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Actualization of the Establishment and Formation of the Bureau of Economic Security of Ukraine: Experience for Post-Soviet Countries

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Since economic security is the main condition for stable development of the national economy of the country and requires neutralization of corresponding threats, the experience of Ukraine on creation and formation of the isolated Economic Security Bureau, which activity is aimed at investigation of financial and economic crimes, on the background of common for the post-Soviet countries problems of combating economic crimes was considered. The assumption is made that in the course of time this experience could be adopted by other countries.

Keywords: *economic security, principles of activity, economic crimes.*

INTRODUCTION

The problem of ensuring economic security is fundamental for any country since it is "economic security is the main condition for the stable development of the national economy" and requires the neutralization of relevant threats under the influence of internal and external factors. As A.A. Kazakov notes, examples of the most potent threats to economic security are

structural deformation of the economy, the backwardness of the technological base of most industries, excessive monopolization of the economy, low investment activity¹, and others. At the same time, the greatest threat to the economy of the country is economic crimes.

THE DANGER OF ECONOMIC AND FINANCIAL CRIMES IN THE WORLD

As J. Vlogaert notes, "During the 1980s, the fight against economic crime, including money laundering, was already very high on the political agenda in most of the European states." This is because "economic crime has an evident influence on the rise of organized crime and combining money laundering is one of the most effective means in the fight against this form of criminal activity".² As you can see, over the years, the danger of economic and financial crimes in the world has only increased. According to M.V. Achim, S.N. Borlea, and V.L. Văidean, "*on average, the size of the economic and financial crime in low-income countries is about double compared to that of high-income countries.*"³ For example, according to the World Bank, Ukraine, like India, is in the group of countries with lower middle income. Conversely, China, as well as Moldova, Belarus, Georgia, the Russian Federation, Turkmenistan, and Azerbaijan are among the countries with higher incomes. Estonia, Latvia, Lithuania - among the countries with upper middle income. This situation in these countries naturally affects the level of criminal activity and the organization of the fight against it. According to S. Markina, R. Artemov, E. Nosachevskaya, and V. Panskov, "*Study of global, Russian and regional trends and patterns of economic crime and its dependence on globalization in the world is of some importance.*"⁴

Regarding China, for example, as E. Liu points out, "*there have been many attempts to cause economic crime, traditional legal possibilities and the peculiarities of the general justice system as a*

¹ A. A. Kazakov, 'Some Issues of Economic Security of Uzbekistan' (2020) 1 Territory Development, 97-99 <<https://doi.org/10.32324/2412-8945-2020-1-97-99>> accessed 10 December 2021

² Johan Vlogaert, 'Fighting Economic Crime — Action Taken in the European Union' (2001) 9 (1) Journal of Financial Crime, 22-25 <<https://www.emerald.com/insight/content/doi/10.1108/eb026003/full/html>> accessed 10 December 2021

³ Monica Violeta Achim, Sorim Nicolae Borlea & Viorela Ligia Vaidean, 'Does technology matter for combating economic and financial crime? A panel data study' (2021) 27 (1) Technological and Economic Development of Economy, 223-261 <<https://doi.org/10.3846/tede.2021.13977>> accessed 10 December 2021

⁴ Svetlana Markina, Roman Artemov, Ekaterina Nosachevskaya & Vladimir Panskov, 'Countering Economic Crime in the Context of Globalization' (SHS Web of Conference, 13 January 2021) <<https://doi.org/10.1051/shsconf/20219207040>> accessed 10 December 2021

whole have been insufficient".⁵ Regarding India, as Surajit Kar Purkayastha notes, "the government has created a fivefold anti-corruption mechanism to fight corruption in public life, but there seems to be a huge gap between anti-corruption policy and practice".⁶ However, according to Upendra Nath Sharma, Kartik Jain, and Ayushi Pandey, in the fight against economic and financial offenses, corporate crime, fraud, in India, the authorities authorized to inspect, investigate, investigate and inspect in court, enforce corporation there are the police, the Office of Serious Fraud (SFIO), the Central Bureau of Investigation (CBI), company prosecutors and the courts.⁷ Based on this, because mainly for post-Soviet countries the problems of combating economic crime are common, in our opinion, for such countries of interest is the recent experience of Ukraine to create such a special body. In addition, the concept of its creation takes into account the experience of such foreign organizations as the FBI⁸ and the U.S. Agency for Financial Crimes Enforcement (FinCEN).⁹ Thus, the aim of the article is the need to convey, mainly for post-Soviet countries, Ukraine's experience in creating a special body to combat economic crime. Methods of statistical generalizations and formal-logical are used in the work.

LEGAL BASES OF CREATION AND ACTIVITY OF THE BUREAU OF ECONOMIC SECURITY OF UKRAINE

The lack of efficiency in the investigation of economic and financial crimes contributed to the development of a new effective structure that could cope with this task. On March 25 of this year, the Law of Ukraine "On Economic Security Bureau" No. 1150-IX came into force.¹⁰ This

⁵ Liu, Enze, 'The Prevention and Control of Economic Crime in China: A Critical Analysis of the Law and its Administration' (School of Advanced Study, University of London, 2018) <<https://sas-space.sas.ac.uk/6700/>> accessed 10 December 2021

⁶ Surajit Kar Purkayastha, 'Comparative Crime and Corruption in Different Indian States in the Context of Economic Development' (World Scientific, January 2015) <https://doi.org/10.1142/9789814612593_0009> accessed 10 December 2021

⁷ Upendra Nath Sharma, Kartik Jain & Ayushi Pandey, 'Financial crime in India: overview' (Thomas Reuters Practical Law, 1 December 2020) <[https://uk.practicallaw.thomsonreuters.com/w-009-8768?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/w-009-8768?transitionType=Default&contextData=(sc.Default)&firstPage=true)> accessed 10 December 2021

⁸ Igor Petrenko, 'Financial Investigation Service: Will Zelensky step on Poroshenko's rake' (Depoua, 27 August 2019) <<https://www.depo.ua/ukr/politics/sluzhba-finansovikh-rozsliduvan-chi-nastupatime-zelenskiy-na-grabli-poroshenka-201908271018474>> accessed 10 December 2021

⁹ 'The United States is ready to help Ukraine establish a Financial Investigation Service' (Kpihoopm, 15 January 2018) <<https://www.ukrinform.ua/rubric-economy/2382021-ssa-gotovi-dopomogti-ukraini-stvoriti-sluzbu-finansovih-rozsliduvan.html>> accessed 10 December 2021

¹⁰ Bureau of Economic Security of Ukraine, 2021

body was created to separate the tax component, which will have service functions of crime investigation. The Bureau of Economic Security of Ukraine is planned to be the only body that will take the powers of the Security Service of Ukraine, the National Police, and the tax police. By the way, the State Security Service of the Republic of Uzbekistan,¹¹ as well as similar state security bodies in the countries of Central Asia, is also currently providing state security in the economic sphere. Therefore, the functioning of the Bureau of Economic Security, which is separated from the state security service, is based on the analytical component of determining the most vulnerable to criminal manifestations of the economy, the establishment, and the neutralization of risks.

At least to date, some organizational principles of creation of the Economic Security Bureau were investigated by T. Tricosa,¹² business expectations from the launch of the Economic Security Bureau were started by O. Gromyko,¹³ clarification of the focus of the Economic Security Bureau on the investigation of a particular category of crimes - belongs to E. Vorobyev,¹⁴ ways of "rebirth" of tax police - by Yu. Ridzievsky¹⁵ and others. However, due to the novelty of the body, this problem has not been fully studied, not solved, and requires further research, which is the purpose of this article. Article 17 of the Constitution of Ukraine notes that ensuring the economic security of the country is one of the most important functions of the state.¹⁶ For this purpose, the Bureau of Economic Security of Ukraine was created - a law

¹¹ State Security Service of the Republic of Uzbekistan, 2018

¹² Tatiana Trykoza, 'About Creation of Bureau of Economic Safety' (*Pravo*, 1 April 2021) <<https://pravo.ua/pro-stvorennia-biuro-ekonomichnoi-bezpeky/>> accessed 10 December 2021

¹³ Alexander Gromyko, 'Launch of BEB. What to expect business?' (*Finance.ua*, 8 October 2021) <<https://news.finance.ua/ua/news/-/501542/oleksandr-gromyko-zapusk-beb-chogo-chekaty-biznesu>> accessed 10 December 2021

¹⁴ Eugene Vorobyov, 'Bureau of Economic Security: the main thing about the functions and structure of the new law enforcement agency' (*Bihus*, 19 April 2021) <<https://bihus.info/byuro-ekonomichnoyi-bezpeky-golovne-pro-funkcziyi-ta-strukturu-novogo-pravoohoronnogo-organu/>> accessed 10 December 2021

¹⁵ Yuri Radzievsky, 'Bureau of Economic Security: how to "regenerate" the tax police' (*Epravda*, 10 September 2020) <<https://www.epravda.com.ua/columns/2020/09/10/664943/>> accessed 10 December 2021

¹⁶ Main page of the Section "Legislation of Ukraine" (*Verkhovna Rada of Ukraine*) <<http://zakon4.rada.gov.ua/laws/show/254k/96bp>> accessed 10 December 2021

enforcement body, the activities of which are aimed at the investigation of financial and economic crimes.¹⁷

According to Article 1 of the Law of Ukraine "On the Bureau of Economic Security of Ukraine", it is the central body of executive power, which is entrusted with the tasks of combating offenses that encroach on the functioning of the state economy.¹⁸ Its activity is directed and coordinated by the Government of Ukraine. The legal basis for the activities of the Bureau of Economic Security of Ukraine is the Constitution of Ukraine, international treaties of Ukraine, agreed to be binding by the Verkhovna Rada of Ukraine, the relevant Law, and related legislation. The need for the establishment of this body was due to the low efficiency of the previous tax policy, as well as the units of the Security Service of Ukraine and the National Police. Bureau of Economic Security of Ukraine combines all these bodies in the sphere of economic security of Ukraine and becomes the only body with powers to investigate economic crimes. Thus, the tasks of the Bureau of Economic Security of Ukraine include prevention, detection, suppression, investigation, and disclosure of criminal offenses attributed to its jurisdiction; participation in ensuring economic security of the state by countering criminal offenses that have a negative impact on the social economy; collection and analysis of information on economic crime attributed to the jurisdiction by law, and determination of ways to prevent them.

FEATURES OF THE FUNCTIONING OF THE BUREAU OF ECONOMIC SECURITY OF UKRAINE

The key objective of the Bureau of Economic Security is to maintain the stability of Ukraine's national economy. Its powers are:

- Identification of risk areas in the economy by analyzing structured and unstructured data;

¹⁷ The Verkhovna Rada abolished the tax police and established the Bureau of Economic Security' (*Milhoih*, 28 January 2021) <<https://minfin.com.ua/ua/2021/01/28/59226638/>> accessed 10 December 2021

¹⁸ Bureau of Economic Security of Ukraine, 2021

- Assessment of risks and threats to the economic security of the state, development of ways to minimize and eliminate them;
- Provision of proposals for amendments to regulatory legal acts on the elimination of prerequisites for schemes of illegal activities in the sphere of the economy;
- Ensuring economic security of the state through prevention, detection, termination, investigation of criminal offenses encroaching on the functioning of the state economy;
- Collecting and analyzing information on offenses affecting the economic security of the state, and identifying ways to prevent their occurrence in the future;
- Planning measures in the field of counteraction to criminal offenses assigned to its jurisdiction by law;
- Detection and investigation of offenses related to the receipt and use of international technical assistance;

Drawing of analytical conclusions and recommendations for state bodies to improve the efficiency of their managerial decisions on the regulation of relations in the sphere of the economy.¹⁹ The structure of the Economic Security Bureau of Ukraine includes detectives, information-analytical, operational-technical, and other units. The director heads it, and the number of employees will not exceed 4 thousand people. Employees are selected on a competitive basis. To reduce the risks of corruption, high official salaries are set for the employees. This approach is justified, as all possible risks of corruption should be eliminated. To ensure the principle of transparency and public control over the activities of the Bureau of Economic Security of Ukraine based on open and transparent competition is formed by the Council of Public Control. At the same time, the Bureau of Economic Security has declarative functions without the authority to counteract violations by its employees and officials about businesses that suffer from illegal actions of law enforcement officers. A certain risk is that without systemic changes in the criminal-procedural legislation the beginning of its

¹⁹ *Ibid*

functioning will not be able to fundamentally solve the problem of jurisdiction over economic crimes.²⁰

CONCLUSION

In general, these shortcomings can be solved legislatively, when the Economic Security Bureau of Ukraine will gain some experience in an economic interaction with business, and then the obtained achievements can be more widely offered to interested states.

²⁰ Olena Pisotska, 'How the BEB will work: Bureau of Economic Security: when the new body will work and how it differs from the fiscal authorities' (*Liza Zakon*, 22 July 2021) <https://biz.ligazakon.net/analytics/205046_byuro-ekonomchno-bezpeki-koli-zapratsyu-noviy-organ--chim-vn-vdrznyatsya-ud-fskaly> accessed 10 December 2021