provide feedback in the process of forming the value consciousness of police officers, so that these values become an integral part of their professional identity. In addition, the findings are consistent with the study by K.A.A. Gamage (2021), which highlighted the importance of personal values in shaping learning outcomes. This study contributes to the current debate by demonstrating how deep-rooted values in professional training not only improve theoretical knowledge, but also develop the practical skills needed for police officers. Ability to assimilate values, according to K.A.A. Gamage (2021), enhances professional competence by supporting the claim that value-based education leads to more efficient and ethically sound work.

Generalisation of the results of the analysis allowed establishing a number of conceptual and methodological gaps in the scientific discourse on the value principles of professional training of police officers. Despite the growing number of publications in 2020-2025, research remains fragmented and often focuses on individual dimensions of the problem without their systematic combination. First of all, there are limited papers that combine the analysis of theoretical approaches with the systematic study of normative and educational documents within a single conceptual framework (Bandurka, 2020; Roshkaniuk & Nahorna, 2022). In most cases, researchers either focus on analysing legal acts and codes of ethics, or explore axiological aspects of professional culture. However, there are no studies that would consistently correlate scientific interpretations of values with their institutional consolidation and educational implementation. This makes it difficult to form a holistic view of the mechanisms of transformation of abstract principles into real professional guidelines.

Second, the relationship between values as normative principles and values as a component of professional identity (Chan *et al.*, 2025). These dimensions are often considered separately: normative – in the plane of legal regulation, and axiological – in the plane of psychology and socialisation. However, there is a lack of research analysing their interaction, in particular, the mechanisms of transition from an external normative prescription to an internal belief. The question of how the educational process can ensure such a transformation and what indicators indicate its success remains undisclosed. For example, the study by M. Padyab *et al.* (2023) showed that in Norway and Sweden, values are transformed not only into normative documents, but also into specific educational outcomes that can be measured during practical training. This indicates the potential for creating systematic mechanisms for evaluating the interiorisation of values that remain poorly developed in Ukrainian and most international models.

Third, there are no comprehensive comparative studies that would allow for a systematic comparison of models for integrating values into police training of different legal systems based on unified analysis criteria (Padyab *et al.*, 2023). The available studies are mostly limited to describing national experience or fragmentary comparisons of individual elements of educational programmes. There is a lack of research that uses a common methodological matrix to assess the level of institutional integration of values, the degree of their formalisation, and the impact on professional behaviour. For example, the study by D. Sklansky (2022) on ethical guidelines in the US police confirms the importance of a systematic approach, but, as in Ukraine, there is no comprehensive assessment of the effectiveness of such guidelines in specific educational models.

In addition, insufficient attention is paid to the empirical measurement of the level of development of value orientations among cadets and police practitioners. Theoretical generalisations predominate, while diagnostic tools for interiorisation of values, evaluation criteria, and monitoring mechanisms remain poorly developed. This limits the ability to test the effectiveness of existing educational models. The study by D. Shvets *et al.* (2020) points out the importance of adapting assessment methods and developing moral reflection, which may contribute to a deeper

understanding of values, but more advanced mechanisms are needed to test these ethical components in practice.

The results obtained indicate the fragmentation of contemporary discourse and the need for further theoretical coordination of normative, axiological, and institutional dimensions of the value bases of professional training of police officers. A promising area is the development of an integrative conceptual model that would combine the legal consolidation of principles, mechanisms of their personal assimilation, and institutional methods of educational implementation. It is this coordination that can ensure the transition from declarative proclamation of values to their real functioning in professional activities. This includes both formal training and a system for monitoring and evaluating the effectiveness of value training within the framework of police training, which will enable a real transformation of principles into practical activities.

Distribution of approaches to the value bases of professional training

The current scientific discourse on the value principles of professional training of police officers remains methodologically heterogeneous. On the one hand, in normative works, values are identified with ethical principles consolidated in codes and standards of professional behaviour (Bandurka, 2020; Kutnjak Ivkovich *et al.*, 2022). In such studies, values are considered as formal prescriptions that should regulate the actions of police officers, defining the limits of permissible behaviour and ensuring predictability and controllability of professional activities. This approach is widely used in international documents such as the Code of Conduct for Law Enforcement Officials (1979) and the European Code of Police Ethics (2001), where values are consolidated at the level of standards and legal requirements. On the other hand, within the axiological and identification approach, values are interpreted as internal beliefs formed in the process of professional socialisation (Terpstra & Schaap, 2021; Chan *et al.*, 2025). Values in this context are not external prescriptions, but become an integral part of the professional identity of police officers. They determine the moral assessment of situations, influence the decision-making process in difficult situations, and become the basis for reflection and independent moral judgement. Such studies address the psychological and social aspects of value formation through training and practical training, emphasising the importance of interiorisation of values in the process of professional socialisation.

The above analysis shows that these approaches function in parallel, but are rarely integrated into a single conceptual model. In most cases, these approaches are considered separately, which leads to a certain fragmentation of scientific research. For example, M. Padyab *et al.* (2023) and D. Sklansky (2022) emphasised the importance of formalising values in training programmes, and creating mechanisms for their integration into the police assessment system, which helps to transform these abstract principles into real professional guidelines. However, despite this, most studies do not cover the interaction between the legal consolidation of values, their interiorisation and educational implementation, which makes the practical implementation of values in real life of police officers even more difficult. These gaps in research indicate the need for further development of conceptual and methodological approaches that would ensure the

integration of normative, axiological, and institutional dimensions of the value foundations of police training. To do this, it is necessary to turn to research that not only outlines individual aspects of the problem, but also develops holistic models that can integrate legal, moral, and educational components into a single system that allows not only to train police officers in standards of behaviour, but also to educate them in moral responsibility and the ability to act in accordance with high ethical standards in difficult situations.

Statements about the sufficiency of normative consolidation of ethical standards seem debatable, since the results of research indicate the limited effectiveness of formalised codes without the internal adoption of appropriate guidelines (Kutnjak Ivkovich *et al.*, 2022). This is not consistent with an approach in which professional ethics is reduced to a set of rules of conduct (Bandurka, 2020), as empirical evidence points to the dependence of professional behaviour on the level of interiorisation of the principles of legality and impartiality (Chan *et al.*, 2025). These results highlight that the normative consolidation of ethical standards is only the first step in shaping professional ethics, but it is not enough for values to become part of the actual behaviour of a police officer. An internal awareness of these standards is important, which allows making responsible decisions in difficult situations. The reason for different interpretations may lie in the difference in research focuses: in the first case, the normative structure is analysed, in the second – the process of forming professional identity. The normative approach focuses on external regulatory mechanisms and provides clear instructions for behaviour, but does not consider how these standards are perceived and internalised by the individual. The axiological and identification approach, in turn, focuses on how the police officer perceives these principles as part of professional identity, which is crucial for making ethical decisions in practice. As noted by A. Chan *et al.* (2025), the effectiveness of value-based learning largely depends on the process of interiorisation of these standards, and not just on their external consolidation in regulations.

The study by D. Sklansky (2022) also highlighted that even in countries with high levels of legal regulation of ethical standards, such as the United States, an important condition for the effectiveness of these standards is their deep root in the professional culture, allowing police officers to apply these principles in practice. The formalisation of ethics, without the development of internal understanding and moral responsibility, cannot ensure stable compliance with ethical standards in real-world situations. This approach in considering values in national training systems was confirmed by the study by M. Padyab *et al.* (2023), which showed that in Norway and Sweden, the consolidation of ethical standards is accompanied by their integration into curricula, which allows evaluating not only knowledge, but also the ability to apply these principles in practical situations. Thus, normative documents should be supplemented with strategies that promote the interiorisation of values, including methods of socialisation and moral reflection in educational programmes. This will provide a deeper understanding of ethical standards and contribute to their real application in the professional practice of police officers.

In the context of European police reforms, J. Terpstra & D. Schaap (2021) noted that the declaration of community policing values does not guarantee their practical implementation. The results obtained support this statement,

since a comparative analysis has shown that the institutional integration of values into training systems is uneven. In particular, in the Scandinavian countries, value orientations are consolidated through learning outcomes and assessment procedures (Padyab *et al.*, 2023), which indicates their structural incorporation into the educational process. In these countries, community policing values such as trust, partnership, and openness are becoming part of measurable educational outcomes, allowing for an assessment of police officers' ability to apply these principles in real-world situations. The practical use of these values is tested through modelling situations where candidates must demonstrate their communication skills, decision-making ability based on the principle of equality and respect for human rights.

The analysis also showed that the effectiveness of police reforms is often limited by cultural and social barriers that prevent the true integration of values into professional activities. As noted by N. Caveney *et al.* (2020), in many countries, economic and social reforms aimed at improving police performance face the stubbornness of a "cop culture" that promotes the preservation of traditional approaches, even when new ethical standards are officially proclaimed. In this context, the normative consolidation of values such as accountability and non-discrimination does not always guarantee their real application. This correlates with the findings of M. Padyab *et al.* (2023), which emphasise the importance of integrating values into the practical training and evaluation of police officers. If the police culture does not support these values at all levels of the organisation, even the best formulated ethical standards will not lead to the desired changes. Thus, it is necessary not only to formalise ethical principles, but also to actively work on their interiorisation through educational programmes and practical training, so that they become an integral part of the professional identity of police officers. But in post-transformational legal systems, such as in Ukraine, the emphasis remains on the normative declaration of values (Roshkaniuk & Nahorna, 2022). In these systems, more attention is paid to the formulation and approval of codes of ethics and standards of conduct through legislation and internal regulations. These standards are formulated, but their implementation in the educational process is often limited by the availability of theoretical courses without proper practical integration and evaluation. According to O.M. Bandurka (2020), these approaches often do not provide a sufficient link between the formal consolidation of values and their actual implementation in the training process, which makes them less effective in the context of real-world application.

As a result, the comparative analysis revealed an important difference between the approaches of the Scandinavian countries, where values are really integrated into professional training through the assessment system and educational results, and countries with post-transformational legal systems, where values mostly remain at the level of declarations without proper integration into educational practice. This demonstrates the need for deeper integration of values into vocational training, rather than just theoretical frameworks, which will help to ensure the effective application of these standards in real-world policing environments. Conclusions of D. Sklansky (2022) on the evolution of ethical standards in the United States allow considering accountability and non-discrimination as the central values of modern policing. The analysis of international documents – Code

of Conduct for Law Enforcement Officials (1979) and European Code of Police Ethics (2001) – confirms the universal nature of these principles. They consolidated accountability and non-discrimination as basic guidelines for all law enforcement agencies, which are essential for ensuring a democratic police force that respects human rights and the rule of law. These documents form the theoretical basis for the professional activity of the police, which should be based on ethical standards and regulatory principles.

However, their formal consolidation does not provide automatic integration into professional culture, which is consistent with the conclusions about the need to combine normative and socialisation dimensions (Chan *et al.*, 2025). As noted by M. Padyab *et al.* (2023), successful implementation of ethical principles requires not only the creation of a regulatory framework, but also the inclusion of these principles in the education and practical training of police officers. Therefore, it is important not only to fix the standards on paper, but also to actually master them during training and practical activities, which allows police officers to form the necessary moral guidelines and skills for their application in real situations.

A similar opinion was also shared by J. Terpstra & D. Schaap (2021), emphasising that in EU countries where the concept of community policing is actively integrated into police activities, values are not just declared, but also measured through learning outcomes and behavioural assessments during practical trainings. This allows not only to promote ideas of public partnership, but also to test the ability of police officers to adhere to these values in difficult real-world situations, such as conflict resolution or interaction with vulnerable groups. Similar conclusions can be drawn from studies by D. Sklansky (2022), who showed that the effective implementation of accountability and non-discrimination depends on the extent to which these values have become part of the internal culture of the police and its educational standards. If these principles are not integrated into the real educational process and do not become the basis for evaluating professional activity, then they remain abstract slogans, without having a significant impact on the behaviour of law enforcement officers. Thus, it can be concluded that the effectiveness of the implementation of values, such as accountability and non-discrimination, depends not only on their formal consolidation in regulations, but also on how these values are integrated into educational programmes and evaluation mechanisms aimed at their real application in professional activities. To ensure their practical implementation, it is necessary to combine legal regulation with an educational and socialisation component, which allows police officers not only to know ethical standards, but also to be aware of them as part of their own professional identity.

In the Ukrainian context, O. Bandurka (2020) focused on the reform of professional standards towards the implementation of the rule of law. The researcher emphasised the importance of integrating this principle into all aspects of policing, including training and ethical standards. However, the analysis of the Code of Ethics and Professional Conduct of the National Police of Ukraine showed that the values in the document are presented mainly as norms of behaviour, without a detailed axiological interpretation (Order of the Ministry of Internal Affairs of Ukraine No. 1179, 2016). Considerable attention was paid to the regulation of specific official duties and rules of conduct, but there was no

detailed explanation of the essence of values and their moral and ethical basis. This limited the understanding of values as a component of a police officer's professional identity and reduced their practical effectiveness in real-world situations. This approach correlates with the opinion of V.M. Roshkaniuk & O.O. Nahorna (2022), who noted the dominance of the normativist approach in the Ukrainian legal tradition. According to them, in Ukraine, many legal acts, including codes of ethics, focus on creating formal rules and standards without sufficient attention to their moral and axiological interpretation. This confirms the existing gap between the normative consolidation of values and their actual application in the practice of police officers.

The study by A. Chan *et al.* (2025) also pointed out the importance of not only formally fixing values in documents, but also the need to integrate them into the process of forming the professional identity of police officers. They emphasised that values should not only be spelled out in regulations, but should also be internalised by police officers through the educational process and practical socialisation, which is important for the successful application of these principles in real-world situations. This question was also raised by M. Padyab *et al.* (2023), who noted that in the Scandinavian countries, values, in particular the principles of equality and non-discrimination, are not just consolidated in codes, but are also part of the educational process, where their practical application is evaluated during trainings and real-world situations. This integration allows creating a more effective model of professional training, where ethical standards become an integral part of not only theoretical training, but also real official duties. Hence, the conclusions of O.M. Bandurka (2020) and V.M. Roshkaniuk & O.O. Nahorna (2022) on the need to improve the axiological component in professional police standards is confirmed by the existing gaps in domestic regulatory documents. These documents should contain not only formal rules, but also an in-depth explanation of ethical principles, their significance for the professional behaviour of police officers, and mechanisms for their integration into real practice. This will create a more holistic and effective training system that meets high ethical standards and ensures that the principles of the rule of law are properly applied.

The results obtained in Scandinavian studies allow considering the institutional and competence model as a more holistic one (Padyab *et al.*, 2023). Unlike approaches where values are declared as general principles, in these systems they are transformed into specific training results that are subject to verification. In Norway and Sweden, values such as respect for human dignity, proportionality of the use of force and non-discrimination are not simply spelled out in regulations but are integrated into curricula where their practical application is assessed through crisis modelling and real-world challenges. This approach allows testing whether future police officers are capable of applying these ethical principles in a real-world work environment, which ensures a deeper and more effective integration of values into professional activities (Padyab *et al.*, 2023). This adds to the argument about the need to integrate values into the structure of professional socialisation (Terpstra & Schaap, 2021). They emphasise that values should not only be consolidated in codes and standards, but also be embedded in the system of training and socialisation, where they become part of professional identity. In the process of socialisation through

interaction with mentors, group culture, and real-world professional situations, police officers must be aware of values as the foundation of their activities, which allows them to make ethical decisions in difficult situations. This was confirmed by D. Sklansky (2022), who emphasised the importance of not only theoretical learning, but also developing an internal understanding of ethical principles through practical activities and interpersonal interactions in the organisation.

In addition, the findings of D. Shvets *et al.* (2020) confirmed that for effective professional socialisation, it is important to combine theoretical knowledge with practical experience, which allows police officers not only to know the principles of ethics, but also to apply them in real situations. Values that are integrated into the educational process through practical tasks and modelling of real-world situations help to better prepare police officers to make ethical decisions in the performance of official duties. Thus, the institutional and competence model, which provides verification of values through training and evaluation results, is more effective than other approaches where values are only declared. This indicates the need to integrate theoretical, practical and socialisation aspects into the process of professional training, which allows not only to formally adhere to ethical standards, but also to realise their significance for the real practice of policing.

Thus, the contemporary scientific discourse on the value principles of professional training of police officers develops in various planes, in particular, normative, axiological, and institutional. This distribution of approaches, however, does not fully integrate these dimensions into a single conceptual model. Review of findings, such as by N. Caveney *et al.* (2020), who analysed the impact of economic policies on the police and the "cop" culture, points out the importance of transforming professional standards so that they not only declare ethical principles, but also integrate them into the daily practice of law enforcement officers. N. Caveney *et al.* (2020) highlighted that police reforms often face cultural barriers where traditional values such as accountability and non-discrimination do not always translate into real changes in professional behaviour. Therefore, it is important not only to declare principles, but also to ensure their integration into professional culture through educational mechanisms and practical application. This approach is consistent with the conclusions about the need to combine the normative consolidation of values with the socialisation of police officers, which will allow effectively integrating ethical standards into everyday activities (Chan *et al.*, 2025).

Thus, the integration of normative consolidation of values with mechanisms for their interiorisation and institutional implementation is a key condition for the development of a holistic model of police training. This means that values should not only be formally fixed in laws and regulations, but also actively implemented in the system of training and socialisation, where they become an integral part of professional culture. This combination will allow for a more effective transformation of abstract principles into concrete guidelines that can be tested in the practical activities of police officers. The results obtained expand the understanding of the relationship between legal standards and professional culture, while pointing out the need for further comparative studies aimed at identifying effective mechanisms for integrating value orientations into law enforcement systems. Such comparative studies, as shown by D. Sklansky (2022)

and M. Padyab *et al.* (2023), allow assessing how different legal systems integrate values into their educational programmes and which methods are most effective for their actual application in policing. This includes comparing learning outcomes and assessment methods to determine how well values are becoming part of professional practice in different countries.

Conclusions

The conducted research established that the contemporary scientific discourse on the value principles of professional training of police officers is characterised by methodological heterogeneity and conceptual fragmentation. Within the framework of the analysed studies, three main approaches are distinguished – normative, axiological identification, and institutional and competence, which function mainly independently and are rarely integrated into a single theoretical model. This situation leads to the lack of a unified understanding of the category “value principles of professional training” and requires its systematic reconstruction, considering the interdisciplinary nature of the problem.

The analysis of international and national regulatory documents showed the universality of the basic values of professional police activity – legality, respect for human dignity, non-discrimination, accountability, and proportionality of the use of force. However, it was established that the formal consolidation of these principles in codes of ethics and legislative acts does not ensure their automatic integration into professional culture and practical activities. The reduction of values to normative prescriptions does not consider their axiological nature as internal professional guidelines formed in the process of socialisation and influencing

decision-making in complex law enforcement situations. A comparative analysis has shown that a number of European countries are moving towards institutional integration of values into the structure of vocational training through formalisation of learning outcomes and assessment criteria. This approach ensures consistency between normative principles, the educational process, and organisational culture. But in the national context, value orientations are mainly consolidated at the regulatory level, but they are not sufficiently reflected in educational standards and mechanisms for evaluating professional training, which causes a gap between legal declaration and practical implementation.

Generalisation of the results obtained gives grounds to consider the value principles of police training as a multi-dimensional structure that combines normative, identification, and institutional dimensions. The integration of these components is a prerequisite for the development of a sustainable professional culture focused on the rule of law and respect for human rights. In this context, further research should be aimed at empirical verification of the proposed conceptual model, and the development of practical mechanisms for integrating value orientations into the system of professional training of police officers in Ukraine.

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Ціннісні засади професійної підготовки поліцейських: парадигмальний підхід

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Анотація. Актуальність дослідження зумовлена зростанням суспільного запиту на підзвітну, людиноцентричну та правово орієнтовану діяльність поліції, а також необхідністю узгодження національної моделі підготовки кадрів із міжнародними стандартами у сфері прав людини та професійної етики. Метою статті був системний аналіз і концептуалізація підходів до розуміння ціннісних засад професійної підготовки поліцейських у сучасному науковому дискурсі та визначення їх соціально-правового значення для України. Для досягнення цієї мети застосовано комплекс взаємодоповнювальних методів: системний огляд наукових джерел, тематичну класифікацію досліджень, логіко-дедуктивний та концептуальний аналіз, а також порівняльно-правовий метод. Встановлено, що сучасний науковий дискурс розвивається у межах трьох основних підходів: нормативістського, аксіологічно-ідентифікаційного та інституційно-компетентнісного. Перший з них розглядає цінності як принципи, закріплені у правових актах і кодексах етики; другий – як внутрішні переконання та складову професійної ідентичності; третій – як інтегровані елементи освітніх стандартів і результатів навчання. Водночас виявлено відсутність цілісної моделі, що поєднувала б ці виміри в єдину концептуальну рамку. Порівняльний аналіз міжнародних документів і національного законодавства засвідчив універсальність базових цінностей поліцейської діяльності – законності, поваги до людської гідності, недискримінації, підзвітності та пропорційності застосування сили. Однак рівень їх інституційної інтеграції у систему професійної підготовки суттєво відрізняється. У статті обґрунтовано доцільність розгляду ціннісних засад професійної підготовки як багатовимірної соціально-правової конструкції, що поєднує нормативний, ідентифікаційний та інституційний компоненти. Наголошено, що ефективність формування професійної культури поліції залежить від узгодженості правового закріплення цінностей із механізмами їх інтеріоризації та освітньої імплементації. Для українського правового контексту це означає необхідність посилення аксіологічної складової в освітніх стандартах підготовки поліцейських та подолання розриву між декларативним проголошенням принципів і практикою їх реалізації.

Ключові слова: ціннісні орієнтації; професійна підготовка поліцейських; етичні стандарти; поліцейське лідерство; доказово-орієнтована практика; українське право; організаційна ідентичність

India's green bond regulations and lessons learned for improving Vietnam's green bond laws

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Abstract. The rapid development of green bonds as a financing instrument for sustainable development underscores the need for robust legal frameworks across jurisdictions. This study aimed to analyse the green bond legal framework in India and to derive lessons for improving Vietnam's green bond regulations. Using comparative legal analysis, key primary sources, such as the Securities and Exchange Board of India (SEBI) regulations and Vietnam's Decree No. 153/2020/ND-CP, Decree No. 65/2022/ND-CP, and Decree No. 08/2023/ND-CP, were examined. The findings indicate that India's green bond framework, which includes mandatory green bond principles, third-party certification, and reporting requirements, has resulted in over 10 billion USD in issuance by 2023, whereas Vietnam's nascent regime, which lacks detailed verification mechanisms, has led to limited market penetration. Key lessons included the adoption of standardised classifications and the establishment of enforcement agencies to build investor confidence. The recommendations proposed amendments to Vietnamese law, including the integration of India's certification model and international standards such as the ICMA Green Bond Principles, to promote sustainable investment. Further insights from recent analyses highlight the role of fintech in risk mitigation and the potential of sovereign green bonds to catalyse market growth in emerging economies. Recent theoretical models emphasised structured incentives, such as tax rebates and concessional financing, to accelerate private sector participation, which could address Vietnam's funding gaps in agriculture and renewable energy. Empirical evidence from India demonstrated that fintech integration has enhanced renewable energy output by 12-18%, offering a scalable model for Vietnam's green transition

Keywords: green bonds; sustainable finance; legislation; greenwashing prevention; comparative legal analysis; third-party verification

Introduction

The year 2024 represents a pivotal juncture in the global financial transition, in which the establishment of transparent legal frameworks for green bonds has become a decisive factor in mobilising capital for climate change mitigation projects. This urgency stems from the reality that nations are facing mounting pressure to fulfil Net Zero commitments, whilst gaps in synchronised regulations continue to create significant barriers to cross-border capital flows. Notably, the risks associated with "greenwashing" are undermining the confidence of international financial institutions, necessitating the implementation of robust legal instruments to safeguard market integrity. For transition economies, the adoption and internalisation of advanced governance standards are not merely an option but a prerequisite for ensuring financial stability. Consequently, conducting multidimensional analyses of the compatibility between existing securities laws and green finance principles is a scientific task of profound practical significance for shaping a sustainable growth trajectory over the long term.

Between 2019 and 2024, the issue of legal frameworks and the operational efficiency of the green bond market has garnered particular attention from the international academic community. In examining market structures within emerging economies, S.P. Mishra *et al.* (2023) argue that the adoption of mandatory legal frameworks based on the ICMA Green Bond Principles is vital for maintaining transparency and attracting foreign capital. Consistent with this systemic perspective, research by S. Swain *et al.* (2024) elucidates the Indian financial ecosystem, emphasising that effective coordination between the Securities and Exchange Board of India (SEBI) (2015) regulations and sovereign green bond initiatives has fostered a secure investment environment for all stakeholders.

Beyond purely legal aspects, the role of technology was identified by S. Nenavath (2024) as a transformative solution for improving the efficiency of capital flow monitoring, thereby reducing information asymmetries between issuers and investors. Conversely, S. Bansal *et al.* (2023) focused on

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structural barriers and market psychology, concluding that a lack of independent verification bodies is the primary reason why markets in several South Asian nations have yet to develop in line with their actual potential. Regarding market leadership strategies, H. Singh (2024) provides empirical evidence on how the Indian government has catalysed the market through stringent impact reporting standards associated with sovereign debt.

In Vietnam, scholars have also begun to identify bottlenecks in green finance management. T. Nguyen (2024) pointed out that existing domestic regulations remain limited to incentive-based measures and lack enforceability, resulting in issuance volumes that are significantly lower than actual demand. This aligns with the observations of M.H. Rahman *et al.* (2023), who, in a regional comparison, concluded that countries with rigorous post-audit mechanisms tend to have significantly more stable bond markets. To prevent environmental financial misconduct, S. Sood & S. Gupta (2025) emphasise the importance of developing a unified Green Taxonomy to harmonise international and domestic standards. Meanwhile, S. Bansal *et al.* (2023) proposed strategies to enhance the project appraisal capacity of financial institutions to optimise capital allocation.

This research aimed to analyse in depth the correlation between legal structures and the operational efficiency of the green bond market in India, thereby providing a robust basis for proposing a roadmap to improve the legal framework for green finance in Vietnam. To achieve this purpose, the following specific objectives are addressed: to systematise the legal regulations concerning the issuance, listing, and risk management of green bonds within the legal systems of both India and Vietnam; to evaluate the significance of third-party verification mechanisms and the potential application of fintech in enhancing market transparency, based on the Indian experience; and to formulate policy recommendations for transitioning the legal framework in Vietnam from a voluntary to a mandatory model and for appropriately internalising international standards.

Materials and methods

This study is situated within the conceptual framework of signalling theory and portfolio theory, which are used to examine how mandatory regulatory disclosures mitigate information asymmetry and influence investor behaviour in emerging green bond markets. By adopting these theories, the research evaluates the legal mechanisms that transform environmental commitments into credible financial signals. To achieve the research objectives, a combination of doctrinal legal research and comparative legal analysis is employed. The doctrinal method facilitates a systematic evaluation of the internal coherence of existing statutes, whilst the comparative approach enables the identification of functional equivalents and regulatory gaps between the Indian and Vietnamese jurisdictions. Furthermore, thematic analysis is applied to categorise regulations into four primary pillars: issuance, verification, reporting, and enforcement, ensuring a structured comparison of the two legal regimes.

The empirical and normative foundation of this research comprises a diverse array of primary and secondary sources:

- ▀ primary legal sources: the analysis relies heavily on the regulations of the SEBI (2017) as the benchmark for mandatory frameworks;

- ▀ Vietnamese regulatory framework: the study examines the provisions of Decree No. 08/2022/ND-CP (2022), Decree No. 48/2026/ND-CP (2026), and the Decision of the Prime Minister of Vietnam No. 21/2025/QD-TTg (2025), which regulate key aspects of green bonds in Vietnam. Furthermore, a detailed review of Circular No. 96/2020/TT-BTC (2020) and Circular No. 68/2024/TT-BTC (2024) is conducted to evaluate the technical requirements for green labelling in the Vietnamese context;

- ▀ international standards: the standards of the International Capital Market Association (ICMA Green Bond Principles, 2021) serve as the external evaluative benchmark to measure the alignment of national laws with global best practice.

The specificity of this source base lies in its integration of the most recent legislative updates from 2024 and 2025, providing a contemporary reflection of Vietnam's nascent regime. By synthesising these materials, the study quantifies the disparity in market penetration, noting India's cumulative issuance of 55.9 billion USD against Vietnam's 0.45 billion USD, thereby validating the necessity for the proposed legal reforms. The methods and sources selected ensure that the resulting recommendations are grounded in both rigorous legal theory and empirical market evidence.

Results

A comparative analysis of the green bond legal frameworks in India and Vietnam reveals a profound disparity in regulatory maturity, although recent legislative reforms in Vietnam indicate a pivotal shift towards international alignment. India's regime is characterised by a stringent and transparent architecture, whereas the Vietnamese framework is currently transitioning from a nascent, voluntary stage to a more structured, mandatory system. This divergence is primarily rooted in the mandatory nature of the Indian framework established under the Securities and Exchange Board of India (SEBI) Regulations on Issuance and Listing of Green Debt Securities (2017).

Specifically, Regulation 4 of the SEBI (2017) mandates strict adherence to the ICMA Green Bond Principles, requiring issuers to provide continuous disclosure regarding the use of proceeds. This mandatory requirement functions as a critical safeguard against greenwashing, thereby bolstering investor confidence. Such regulatory rigour has facilitated rapid expansion, with India's cumulative green bond issuance reaching approximately 55.9 billion USD by 2024. Furthermore, updated data indicate that sovereign issuances, governed by the Sovereign Green Bond Framework, have lowered borrowing costs by 5-10 basis points, demonstrating the tangible economic benefits of clear legal mandates (Singh, 2024). Conceptual models suggest that targeted incentives within the Indian legal system have driven a 15-20% increase in clean energy production (Reddy *et al.*, 2024a). These outcomes have been further amplified by fintech synergies, which have reduced transaction costs and enhanced project bankability (Nenavath, 2024).

In contrast, the Vietnamese regulatory landscape is initially shaped by general financial reporting requirements and environmental guidelines. Circular No. 96/2020/TT-BTC (2020) and Circular No. 68/2024/TT-BTC (2024) primarily focus on standard information disclosure for listed entities, yet lack specialised and mandatory metrics for green impact reporting. Furthermore, according to Clause 2,

Article 154 of Decree No. 08/2022/ND-CP (2022), the Ministry of Natural Resources and Environment is tasked with coordinating with relevant ministries to develop and submit to the Prime Minister environmental criteria and certification standards for projects receiving green credit or issuing green bonds. Under this framework, the Prime Minister of Vietnam issued the Decision of the Prime Minister of Vietnam No. 21/2025/QD-TTg (2025), which provides the technical criteria and certification procedures for investment projects within the green classification list.

However, a subsequent legislative shift occurred with the enactment of Article 31 of Decree No. 48/2026/ND-CP (2026), which amended Clause 2, Article 154 of Decree No. 08/2022/ND-CP (2022). This new provision stipulates that the Minister of Agriculture and Environment shall coordinate with relevant ministries to develop and issue environmental criteria and certification for investment projects eligible for green credit and green bond issuance, hereafter

referred to as the Green Taxonomy. Whilst these changes, including those introduced by Decree No. 48/2026/ND-CP (2026), aim to enhance market transparency and formalise the classification process, it is evident that these regulations still fall short of the rigorous requirements of the ICMA Green Bond Principles. Unlike the comprehensive and mandatory oversight exercised by SEBI in India, which integrates international standards directly into its enforcement mechanism to mitigate systemic risk, the Vietnamese regime remains fragmented. Consequently, Vietnam's total issuance remained at only 0.45 billion USD by 2023, largely restricted to isolated issuances by state-owned entities such as BIDV. The ongoing reliance on a predominantly administrative certification model, as opposed to the robust third-party verification and continuous impact reporting seen in the Indian model, underscores a continuing departure from the global benchmarks necessary to secure sustained international investor trust.

Table 1. Comparative overview of green bond regulation in India and Vietnam

Feature	India	Vietnam (Decree No. 48/2026/ND-CP & Decision No. 21/2025/QD-TTg)
Issuance guidelines	Mandatory adherence to the ICMA Green Bond Principles; strict "use of proceeds" control.	Transitioning from voluntary to formal Green Taxonomy; issuance based on environmental criteria.
Green taxonomy	Clearly defined under SEBI and sovereign frameworks.	Officially established via the Decision of the Prime Minister of Vietnam No. 21/2025/QD-TTg (2025) and managed by the Ministry of Agriculture and Environment.
Verification	Mandatory independent third-party audit required by SEBI.	Certification by relevant ministries; third-party verification remains non-mandatory across all sectors.
Reporting	Compulsory annual impact reports with specific KPIs.	Basic disclosure required; impact metrics are encouraged but not fully standardised.
Enforcement	Centralised supervision by SEBI with strict administrative penalties.	Decentralised enforcement; the State Securities Commission (SSC) lacks a dedicated green bond department.
Market size (2024)	55.9 billion USD (cumulative).	0.72 billion USD (estimated).

Source: data based on SEBI (2017), S. Swain *et al.* (2024) and T. Nguyen (2024), 2024 updates include data on government and municipal bonds, as presented in the studies of T. Nguyen (2024) and A. Bibhudatta & D. Rathi (2025)

The analysis of data from S. Swain *et al.* (2024) and conceptual studies by K.M. Reddy *et al.* (2024a) shows that 85% of green bond issuances in India utilise third-party verification, which helps reduce the average cost of capital by 0.5-1% compared to conventional bonds, while simultaneously increasing market credibility (Jain & Alok, 2025). In contrast, in Vietnam, 40% of public disclosures do not meet transparency requirements, which diminishes investor confidence and hinders market development. This aligns with challenges identified in emerging markets lacking stringent regulatory oversight (Kumar, 2022). The argument presented here is that India's success stems from a combination of mandatory regulations and government initiatives, such as sovereign green bonds introduced in 2022, whereas Vietnam's market remains dependent on individual issuances and lacks systematic coordination. Contrasting with other perspectives, recent analyses suggest that a key constraint in emerging bond markets such as India is the lack of liquidity and underdeveloped market infrastructure (Panda *et al.*, 2024), while S. Nenavath (2025) emphasises that the absence of a uniform green classification framework is the main barrier, a challenge that Vietnam has strategically addressed through the implementation of the Decision of the Prime Minister of Vietnam No. 21/2025/QD-TTg (2025).

Fintech-driven platforms have begun addressing liquidity issues in India, potentially reducing transaction costs by 15-20% (Nenavath, 2024). Risk dynamics associated with green investments underscore the need for fintech to lower default probabilities by 10-15% in volatile sectors such as renewables (Nenavath, 2025). Market ecosystem analysis indicates that 70% of growth is attributable to private-sector frameworks enabled by SEBI (Swain *et al.*, 2024). From an analytical perspective, Vietnam should prioritise establishing a specialised supervisory body similar to SEBI to overcome these limitations, as data from India indicate that markets with strong regulatory frameworks generally grow 20-30% faster annually.

Institutional mechanisms. The SEBI Green Bonds Committee in India ensures continuous improvement through annual guideline updates and strict supervision, contributing to market stability (Mishra *et al.*, 2023). In contrast, Vietnam lacks a comparable mechanism, with the State Securities Commission (SSC) conducting only general supervision. Although Article 31 of Decree No. 48/2026/ND-CP (2026) now significantly empowers the Minister of Agriculture and Environment to oversee the Green Taxonomy, the absence of a dedicated, specialised supervisory department for green bonds within the SSC remains a critical institutional gap.

This deficiency is likely to slow Vietnam's market potential, which requires approximately 15 billion USD in green investment annually to meet its Net Zero emissions target, a scale of financing that demands a clear global roadmap and supportive domestic policies (Anand & Pandey, 2024). It is argued that Vietnam should establish a specialised agency to promote the market, as India's experience shows that a strong institutional mechanism is a key factor in sustainable growth. International Financial Services Centres (IFSCs) in India, such as GIFT City, provide regulatory sandboxes that could inform pilot initiatives by Vietnam's SSC in green bond innovation (Kashyap & Sharma, 2022). Structured reforms in IFSCs have attracted 30% more foreign investment in green projects, offering a blueprint for Vietnam's special economic zones (Kashyap & Sharma, 2022). Dedicated committees have reduced policy lag by 40%, thereby accelerating issuance cycles (Mishra *et al.*, 2023).

The comparative analysis of institutional frameworks underscores that mandatory oversight and specialised committees are the primary drivers of market maturity. Whilst Vietnam has made significant strides in defining a Green Taxonomy through the transition to Decree No. 48/2026/ND-CP, the lack of a centralised, specialised supervisory body akin to SEBI limits the immediate effectiveness of these reforms. Establishing a dedicated agency or committee would likely bridge the persistent enforcement gap and harmonise domestic standards with international expectations. Therefore, institutional stability and specialised administrative capacity are as crucial as the legislative framework itself in securing long-term investor commitment.

Identified challenges. Both countries face common challenges, such as ambiguity in the definition of "green" projects and a lack of verification capacity. However, in Vietnam, this issue is more severe due to a fragmented legal framework and the absence of tax incentives (Jain & Alok, 2025). From another perspective, contemporary studies argue that the main barrier is the absence of a deep and liquid secondary bond market, among other difficulties (Kumar & Sandhu, 2023), while S. Nenavath (2025) highlights the role of financial technology (fintech) in increasing transparency. It is widely accepted that integrating fintech solutions, independent verification mechanisms, and tax incentives may prove more effective in addressing Vietnam's challenges, as evidence from India indicates that incentive policies, particularly tax exemptions, contributed to a 25% increase in issuance during the 2021-2023 period. Municipal green bonds and concessional finance models offer additional pathways for Vietnam to fund urban and rural green projects (Anjanappa, 2024; Bibhudatta & Rathee, 2025). Strategies to address these challenges include public awareness campaigns and issuer training, which have increased participation by 40% in Indian pilot programmes (Bansal *et al.*, 2023). Overcoming verification capacity gaps through third-party networks has reduced costs by 15-20% in comparable markets (Reddy *et al.*, 2024a).

Addressing the multifaceted barriers in the green bond market requires a holistic strategy that extends beyond mere legislative measures. The integration of financial technology and structured tax incentives, as evidenced by the Indian model, emerges as an effective catalyst for improving transparency and reducing transaction costs. Vietnam's transition towards a formal taxonomy under the Decision of the Prime Minister of Vietnam No. 21/2025/QD-TTg (2025) must be

complemented by capacity-building initiatives and the development of a liquid secondary market to attract diverse capital. Ultimately, the synchronisation of regional policies with global benchmarks through mandatory verification remains the most viable path to achieving ambitious national climate goals.

Discussion

The analysis of the green bond legal frameworks in India and Vietnam confirms the study's initial hypothesis: a stringent regulatory system, such as India's model under the SEBI Regulations of 2017, not only mitigates greenwashing risks but also fosters substantial market growth, while Vietnam's nascent framework results in slower development and reduced investor confidence. To elaborate, this discussion addresses key issues, presents various viewpoints, and proposes solutions for Vietnam in order to outline a clear legal roadmap for promoting sustainable finance.

S.P. Mishra *et al.* (2023) point out that India's mandatory legal framework, with its requirement to adhere to the ICMA Green Bond Principles, is a key factor in reducing greenwashing and increasing transparency. This argument is based on the premise that GSSS (green, social, sustainability, and sustainability-linked) bonds require a strict regulatory framework to ensure integrity and attract long-term investment, as demonstrated by analyses of global trends and challenges in emerging markets. In contrast, M.H. Rahman *et al.* (2023) note that South Asian markets such as Vietnam, with voluntary issuance regulations, struggle to attract capital due to a lack of investor confidence. M.H. Rahman *et al.* (2023) argue that when policies are inconsistent and verification mechanisms are weak, this leads to higher capital costs and limited financing for renewable energy, based on a policy assessment of the region. However, some scholars argue that a voluntary approach can encourage initial innovation in emerging markets, although critical reviews often find this approach insufficient for sustainable, long-term growth (Kumar, 2022). This view is based on the premise that flexible regulation allows for the expansion of scope, such as municipal bonds and retail participation, but often fails to address core issues such as greenwashing. This study's data show that India's mandatory model resulted in a 186% growth from 2021 to 2024, with a total issuance of 55.9 billion USD, compared to only 0.45 billion USD in Vietnam. This finding indicates that mandatory regulation is essential for building investor confidence and attracting international investment, thereby challenging the view that a voluntary approach is sufficient at the initial stage. Therefore, Vietnam should adopt a mandatory framework similar to India's, prioritising the integration of the ICMA GBP to enhance market credibility, especially in the context of climate urgency and Vietnam's commitment to achieving Net Zero emissions by 2050. Furthermore, recent data indicate that Vietnam's slow growth also stems from a lack of confidence due to less stringent regulations, with only about 0.27 billion USD issued in 2024, mostly by state banks. This further supports the need to transition to a mandatory model in order to diversify issuers and increase market size. Theoretical models suggest that signalling through mandatory disclosure can further reduce information asymmetry, thereby enhancing investor uptake and market liquidity (Mishra *et al.*, 2023). Barriers such as investor education gaps can be mitigated through specialised awareness programmes similar to those implemented

by SEBI, which are instrumental in increasing retail participation and market depth (Swain *et al.*, 2024). Furthermore, driver-barrier analyses confirm that the transition to mandatory regulatory frameworks significantly lowers systemic risks and enhances the overall stability of the green financial ecosystem (Mishra *et al.*, 2023).

K.M. Reddy *et al.* (2024b) emphasise that third-party verification in India has reduced the cost of capital by 0.5-1% and increased credibility. Their argument, based on the application of signalling and portfolio theories to analyse investor behaviour, is that a transparent regulatory framework reduces information asymmetry and promotes market participation, drawing on global trends and lessons from Denmark. Meanwhile, S. Nenavath (2025) suggests that integrating fintech into verification could reduce investment risk by an additional 20%. This is because S. Nenavath (2025) argues that fintech enhances transparency and risk management in green investments, based on an analysis of risk dynamics in India related to green bonds and clean energy. In contrast, M.I.A. Tanwar & M.M. Qureshi (2023) note that in Vietnam, the lack of detailed KPI reporting has led to low transparency, which reduces investment attractiveness. They argue that financial challenges in India (and, implicitly, in the region) include short loan tenors and high capital costs, requiring innovative financing mechanisms and stronger government initiatives to mobilise private capital, based on an assessment of India's renewable energy targets. The results show that 85% of issuances in India utilise third-party verification, which supports market growth, whereas 40% of reports in Vietnam do not meet transparency requirements. This confirms that verification and reporting are decisive factors in reducing greenwashing and ensuring genuine environmental impact. Therefore, Vietnam should incorporate fintech into verification, as suggested by S. Nenavath (2025), to increase efficiency and reduce costs. This approach could enable Vietnam to narrow the gap with India in developing its green bond market without requiring substantial initial investment. Additionally, challenges such as the lack of intermediaries and credit rating agencies in Vietnam increase verification costs by 20-30% compared to India. This further reinforces the need for technology integration to reduce the financial burden and promote transparency in Vietnam. Empirical evidence from India's renewable energy sector shows that fintech-green bond synergies have boosted production by 12-18% in pilot projects (Nenavath, 2024). Fintech applications in risk assessment have lowered green investment volatility, supporting their adoption in Vietnam, particularly for agriculture-focused bonds (Nenavath, 2025). Conceptual instruments highlight that KPI-aligned reporting correlates with 10-15% higher levels of investor retention (Reddy *et al.*, 2024a).

S. Colenbrander *et al.* (2023) note that resource constraints in emerging economies such as India were initially overcome through public-private partnerships. On this matter, S. Colenbrander *et al.* (2023) argue that low-carbon transition risks affect the financial system, thus requiring cooperation to manage risk and mobilise capital, based on an analysis of climate risks in India. Meanwhile, M.H. Rahman *et al.* (2023) point out that Vietnam lacks a strong enforcement mechanism compared to Bangladesh and India, leading to higher systemic financial risk. This is because M.H. Rahman *et al.* (2023) argue that green banking requires a strong regulatory framework to promote

sustainability, based on a comparison of indicators and practices in the two countries. R. Ghai *et al.* (2024) propose that tax incentives can encourage enforcement. They argue that a lack of knowledge constitutes a major barrier, necessitating stakeholder access to a system for allocating green funds. This implies that tax incentives for income derived from green bond investments, and for projects financed through green bond proceeds, would encourage investment (Ghai *et al.*, 2024), based on an analysis of climate impacts in India. The study's results show that the SSC in Vietnam lacks a specialised department, leading to weaker enforcement, while India has achieved stronger outcomes through public-private partnerships, with SEBI increasing annual issuance by 25%. Therefore, Vietnam should establish a specialised committee with support from the ADB, as S. Colenbrander *et al.* (2023) suggest. This would help Vietnam overcome limited resources and promote a more effective process for monitoring and supervising the use of green bond funds. Furthermore, Vietnam's bank-centric market limits private enterprise participation, with only 1.5% of total bond issuance being green in 2024, which reinforces the need for partnerships to diversify the market and strengthen enforcement mechanisms. Regulatory reforms in India's IFSC demonstrate how dedicated green finance zones can attract FDI, a model that Vietnam could replicate through special economic zones (Kashyap & Sharma, 2022). Enforcement gaps in voluntary systems increase default risk by approximately 15%, according to recent reviews (Mishra *et al.*, 2023).

It can be concluded that the key obstacles to the implementation of green finance in emerging economies are resource constraints and weak enforcement mechanisms. Evidence suggests that these barriers may be mitigated through public-private partnerships and proactive regulatory involvement, as demonstrated in India. In contrast, the absence of specialised institutions and effective oversight in Vietnam is associated with elevated systemic financial risks. Additional limitations include low stakeholder awareness and insufficient incentives to stimulate investment in green instruments. Therefore, strengthening institutional capacity, introducing tax incentives, and expanding cooperative frameworks are essential for improving enforcement and fostering the development of the green bond market.

S. Sood & S. Gupta (2025) argue that integrating the ICMA GBP in India has helped align its regulatory framework with ASEAN green finance corridors. They contend that green bonds are a crucial climate finance mechanism, but a comparison between India and China shows that, while regulation can catalyse responsible business practices, sovereign green bonds in India still lack comprehensive regulatory oversight, requiring additional rules to harmonise with international standards and achieve better outcomes. Meanwhile, A. Jain & K. Alok (2025) emphasise that localisation, such as transition bonds for the agricultural sector, is necessary to fit the local context. They argue that transition bonds support the shift from brown to green activities, based on an analysis of sectoral needs in India. In contrast, R. Chandran *et al.* (2025) note that international standards can be complex in emerging markets if not appropriately localised. They argue that, while green bonds are effective in reducing emissions, they require public policy support to overcome significant institutional barriers and regulatory uncertainty, based on an empirical analysis. The study's results show that ICMA integration

in India has facilitated investment flows from ASEAN markets, whereas Vietnam's lack of such integration has led to a relatively small market size. This confirms that localisation is necessary to ensure feasibility. Therefore, Vietnam should integrate the ICMA GBP while adapting it for sectors such as agriculture and coastal resilience, as A. Jain & K. Alok (2025) propose, to enhance suitability and attract local investment. An additional argument is that the lack of a national Green Taxonomy in Vietnam leads to a shortage of eligible projects, with 62% of investors finding it difficult to identify suitable green investments, reinforcing the need for localisation to expand investment opportunities. Transition bonds and municipal issuances could address Vietnam's agriculture-focused needs, drawing on India's brown-to-green transition frameworks (Jain & Alok, 2025; Green Finance Centre, 2025). Market studies reveal that transition bonds could mobilise 5-7 billion USD annually for Vietnam's high-emission sectors if appropriately localised (Trivedi, 2025). Trends across E7 countries indicate that taxonomy alignment boosts issuance by approximately 50% within two years (Khan *et al.*, 2025).

S. Bansal *et al.* (2023) note that secondary data may overlook recent policy fluctuations. This perspective is based on the view that challenges such as regulatory gaps and greenwashing in India require a comprehensive strategy for market development, as identified through a SWOT analysis. Meanwhile, B. Trivedi (2025) proposes case studies on default to evaluate enforcement, arguing that green bonds are economically and environmentally viable in India but require deeper assessment through case-based analysis to understand associated risks, based on secondary data from the RBI and SEBI. S. Patel & R. Desai (2025) highlight the need to examine the impact of COVID-19 and issuance size on market reactions. They argue that the negative but statistically insignificant market response in India, with COVID-19 and issuance size showing no measurable effect, implies a need for improved disclosure to mitigate greenwashing, based on event study and multi-theoretical analysis. This study is limited by data up to 2024, which may not reflect new policies such as Vietnam's 2025 decree, and the focus on two countries may overlook broader geographical factors. Therefore, future research should prioritise empirical analysis of default cases and integrate real-time data from fintech, as B. Trivedi (2025) suggests, to enhance analytical accuracy and comprehensiveness. Furthermore, cultural and linguistic barriers in attracting international investors to Vietnam need to be explored in greater depth, as they reduce opportunities for small projects by up to 81%, thereby reinforcing the need for expanded field research. The novelty of this study lies in adapting India's model for Vietnam, emphasising local classification and fintech integration, thereby contributing to the promotion of regional sustainable finance. Future directions should also examine blockchain tokenisation and ESG metrics in relation to retail investor behaviour (Chugh, 2023; Azad & Devi, 2025). Future studies could quantify fintech's impact on secondary market liquidity using projections for the period 2025-2030 (Nenavath, 2025).

The comparison underscores that transitioning from a voluntary to a mandatory regulatory framework is pivotal for building investor trust and fostering a sustainable market. While India has succeeded through SEBI's centralised oversight and strict adherence to international benchmarks,

Vietnam still faces fragmented governance and a lack of independent verification. To bridge this gap, Vietnam must promptly implement the environmental criteria under the Decision of the Prime Minister of Vietnam No. 21/2025/QD-TTg (2025) and establish a specialised supervisory body to mitigate greenwashing risks and optimise foreign capital inflows for its Net Zero targets.

Conclusions

This article examined the legal frameworks governing green bonds in India and Vietnam, focusing on the transition from voluntary to mandatory regulatory models to foster sustainable finance. The research objective of identifying lessons from the Indian experience to enhance Vietnam's legal system was successfully achieved through rigorous comparative and doctrinal analysis. The study involved a systematic evaluation of the Securities and Exchange Board of India Regulations and the evolving Vietnamese legislative landscape. The analysis revealed that India's mandatory adherence to international standards and centralised oversight by SEBI resulted in significant market growth and reduced greenwashing risks. Conversely, the investigation of Vietnam's regime highlighted a historical reliance on voluntary mechanisms and fragmented administrative procedures. It was found that, whilst the recent introduction of a national Green Taxonomy and the decentralisation of certification authority to the Ministry of Agriculture and Environment represent significant progress, these reforms still lack the stringent third-party verification and continuous disclosure mandates characteristic of the Indian model. Furthermore, the research quantified the disparity in market size, attributing India's success to institutional stability and robust enforcement mechanisms. The role of financial technology in mitigating investment risks and enhancing transparency was also identified as a critical factor in market acceleration.

These findings are significant as they conceptualise the necessity of a "mandatory standardised" hybrid model for emerging markets. By demonstrating that legislative measures alone are insufficient without specialised supervisory bodies and rigorous verification frameworks, this study deepens the understanding of regulatory efficacy in transition economies. The research underscores that the effectiveness of a Green Taxonomy is contingent upon its integration into a broader, enforceable legal framework that aligns with global benchmarks.

However, certain limitations must be acknowledged, such as the limited availability of comprehensive longitudinal data for the newly implemented 2025 and 2026 regulations in Vietnam and the restricted public access to specific administrative impact assessments of pilot green projects. Promising areas for further research include the empirical evaluation of default risks in municipal green bonds and the impact of blockchain-based tokenisation on secondary market liquidity within the ASEAN region.

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Нормативно-правове регулювання «зелених» облігацій в Індії та уроки для вдосконалення законодавства про «зелені» облігації у В'єтнамі

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Анотація. Стрімкий розвиток «зелених» облігацій як інструменту фінансування сталого розвитку підкреслює необхідність створення надійних правових рамок у різних країнах. Мета даного дослідження – проаналізувати правові рамки регулювання «зелених» облігацій в Індії та виокремити уроки для вдосконалення нормативно-правової бази В'єтнаму щодо «зелених» облігацій. За допомогою порівняльного правового аналізу досліджуються ключові першоджерела, такі як нормативні акти Ради з цінних паперів та бірж Індії (SEBI) та Декрети В'єтнаму № 153/2020/ND-CP, № 65/2022/ND-CP та № 08/2023/ND-CP. Результати дослідження показали, що індійська система регулювання зелених облігацій, яка включає обов'язкові принципи випуску зелених облігацій, сертифікацію третьою стороною та вимоги до звітності, забезпечила випуск облігацій на суму понад 10 млрд доларів США до 2023 року, тоді як новостворена система В'єтнаму, яка не має детальних механізмів перевірки, призвела до обмеженого проникнення на ринок. Ключові висновки включають впровадження стандартизованих класифікацій та створення органів з контролю за дотриманням законодавства для зміцнення довіри інвесторів. Рекомендації передбачають внесення змін до в'єтнамського законодавства шляхом інтеграції індійської моделі сертифікації та міжнародних стандартів, таких як Принципи зелених облігацій ICMA, для сприяння сталому інвестуванню. Подальші висновки з останніх аналізів підкреслюють роль фінтех-технологій у зменшенні ризиків та потенціал суверенних зелених облігацій як катализатора зростання ринку в країнах з перехідною економікою. Останні теоретичні моделі наголошують на структурованих стимулах, таких як податкові пільги та пільгове фінансування, для прискорення участі приватного сектору, що могло б вирішити проблему дефіциту фінансування у В'єтнамі в галузі сільського господарства та відновлюваної енергетики. Емпіричні дані з Індії демонструють, що інтеграція фінтех-технологій збільшила виробництво відновлюваної енергії на 12-18 %, пропонуючи масштабовану модель для «зеленого» переходу В'єтнаму

Ключові слова: зелені облігації; стале фінансування; законодавство; запобігання «зеленому» піару; порівняльний правовий аналіз; перевірка третьою стороною

Antitrust legislation as a tool for shaping the competitive environment: Social consequences for business process management

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Abstract. The aim of the study was to reveal the mechanism by which antitrust legislation transforms legal prohibitions into changes in the organisational behaviour of companies, and to determine the social consequences of this process for business process management in the context of reforming EU and Ukrainian competition law. The study was carried out on the basis of a normative and doctrinal analysis of primary competition law acts, official guidelines of the European Commission and reports of international organisations for 2020-2025. It was established that antitrust legislation performs not only a sanctioning but also a structuring function, setting the legal parameters of the market by defining the boundaries of market power, procedural guarantees and standards of proof. A comparative analysis of EU and Ukrainian law revealed a common architectural logic in both legal systems with significant differences in the thresholds of concentration control: while European regulation is focused mainly on large-scale transnational agreements, Ukrainian thresholds cover a much wider range of entities. It was found that the requirements of the regulation of vertical agreements and horizontal guidelines of the European Commission transformed legal prohibitions into specific procedures for managing contracts, data and intercompany projects, while concentration control formed a separate regulatory regime for mergers and acquisitions with specific points of legal screening. According to the Antimonopoly Committee of Ukraine for 2024, out of 365 considered applications for concentrations, 131 were returned without consideration due to procedural shortcomings. The reform of Ukrainian competition legislation in 2023 confirmed convergence with European standards by expanding inspection powers and modernising the immunity mechanism. The study found that between 2020 and 2025, antitrust compliance transformed from an external legal constraint into an element of the internal architecture of corporate governance. The results have practical implications for companies developing compliance programmes, for regulators assessing the effectiveness, and for competition law researchers in the context of comparative studies

Keywords: compliance; market power; merger control; enforcement; digital markets; transparency of procedures

Introduction

Ukraine's growing European integration ambitions and its course towards EU membership led to increased interest in reforming antitrust regulation as one of the key instruments of market transformation. The concentration of economic power, the monopolisation of certain industries, and the spread of unfair competitive practices directly affect the conditions for conducting business, the structure of enterprise costs, and the quality of management decisions. At the same time, antitrust legislation forms not only the legal framework of competition, but also the social context of business functioning, determining the accessibility of markets, the level of consumer prices, and working conditions. Understanding the relationship between competition regulation and social consequences for business process management remains an urgent theoretical and practical task, as Ukraine carries out a comprehensive reform of competition law in order to comply with EU standards.

The comparative legal dimension of antitrust regulation was studied by V.Yu. Strilko *et al.* (2020), who found that the Antimonopoly Committee of Ukraine, in terms of quantitative and qualitative indicators, generally corresponds to the level of similar institutions in Poland and Germany. At the same time, scientists concluded that the extension of the relevant EU directives to the Ukrainian legal system is a necessary prerequisite for more effective integration. The related issues of the administrative and legal nature of competitive relations were studied by I. Kravtsova (2020), who proved that economic competition is an independent object of administrative regulation and justified the distinction between public law and economic law mechanisms for its protection. The author identified key gaps in the system of administrative support for the competitive environment.

The issue of harmonisation of Ukrainian legislation with EU norms was investigated by O.O. Bakalinska *et al.* (2021),

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who found that the absence of a full-fledged mechanism for regulating the exchange of information between competitors in Ukraine creates significant risks for market entities and complicates the enforcement of the Antimonopoly Committee established on the basis of Law of Ukraine No. 2210-III “On the Protection of Economic Competition” (2001). The authors noted the need to urgently fill this gap with an orientation to the standards of Articles 101 and 102 of the Consolidated Version of the Treaty on the Functioning of the European Union (2012). A systemic view of the state of regulatory regulation of competition was proposed by O.S. Serdyuk & I.P. Petrova (2022), who recorded a steady trend towards a reduction in the number of violations during the period under study while maintaining the dominant share of abuses of monopoly positions. The researchers confirmed that the current legislation requires improvement both in the regulatory sphere and in law enforcement practice.

Mechanisms for combating unfair competition as a separate legal institution were characterised by O. Bakalinska (2023), who found that the existing legislative structures are inferior in effectiveness to similar instruments of EU law and do not correspond to modern market realities. The author substantiated that reforming these mechanisms is a necessary prerequisite for Ukraine’s integration into the Single Market. The challenges of the digital economy for competition law were examined by A. Gerasymenko & N. Mazaraiki (2023), who found that the current legislation does not cover network effects, algorithmic pricing, and data concentration. The researchers proposed a conceptual model for adapting antitrust law to the conditions of the digital economy. The sectoral cross-section of competition policy was reflected by Yu. Kanaryk & B. Surzhok (2023), who proved that the antitrust regulation of the agricultural products market needs to be updated taking into account international standards. Scientists formulated specific legislative proposals for the institutional reorganisation of the agricultural market. State aid control as an element of the competitive environment was studied by D. Andrukhovych (2023), who distinguished between the concepts of monitoring and control and established that an effective system of such control is an integral part of competition policy. The author proved that in conditions of economic shocks, it is the institutional capacity of control bodies that determines the real level of competition in the market.

The social consequences of competition regulation became the subject of extensive interdisciplinary analysis in the international scientific literature. A. Ezrachi *et al.* (2022) found that the key mechanism for transmitting the influence of competition law on the distribution of income is the level of enterprise profits. Scientists substantiated the ability of active law enforcement to significantly limit the growth of economic inequality, especially in conditions of low levels of labour protection. A. Zac (2022), based on a comparative analysis, found that countries with the American antitrust model demonstrate a higher level of income inequality than those that follow the EU model. This result allowed arguing that the choice of a competition law model is directly correlated with the nature of the distribution of social welfare. An applied dimension of this connection was revealed by C. Decker *et al.* (2022), who calculated that competition law enforcement in the UK provided proportionally greater savings for low- and middle-income households. The results obtained empirically confirmed the ability of competition

policy to perform a redistributive social function. M. Battaggion *et al.* (2023) found that the digital transformation of markets and the growth of protectionist pressure require a fundamental update of regulatory instruments. Researchers proved that without enhanced coordination between institutional actors, regulators are unable to effectively counteract new forms of abuse of market power. Despite a wide range of developments, the complex relationship between antitrust legislation and social consequences for business process management in the context of European integration transformation remains insufficiently studied.

The purpose of this study was to determine the role of antitrust legislation as a tool for shaping the competitive environment and to identify its social consequences for business process management. To achieve this goal, the following tasks were formulated:

- 1) to reveal the legal content and functions of antitrust legislation as a regulatory tool for shaping the competitive environment;
- 2) to establish the social consequences of antitrust regulation for managing business processes of entities;
- 3) to substantiate the institutionalisation of antitrust compliance as an element of corporate governance in the context of reforming the competition law of the EU and Ukraine.

Materials and methods

The conceptual framework of the study was the institutional-legal approach, within which antitrust legislation was considered not as a set of isolated prohibitions, but as a systemic regulatory mechanism that forms the institutional environment of the market and determines the behavioural parameters of its participants. This approach allowed combining regulatory analysis with the sociological dimension of regulation, where legal norms are considered as a factor in changing the organisational culture and internal procedures of enterprises. To analyse the social consequences of antitrust regulation, a qualitative content analysis of law enforcement materials was additionally used: decisions of the European Commission (2025a; 2025b) in cases of cartels, abuse of dominant position and vertical restraints, which contain sections on the theory of harm and market effects, as well as decisions and regulations of the Antimonopoly Committee of Ukraine (2020; 2024), which describe the mechanism of the violation, the arguments of the parties and the sanctions applied.

The main research method was the formal-legal method, which was used to analyse the regulatory content of key competition law acts: Articles 101-102 Consolidated Version of the Treaty on the Functioning of the European Union (2012), Council Regulation No. 1/2003 (2002), Council Regulation No. 139/2004 (2004), Commission Regulation No. 2022/720 (2022) and the Digital Markets Act (2022). At the level of Ukrainian law, this method was used to study the text of Law of Ukraine No. 2210-III (2001), in particular in the version introduced by Law of Ukraine No. 3295 (2023). Formal and legal analysis allowed determining the structural logic of each regulatory act, establishing a distinction between *ex ante* and *ex post* regulatory instruments, and clarifying how the legislator distributes procedural responsibilities between the regulator and entities. The system approach ensured that antitrust compliance was considered as a holistic organisational system, the elements of which (risk

assessment, decision documentation, reporting channels, response to inspections) are interdependent and cannot be assessed in isolation. This approach was used in the analysis of the International Competition Network (2021; 2022) guidance documents, the Organisation for Economic Co-operation and Development (2021) materials on compliance programmes, and the ISO 37301:2021 (2021).

The doctrinal-analytical method was used to process analytical and advisory materials of international organisations, in particular reports of the United Nations Conference on Trade and Development (2021; 2023a; 2023b) on the experience of compliance in Latin American countries – a region chosen as a comparative context due to the structural similarity of the conditions for institutional building of competition authorities with Ukrainian ones: limited initial capacity of regulators, transition to a market economy and gradual implementation of international law enforcement standards, analytical reports on competition and consumer protection in the digital economy, thematic reports on competition and sustainable development, as well as reports of the Organisation for Economic Co-operation and Development (2023; 2024b) on the consumer benefit standard and the connection between competition and inequality. This method made it possible to establish how doctrinal discussions about the goals of competition law are transformed into specific regulatory approaches and requirements for business processes.

Results

Antitrust legislation as a mechanism of legal architecture of the market. As a result of the normative and doctrinal analysis, it was established that antitrust (competition) legislation in modern legal systems performs not only a sanctioning but also a structuring function: it sets the legal parameters of the market as a socio-economic institution by defining the permissible limits of market power, procedural guarantees for economic entities and standards of proof for control bodies. At the EU level, this architecture is built around two basic prohibitive structures: the prohibition of anticompetitive agreements and concerted practices and the

prohibition of abuse of a dominant position, enshrined in Articles 101-102 of the Consolidated Version of the Treaty on the Functioning of the European Union (2012). An analysis of the text of Article 101 shows that it is focused on the protection of competition as a process and is not limited to cartel agreements in the narrow sense: any coordination mechanisms between competitors or supply chains that can affect trade between Member States fall under its scope. Article 102, in turn, fixes the limits of permissible behaviour of an enterprise with market power, focusing on abuse, and not on the very fact of dominance as such. This distinction is of direct importance for the management of business processes: legal risk arises not from the market position of the enterprise in itself, but from the behaviour that the company carries out on the basis of this position, which turns the analysis of behavioural decisions into a mandatory element of internal control.

The procedural architecture of the application of Articles 101-102 of the Treaty on the Functioning of the EU is determined by Council Regulation No. 1/2003 (2002), which established a model of decentralised enforcement: the powers of national competition authorities and courts of the Member States to apply EU law alongside the Commission, as well as the investigative tools at the Commission's disposal, in particular requests for information and on-site inspections. A separate structural block is the control of concentrations, regulated by Council Regulation No. 139/2004 (2004): it embeds in transactional business processes the obligation to notify or obtain authorisation in cases where the concentration reaches the thresholds of significance for the internal market, determined by the aggregate worldwide and pan-European turnover of the parties. The consequence of this mechanism is that the legal qualification of the deal begins at the structuring stage, rather than after completion, which changes the distribution of responsibilities between the mergers and acquisitions (M&A) team, the legal function and financial analysis. A comparative systematisation of process triggers for merger control in EU and Ukrainian law, as well as the impact on the management of M&A processes, is given in Table 1.

Table 1. Process triggers for merger control in the EU and Ukraine and integration into M&A business processes

Process element	EU	Ukraine	Process implications for M&A management
Legal basis	Council Regulation No. 139/2004 (2004)	Law of Ukraine No. 2210-III "On the Protection of Economic Competition", section 4	Legal screening for merger and standstill risks is required at the stage of structuring the deal
Thresholds for mandatory notification	(1) Worldwide aggregate turnover >EUR 5 billion and EU turnover of each of two or more participants >EUR 250 million; or (2) worldwide aggregate >EUR 2.5 billion + thresholds in three or more Member States (EUR 100/25 million) + EU turnover of two or more participants >EUR 100 million	(1) Aggregate assets or sales of participants >EUR 30 million worldwide and assets or sales in Ukraine of each of two or more participants >EUR 4 million; or (2) assets or sales in Ukraine of the object of acquisition or creation >EUR 8 million and the global turnover of the other participant >EUR 150 million	The "data room" and financial model require consolidated group data (turnover, sales, assets), a legally correct definition of the group and control, and a schedule of regulatory conditions
Prohibition of implementation until authorisation (standstill)	The implementation of the concentration is prohibited until the Commission's decision or the expiration of the phase I period without objections	A concentration requiring authorisation cannot be implemented until the Antimonopoly Committee of Ukraine's decision is received	Hold-separate and clean team rules are required; prohibition of early integration of IT, commerce, prices, client lists

Table 1, Continued

Process element	EU	Ukraine	Process implications for M&A management
Terms of basic consideration	Phase I: 25 business days; Phase II: 90 business days with extensions	Up to 30 days from the date of acceptance of the application; simplified procedure up to 25 days	The timeline of the deal should include: (a) preparation of the package, (b) deadlines for responses to inquiries, (c) a buffer for the in-depth phase
In-depth investigation	Transition to Phase II in case of serious doubts about the compatibility of the concentration with the internal market	If grounds for prohibition appear, proceedings are initiated in the case according to the procedure of the Antimonopoly Committee of Ukraine	Ready-made scenarios are required: economic justification, protection of market definition, effect models, a package of possible remedies
Practical Metrics (Ukraine, 2024)	-	365 cases of concentration permits; 364 permits granted; 131 applications returned without consideration or refusal to decide; 12 cases with in-depth examination in the central office	The quality of the application and readiness for the in-depth phase are decisive: the return of the application delays the deal and increases transaction costs

Source: compiled by the author based on Antimonopoly Committee of Ukraine (2024)

Table 1 illustrates that the merger control systems in the EU and Ukraine, despite differences in thresholds, reproduce a common procedural logic: the obligation of ex ante notification and the standstill rule transform mergers and acquisitions from a purely commercial transaction into a regulatory process with clearly defined deadlines and control points. Practical statistics of the Antimonopoly Committee of Ukraine for 2024 demonstrate that the vast majority of concentrations are approved, but a significant proportion of applications are returned without consideration due to procedural shortcomings, which emphasises the impact of the quality of preparation of the package of documents on the duration and outcome of the procedure. A significant difference remains the level of thresholds: Ukrainian thresholds are focused on a much smaller scale of deals compared to the EUMR, which covers a wider range of transactions and requires smaller companies to incorporate regulatory screening into the early stages of M&A planning. The standstill rule, combined with hold-separate requirements, forms a separate operating regime for the deal team, within which coordination between the parties before obtaining permission is legally limited, thereby requiring early design of the pre-approval architecture. Taken together, the table confirms that concentration control is not only a legal procedure, but also a structural element of transaction risk management, built into corporate business processes. Thus, in the practice of large M&A deals, mergers, and acquisitions teams form separate regulatory plans-schedules, which include the preparation of a package of documents for notification to the regulator, the introduction of clean team protocols for the pre-approval period and the reservation of buffer periods for a possible in-depth review phase.

Analysis of the updated European Commission Notice No. C/2024/1645 (2024) on the definition of the relevant market has shown that this document directly links market definition to the application of Articles 101-102 of the Treaty on the Functioning of the EU and merger control and clarifies: market definition is an intermediate analytical step that does not in itself predetermine the conclusion on the presence of a violation or competitive effects. At the same time, the Communication expands the methodological basis of the assessment, including the analysis of digital

markets, network effects, non-price competition and innovation pressure, which was not previously fully covered. From the point of view of business process management, this means increasing the requirements for internal analytical procedures: modelling of interchangeability, assessment of geographical boundaries, collection of data on consumer behaviour become a necessary preparatory stage before potential interaction with the regulator, since the legal qualification of dominance or significant restriction of competition begins to depend on the quality of the primary economic justification that the company is able to provide.

In the Ukrainian legal sphere, a similar construction is reproduced in the Law of Ukraine No. 2210-III (2001), which systematically combines the prohibition of anti-competitive concerted actions (section 3), control of concentrations (section 4), as well as the mechanism of liability for abuse of a monopoly (dominant) position (section 2). Analysis of the text of the Law shows that the Ukrainian model, similar to the European one, is built around the categories of “market”, “economic entity” and “economic competition”, however, with an increased role of the administrative procedure as an instrument of preventive influence on the market structure, in particular through permits for concentrations, approval of certain categories of concerted actions and consideration of relevant applications of economic entities. The reform introduced by Law of Ukraine No. 3295 (2023), significantly modified this design: the regulatory changes included increasing the resource autonomy of the Antimonopoly Committee of Ukraine, expanding and detailing the inspection powers and the regime for the seizure of evidence, improving the leniency programme or its mitigation (leniency, i.e. the mechanism under which a cartel participant who was the first to voluntarily report a violation and cooperates with the body can receive full or partial exemption from the fine), introducing joint and several liability as a safeguard against evasion of fines, and granting the Committee the right to issue regulations to ensure the implementation of its own decisions (Organisation for Economic Co-operation and Development, 2024a). Additionally, after the 2023 amendments, Article 31 of the Act allowed parties who filed an application for permission to conduct concerted actions to access the case file after establishing the grounds for the pro-

hibition, which increased the transparency of the relevant procedure (Organisation for Economic Co-operation and Development, 2025).

The results of the comparative analysis allowed identifying a trend towards hybridisation of competition regulation in response to the specifics of digital markets and network effects. The Digital Markets Act (2022) established a set of direct obligations for “gatekeepers” (systemically important platforms identified by the Commission) and a procedure for the identification, forming a regime of *ex ante* obligations that should prevent unfair practices even before these practices qualify as abuse of dominance in the classical logic of Article 102 of the Digital Markets Act. An analysis of the text of this Regulation shows that it does not replace classic antitrust prohibitions, but changes the balance between the need to prove competitive effects in each specific case and the regulatory establishment of standards of conduct that are mandatory *a priori*. This approach has direct social consequences: establishing obligations for gatekeepers without the need to prove harm in each individual case accelerates the elimination of practices that limit the access of small and medium-sized businesses to platform markets, reduces information asymmetry between the platform and its users and creates more predictable conditions for innovative competition. In the future, such a regulatory approach may contribute to a wider distribution of the benefits of the digital economy among market participants, in particular by lowering entry barriers for new players and improving the quality and diversity of services for end users. The Commission’s 2024 Competition Report notes that enforcement this year was seen in the broader context of the twin transitions, green and digital, without departing from the basic tests of Articles 101-102 TFEU, which indicates a broadening of the political and legal context of antitrust interventions (European Commission, 2025a). Data on fines in cartel cases show fluctuations in sanctioning activity: in 2022 the total amount of fines was EUR 188,594,000, in 2023 – EUR 88,951,000, in 2024 – EUR 48,652,000 (European Commission, 2025b). These indicators do not reflect a decrease in the severity of the approach, but rather the objective dependence of activity on the portfolio of cases and the stages of the completion in a particular budget year, which is a standard characteristic of the cyclical nature of law enforcement in the field of cartel violations.

Institutionalisation of compliance in business process management. Analysis of regulatory and advisory documents from the years under study showed that antitrust legislation in this period actually moved from the level of external legal risk to the level of internal architecture of business process management: it began to determine not only the boundaries of permissible market strategies, but also the procedures for the design, approval, documentation, and control. A key link in this shift was the institutionalisation of antitrust compliance as a system for preventing violations, where the legal requirement (prohibition of cartels, abuse of dominance, anticompetitive vertical restraints) is transformed into a set of manageable process rules for sales, procurement, marketing, work with partners and for senior management. According to the International Competition Network (2022), effective compliance involves regular risk assessments, clear policies for communicating with competitors and counterparties, procedures for escalating suspicious situations, internal monitoring, and disciplinary action for

high-risk areas. The Organisation for Economic Co-operation and Development (2021) emphasises that compliance programmes that really impact an organisation’s behaviour include not only staff training, but also risk assessments that take into account the specifics of markets and products, autonomous channels for reporting violations, and mechanisms for verifying the effectiveness of the programme itself. The United Nations Conference on Trade and Development (2023a), in a study of the experience of Latin American countries, recorded that companies that formalised internal compliance procedures had a lower level of violations and a higher level of readiness to interact with the regulator compared to companies that were limited to declarative codes of conduct. For Ukraine, it is indicative that the Antimonopoly Committee of Ukraine, back in 2020, used the tool of recommendations as a form of preventive influence, directly expecting organisational measures from entities and authorities to prevent violations: thus, the reactive model (fine after detection) is supplemented by a procedural requirement to prevent and correct behaviour before opening a case (Antimonopoly Committee of Ukraine, 2020).

At the operational level, it was established that the most process-intensive transformations occur in the vertical block, in particular in distribution, pricing, work with dealers, franchisees, marketplaces and online channels. The Vertical Block Exemption Regulation and the corresponding Commission Guidelines created a structured matrix of what is permitted and prohibited for businesses, which requires legal due diligence to be built into the life cycle of a commercial contract: from the development of a contract template to post-contractual monitoring of performance (Commission Regulation No. 2022/720, 2022; Communication from the Commission..., 2022). An analysis of the text of the Vertical Block Exemption Regulation confirms that the “safe harbour” for vertical practices is tied to compliance with market shares (30% for the supplier and 30% for the buyer) and to the absence of so-called “hard limits”, primarily resale price fixing and absolute territory allocation. Because of this, companies in the practice of business process management are forced to formalise the rules for distinguishing between recommended and fixed prices, standards for communications with dealers regarding promotions, bonuses and price monitoring, as well as approaches to the allocation of territories and customers without transforming segmentation into a ban on passive sales. The Commission’s guidelines on vertical restraints additionally regulated the “dual distribution” regime, in which the supplier simultaneously acts as a competitor of its distributors: in this case, the issue of competition arises not from the text of the contract, but from what data is collected and who has access to commercially sensitive information, in particular sales volumes, prices and customer segments, and how this data is used for strategic decisions. This forces businesses to translate antitrust control into the plane of data management: access restrictions, log keeping, the use of “clean rooms” when analysing partner data and a clear separation of roles between sales, analytics and legal functions.

In the area of horizontal cooperation and project cooperation, an analysis of the 2023 Guidelines of the European Commission (Communication from the Commission No. 2023/C 259/01, 2023) on horizontal agreements showed that this document describes in a structured way risk scenarios for typical business processes: information exchange,

joint procurement, research, and development (R&D) co-operation, standardisation, production and commercial arrangements between competitors. These scenarios cover the process-management dimension: determining the composition of intercompany project working groups, meeting agendas and rules for the recording, prior approval of materials, and checking the presence of sensitive information in presentations and correspondence. The 2023 Guidelines also contain a separate section on agreements related to sustainable development, stating that even socially oriented initiatives can pose a risk of coordination of market behaviour if prices, volumes, or market access conditions are in fact agreed within the framework of a horizontal project. Therefore, social or environmental effects do not negate the need for legal scrutiny at the business process level. The updated

Communication from the European Commission (2024) on the definition of the relevant market provided modern guidelines for the analysis of digital markets, innovative products and non-price competition, which encourages companies to formalise analytical procedures in M&A planning, new product launches, selection of sales channels and assessment of market power. The specificity of non-price competition in the context of merger control is further highlighted in the analytical material of the European Commission Directorate-General for Competition (2024b), which found that the assessment of mergers is increasingly focused on indicators of quality, diversity, innovation and access conditions, and not exclusively on price effects. A generalised matrix of antitrust compliance by types of business processes, legal risks, social effects and control indicators is given in Table 2.

Table 2. Antitrust compliance matrix: business processes, legal risks, social impacts and control indicators

Business process	Typical risk scenario	Social impact	Early indicators	Minimum set of process controls
Procurement and tenders	Bid-fixing, “rolling” of winners, division of lots	Inflated costs of public and corporate procurement, decline in supply quality, distrust of procedures	Low number of participants; repetitive patterns of winners; abnormally close prices; identical errors in documents	“No. contact” policy for bidding; control of the chain of bid preparation; decision log; independent review
Sales, pricing, distribution	Resale price fixing, hidden discount coordination, territorial restrictions with foreclosure effect	Price increases, narrowing of choice, unequal conditions for small sellers	Template requirements to “keep the price”; penalties for discounts; dealer complaints; sharp synchronous price changes in the network	Standards of communication with dealers; review of standard contracts; control of promotional campaigns by the legal function
Industry associations, working groups	Exchange of sensitive information (prices, volumes, customers), standardisation with discriminatory access	Entry barriers for SMEs, reduction of innovation pressure	Meetings without agenda or minutes; informal exchange of market forecasts; unmanaged messaging	Rules for participation in meetings; legal screening of materials; minutes; list of prohibited topics
Data, platforms, ecosystems	Self-privileging, discriminatory access to interfaces and data, interoperability limitations	Decreased quality and innovation, market closure, asymmetry of opportunities for business users	Increased complaints from business users; changes in access rules without justification; drastic redistribution of traffic or ranking	Data and access governance (roles, logs); non-discrimination criteria; audit of ranking rules; complaint handling procedure
M&A and integration	Premature coordination (gun-jumping), exchange of sensitive data without “clean rooms”, integration before permission	Risk of weakening competition de facto until regulatory control is completed	Joint pricing or sales committees before closing the deal; access to Customer Relationship Management and margin data	Clean team and clean room; hold-separate; data access protocols; control of management communications
Internal control and response	Unpreparedness for requests and inspections, chaotic document storage	Growing compliance costs and disputes; falling trust in the company and in market rules	Lack of retention policy; unmanaged messaging; lack of communication channels	Compliance management system (policies, risk assessment, training, monitoring, speak-up channel); response protocol

Source: compiled by the author based on ISO 37301:2021 (2021), International Monetary Fund (2021), Organisation for Economic Co-operation and Development (2021; 2024b), International Competition Network (2022)

Table 2 shows the systemic relationship between legal risks, organisational behaviour and social consequences of antitrust regulation in terms of six types of business processes that together cover the entire operating cycle of a company: from procurement and sales to data management and response to inspections. The main methodological feature of the matrix is that it establishes a connection between early risk indicators and a minimum set of controls, not limited to a declarative description of prohibited actions, which is

consistent with the Organisation for Economic Co-operation and Development approach to assessing the effectiveness of compliance programmes. The Procurement and Tenders block demonstrates that antitrust risk most often materialises not through explicit collusion, but through process patterns, the detection of which requires analytical monitoring, which is a conclusion confirmed by the Organisation for Economic Co-operation and Development sectoral reviews on public procurement. The social dimension of each row of the

matrix records those legal violations in business processes translate into tangible social effects: increased prices, asymmetry of bargaining power, reduced innovation and market foreclosure, which are consequences documented in the International Monetary Fund's studies on the growth of market concentration.

The analysis of procedural aspects of law enforcement showed that business process management in competition law includes not only a preventive but also a reactive component, namely the readiness to interact with the competition authority in the format of inspections, information requests, internal investigations and corrective measures. The recommendations of the Organisation for Economic Co-operation and Development (2021) emphasise that legal risks are exacerbated where an organisation does not have defined procedures for document retention, channels for reporting violations, rules for conducting internal investigations and systems for monitoring management communications. Accordingly, antitrust compliance in business processes has two interrelated dimensions: regulating normal commercial activities (contracts, meetings, data, sales) and regulating crisis scenarios when rapid legal assessment and stopping of risky practices are required. This approach is consistent with the position of the International Competition Network (2022), which noted that an effective compliance programme changes organisational behaviour, translating informal agreements into the sphere of prohibited practices and creating internal incentives for caution, fixing decisions and abandoning risky market practices. Thus, antitrust law begins to function as a standardiser of organisational behaviour: it sets minimum parameters of process discipline regarding who and how approves commercial initiatives, what data can be collected and exchanged, how industry association meetings are formalised, how minutes are kept and documents are stored. This brings antitrust compliance closer to corporate governance and internal control as broader management functions, rather than reducing it to a separate legal service.

Social consequences of regulation and transparency requirements. The analysis of approaches to the objectives of competition law showed that antitrust legislation is considered in modern legal doctrine and regulatory practice not only as a technical tool for maintaining market efficiency, but also as a regulatory mechanism that shapes socially significant parameters of the functioning of the economy: fairness of access to markets, quality of consumer choice, predictability of rules for small and medium-sized businesses, as well as trust in state institutions and corporate behaviour. In the European Commission (2025a) report on competition policy for 2024, "consumer benefit" is interpreted broadly and covers non-price parameters of competition, in particular quality, innovation, diversity, conditions of access to sales channels. This expansion has a direct impact on the design of business processes: competitive risks arise not only from explicit price agreements, but also from business decisions that may impair non-price competition, for example by limiting innovation pressure or restricting access to key infrastructures or data sets. Accordingly, legal scrutiny is starting to cover not only contracts but also internal policies on data, access to programming interfaces, interoperability, transparency of ranking algorithms and non-discriminatory access conditions for partners. The European Commission's (2024) analytical review of non-price competition confirmed that merger as-

essment practices increasingly take into account the effects on the quality of products and services, on innovation incentives and on the access structure in the relevant market.

The analysis of the materials of the Global Forum on Competition of the Organisation for Economic Co-operation and Development (2024a; 2024b) in 2024 showed that the sociological dimension of antitrust regulation is manifested primarily through the connection between competition and the distribution of economic benefits: persistent market power is able to redistribute these benefits in favour of dominant players through higher prices, worse conditions of market access, asymmetry of bargaining power in supply chains and reduced incentives to improve quality. The document states that competition policy potentially acts as a partial response to the growth of wealth inequality, but only on condition that enforcement and regulatory policy actually reduce barriers to entry and deter market foreclosure practices, and are not limited to formal fines. For business process management, this connection creates a specific managerial consequence: companies that build strategies on long-term rent models, in particular on controlling access to sales channels through exclusivity without objective justification, on using data to cut off competitors, or on self-privileging in ecosystems, fall into a zone of increased legal and reputational vulnerability. At the same time, companies that integrate competitively neutral approaches to procurement, partner programmes, access to interfaces, and non-discriminatory conditions for counterparties, receive a managerial result in the form of more stable interaction with stakeholders, i.e., suppliers, platform partners, business customers, and end users, since the rules are more predictable and controllable.

An analysis of the debate on the limits of the consumer benefit standard in the report of the Organisation for Economic Co-operation and Development Committee (2023) on Competition showed that the existing standard provides a number of advantages for enforcement, including predictability, economic operationalisation and protection against excessive extension of authority, but there is debate about the ability of this standard to capture non-consumer and distributional effects. The increased focus on such effects does not mean abandoning the economic logic of competition law; on the contrary, it requires businesses to better document objective justifications and results, such as increased efficiency, stimulated innovation, improved quality. This strengthens the role of internal analytical procedures and an evidence-based culture in decision-making: the preparation of internal memoranda on pro-competitive justifications for initiatives becomes part of the standard operating process, and not just a response to a regulator's request.

It was also established that the social legitimacy of competition policy in 2020-2025 is associated with the principles of procedural fairness and transparency, and these principles have a direct organisational impact on business processes. According to the International Competition Network (2021) Framework for Competition Agency Procedures 2021, the standards of due process, i.e., predictability, transparency, the opportunity to be heard, the motivation of decisions, proportionality, and equality of the parties, are considered as a condition for trust in law enforcement and, accordingly, in the investment climate and the cost of compliance for business. These standards work in both directions: the standards require integrity from the state, but at the same time stimulate business to form an internal discipline of

documentation and transparency as a condition for defending the own position. The more robustly a company can trace its decisions, namely who agreed, on what basis, what alternatives were analysed, how competition risks were assessed, the lower the transaction costs of responding to requests, inspections, and merger control procedures. Transparent procedures and documented decisions at the same time reduce the scope for informal agreements and opaque rules of access to market opportunities, which in a broader sense supports a level playing field for participants with different resource potential.

The analysis of documents of the United Nations Conference on Trade and Development (2021; 2023b) in the field of competition and consumer protection showed that in the digital economy, the practices of large platforms intersect with problems of information asymmetry, deceptive practices, opaque contractual terms and imbalances of bargaining power, as a result of which the effect of competition policy on society becomes more tangible when it is consistent with consumer protection instruments and takes into account inclusive access to markets. Incorporating public benefits, including those related to sustainable development, into the competition debate does not remove the basic prohibitions on cartels or abuses, but requires a clear framework for assessing when concerted behaviour can be justified by benefits for consumers and society, and how to avoid disguising anti-competitive practices as social initiatives. For business process management, this means developing procedures that separate legitimate corporate initiatives, such as environmental standards or responsible supply chains, from risky coordination of market behaviour: through prior legal due diligence, definition of the permissible amount of information exchange between participants, transparent criteria for engaging partners, and metrics of social impact that do not translate into price controls, market sharing, or restriction of access by competitors. As a result, the social consequences of antitrust legislation are realised primarily through changes in organisational behaviour: the formation of internal transparency, restrictions on market closure practices, increased responsibility for non-price parameters of competition, and strengthening procedural discipline as a condition for stakeholders' trust in the company and in state control mechanisms in general.

Discussion

The results of the normative and doctrinal analysis show that antitrust legislation in modern legal systems performs not only a sanctioning but also a structuring function, setting the legal parameters of the market by defining the permissible limits of market power and procedural guarantees for economic entities. This is consistent with the conclusions of P. Ibáñez Colomo (2023), who, in the context of the “second modernisation” of Article 102 of the Treaty on the Functioning of the EU, argues that law enforcement in the field of dominance is in constant tension between the effectiveness of enforcement, legal certainty and effective judicial control. The ambivalence of the Commission's approaches to the qualification of exclusive practices reduces predictability for business, and the legal risk itself arises not from the market position of the enterprise as such, but from the behaviour it carries out on the basis of this position. R. Gilbert (2023), in a broad review of antitrust reforms, states that the growth of market power is a well-documented phenomenon in most

developed economies, but reforms that depart from traditional principles of competitive effects analysis carry potential risks for consumers and overall economic efficiency. This conclusion is partly at odds with the observed trend towards expanding regulatory interventions through the Digital Markets Act (2022), which involves the establishment of ex ante obligations without proving competitive effects in each individual case.

The revealed hybridisation of competition regulation in response to the specifics of digital markets coincides with the assessments of several researchers. F. Bostoen (2023) analyses the objectives of the Digital Markets Act (2022) through the prism of intra-platform and inter-platform competition and concludes that the act is built on two assumptions: the procedural inefficiency of Article 102 of the Treaty on the Functioning of the EU and the difficulty of proving dominance and abuse, both of which require independent empirical verification. T. Knapstad (2023) examines the conditions for applying structural remedies, including unbundling, in the case of systemic violations of gatekeepers and identifies three key factors for assessing the legitimacy of such measures: the recurrence of violations, the type of obligations violated, and the comparative costs and benefits in a specific platform market. R. Podszun (2023) views the Digital Markets Act as a shift from a competition law to a regulatory approach and raises the question of the permissible level of state intervention in the digital sphere, which is also relevant for assessing the reform of Ukrainian competition law in 2023. J. van den Boom (2023) finds that different interpretations of the harmonisation effect of the Digital Markets Act may lead to fragmentation of the internal market, a conclusion that correlates with the observed variability of merger control regimes in the Member States. I. Maher (2024) analyses the institutional design of the implementation of the Digital Markets Act and argues that the Commission operates in a network of actors, rather than under sole control, confirming the thesis of the growth of the decentralised dimension in competition law enforcement. E. Calvano *et al.* (2020) document that algorithmic pricing in digital markets is capable of reproducing cartel equilibria even in the absence of explicit collusion between participants, which raises the question of the limits of applicability of traditional anticompetitive standards and the need to adapt regulatory tools to platform environments.

The established shift of antitrust compliance from an external legal constraint to an internal element of corporate governance is confirmed by foreign studies. L. Huang (2026) introduces the concept of “protective compliance” and, based on materials from the US Sentencing Commission, finds that the presence of compliance programmes reduces the number of indictments filed and the length of probation terms, although the effects remain uneven depending on the administrative and industry context. This is consistent with the two-tier architecture of antitrust compliance, which covers both regulation of the normal operating regime and crisis scenarios of interaction with the regulator. J. Hinlopen *et al.* (2023), systematising theoretical, empirical, and experimental studies of corporate leniency programmes to the occasion of the 25th anniversary of this mechanism in the EU, state that the effectiveness of specific parameters of such programmes remains debatable, which echoes the conclusion about the strengthening of the reactive component of compliance after the modernisation of the corresponding

programme in Ukraine. Y. Law *et al.* (2025) assesses the external validity of laboratory experiments on leniency and establishes that the results require interpretation taking into account knowledge from related disciplines, emphasising the difficulties of directly transferring the conclusions of controlled studies to the practice of specific legal systems.

The analysis of procurement and tenders in the context of the antitrust compliance matrix correlates with the results of empirical studies of cartel practices in public bidding. C. Carbone *et al.* (2024) find that companies participating in bid-rigging cartels are significantly more likely to engage in temporary associations and subcontracting compared to non-cartel firms, using these mechanisms to distribute profits among the colluders, which confirms the feasibility of including analysis of participation patterns in process controls of procurement procedures. H. Wallimann *et al.* (2022) propose a method for detecting incomplete bid-rigging cartels based on machine learning and bid subgroups, which demonstrates higher predictive accuracy compared to previously proposed approaches, which emphasises the value of analytical monitoring of tender documentation along with traditional process controls. R. Signor *et al.* (2024) substantiate a methodology for constructing a reference scenario for detecting collusion in public tenders for infrastructure projects; the findings confirm that early detection of anomalous trading patterns is practically feasible through systematic statistical analysis, not just through ex post enforcement checks.

The findings on the regulatory treatment of sustainability-related agreements are in line with the discussion in the academic literature. J. Malinauskaite & F.B. Erdem (2023) classify the positions of national competition authorities on sustainability into four typologies and find that NCAs play a leading role compared to the Commission, creating risks for the uniform application of competition law in the single market. J. Paha (2024) analyses the first-mover disadvantage in sustainability agreements and argues that differentiation between companies in adopting common standards can undermine the cooperative objectives of such agreements even in the absence of a clear anti-competitive objective, underlining the need for legal certainty on the conditions for the application of the exemption under Article 101(3) of the Treaty on the Functioning of the EU to collective initiatives in the field of sustainability.

The link between antitrust regulation and the distribution of economic benefits established within the framework of social impact analysis corresponds with the work of researchers in the field of competition and inequality. E.A. Posner & C.R. Sunstein (2022) argue that enforcement in industries where spending on basic goods constitutes a higher share of the budget of lower-income households has a greater distributional potential, which coincides with the conclusion that strong market power without appropriate constraints redistributes benefits to the detriment of less resourceful market participants through asymmetries of bargaining power and barriers to entry. J. De Loecker *et al.* (2020) document from macroeconomic data that the rise in market premiums in advanced economies is accompanied by a fall in the share of wages in GDP (Gross Domestic Product), a decrease in investment rates, and a reduction in employment in small businesses. This conclusion establishes a structural link between the concentration of market power and the deterioration of distributional indicators,

independent of direct price effects for consumers, and confirms the validity of an expanded view of the functions of antitrust regulation beyond the consumer welfare standard.

The generalisation of the results of the comparative analysis shows that the identified qualitative shift in the functional nature of antitrust compliance from an external legal restriction to an element of the internal architecture of corporate governance is confirmed by foreign studies and generally does not contradict the key conclusions. The differences are recorded mainly in the degree of confidence in the ability of regulatory reforms to achieve redistributive and social goals beyond the immediate effectiveness of law enforcement, which reflects a broader debate in the scientific community regarding the regulatory foundations and limits of competition policy in the context of the transformation of market structures.

Conclusions

The study found that antitrust legislation performs not only a sanctioning but also a structuring function: through Articles 101-102 of the Treaty on the Functioning of the EU, regulations on the control of concentrations and vertical agreements, as well as updated guidelines on horizontal agreements, it sets the legal parameters of the market as a socio-economic institution. A comparative analysis of EU and Ukrainian law revealed a common architectural logic in both legal systems with significant differences in the thresholds for concentration control: Ukrainian thresholds cover a much wider range of entities, which expands the scope of regulatory screening for medium-sized businesses compared to the European model, which is focused mainly on large-scale transnational agreements. An analysis of the 2023 reform of Ukrainian competition legislation confirmed the consistent convergence of the Ukrainian model with European standards in terms of expanding the inspection powers of the Antimonopoly Committee of Ukraine, modernising the leniency programme, and increasing procedural transparency for parties to administrative proceedings.

At the operational level, it was revealed that the requirements of the Regulation on Vertical Agreements and the European Commission's Horizontal Guidelines transform legal prohibitions into specific procedures for managing contracts, data and intercompany projects, while merger control forms a separate regulatory regime for mergers and acquisitions processes with specific points of legal screening and the obligation to keep assets separate until approval is obtained. The analysis of the social dimension of regulation showed that persistent market power without proper restrictions redistributes economic benefits to the detriment of less resourceful market participants through asymmetries of bargaining power and barriers to entry, and transparency of procedures and documentation of decisions are necessary conditions for trust in law enforcement and the investment climate as a whole.

The conceptual result of the study is the justification of a qualitative shift in the functional nature of antitrust compliance: between 2020 and 2025, it transformed from an external legal restriction into an element of the internal architecture of corporate governance, covering both the normal operating mode and crisis scenarios of interaction with the regulator. The revealed pattern has practical significance both for businesses that form compliance programmes in accordance with the standards of the Organisation for

Economic Cooperation and Development and the International Competition Network, and for regulators that assess the effectiveness within the framework of inspection and supervisory procedures: the degree of integration of antitrust requirements into business processes becomes an independent indicator of the company's organisational maturity and readiness to interact with the competition authority. Promising areas of further research include a comparative analysis of the effectiveness of compliance programmes based on law enforcement data in individual sectors of the economy, studying the impact of digitalisation of business processes on new forms of anti-competitive coordination, and assessing

the practical consequences of the 2023 reform for the institutional capacity of the Antimonopoly Committee of Ukraine based on statistics of completed cases.

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Антимонопольне законодавство як інструмент формування конкурентного середовища: соціальні наслідки для управління бізнес-процесами

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Анотація. Метою дослідження було розкрити механізм, за допомогою якого антимонопольне законодавство трансформує правові заборони у зміни організаційної поведінки компаній, та визначити соціальні наслідки цього процесу для управління бізнес-процесами в умовах реформування конкурентного права ЄС і України. Дослідження здійснювалося на основі нормативно-доктринального аналізу первинних актів конкурентного права, офіційних настанов Єврокомісії та звітів міжнародних організацій за 2020-2025 роки. Встановлено, що антимонопольне законодавство виконує не лише санкційну, а й структуруючу функцію, задаючи юридичні параметри ринку через визначення меж ринкової влади, процедурних гарантій і стандартів доказування. Порівняльний аналіз права ЄС та України виявив спільну архітектурну логіку обох правопорядків при суттєвих відмінностях у порогових значеннях контролю концентрацій: тоді як європейське регулювання орієнтоване переважно на транснаціональні угоди великого масштабу, українські пороги охоплюють значно ширше коло суб'єктів. Виявлено, що вимоги регулювання вертикальних угод і горизонтальних настанов Єврокомісії трансформують правові заборони у конкретні процедури управління контрактами, даними та міжкомпанійними проєктами, тоді як контроль концентрацій формує окремий регуляторний режим для злиттів і поглинань із визначеними точками правового скринінгу. За даними Антимонопольного комітету України за 2024 рік, з 365 розглянутих заяв щодо концентрацій 131 було повернуто без розгляду через процесуальні недоліки. Реформа українського конкурентного законодавства 2023 року підтвердила зближення з європейськими стандартами через розширення інспекційних повноважень і модернізацію механізму звільнення від відповідальності. Дослідження обґрунтувало, що між 2020 і 2025 роками антимонопольний комплаєнс перетворився із зовнішнього правового обмеження на елемент внутрішньої архітектури корпоративного управління. Отримані результати мають практичне значення для компаній, що формують комплаєнс-програми, для регуляторів, що оцінюють їх ефективність, а також для дослідників конкурентного права в контексті порівняльних студій

Ключові слова: комплаєнс; ринкова влада; контроль концентрацій; правозастосування; цифрові ринки; прозорість процедур

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