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Theoretical approaches to victimological modelling: A review of concepts and determinants

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■ **Abstract.** The relevance of the research topic is due to the need to deepen the scientific understanding of the patterns of the formation and implementation of victimisation in modern conditions as a result of the increasing diversity of victimogenic factors, the complication of victimisation mechanisms, the emergence of new forms of unlawful encroachments and the transformation of social, economic, informational and security processes, and the actualisation of the need to improve the methodological tools for the study of victimological phenomena. The purpose of the study was a comprehensive theoretical and methodological analysis of the main approaches to victimological modelling, the generalisation of existing concepts of its understanding and the systematisation of the main determinants of victimisation. The methodological basis of the study was a complex of general scientific and special scientific methods, in particular, such

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methods as dialectical, systemic, method of analysis and synthesis, generalisation, comparative, structural-functional, formal-logical, classification. The article provided a theoretical analysis of the main approaches to victimological modelling as an important direction of research into the patterns of formation and implementation of victimisation, identifying connections between offenses and the behaviour of their victims. The conceptual apparatus of modern victimology was highlighted as the initial element of the theory of victimological modelling, its essence, structure, functions and significance for the scientific knowledge of victimisation processes. Special attention was paid to the definition and systematisation of the determinants of victimisation, which were considered as interrelated and mutually conditioned victimogenic phenomena and processes that created conditions for the implementation of victim behaviour and the emergence of victimogenic situations. The prospects of victimological modelling as a methodological basis for predicting victimisation, identifying victimogenic factors and developing measures to prevent it were determined. The practical significance of the study lies in the possibility of using the systematised determinants of victimisation and the principles of victimological modeling to predict victimogenic risks, improve their assessment methods, and develop evidence-based measures to prevent victimisation

■ **Keywords:** antisocial behaviour; victimology; victimogenic factors; victimological behaviour; victims of crime; behaviour modelling

■ Introduction

The relevance of the study of theoretical approaches to victimological modelling is due to the need to deepen the scientific understanding of the patterns of formation and implementation of victimisation in modern conditions. The growing diversity of victimogenic factors, the complication of victimisation mechanisms, the emergence of new forms of unlawful encroachments and the transformation of social, economic, informational and security processes actualise the need to improve the methodological tools for the study of victimological phenomena. The relevance of the article stems from the need to study the determinants of victimological behaviour among victims of offenses in order to study its characteristics and prevent the causes and conditions of victimisation, the consequences of long-term victimisation that arises as a result of antisocial behaviour of victims of offenses. The study of the impact of victimological antisocial behaviour of victims on the commission of offenses and the consequences of various types of criminal victimisation today are among the most relevant criminological studies. In order to quickly identify and prevent the impact of deviant antisocial behaviour of victims on the commission of offenses, it is necessary to thoroughly investigate the concept of a victim, the reasons and conditions under which a person, due to the victim characteristics of his behaviour, becomes a victim of criminal encroachments. Victimological modelling allows to systematically reflect the relationships between a person, his behaviour, social environment, victimogenic determinants and a specific situation in which the risk of victimisation is realised. Its use contributes to identifying patterns in the formation of victimisation, determining the most significant determinants of victimisation, predicting relevant processes and scientifically substantiating victimological prevention measures. At the same time, the lack of a single conceptual approach to determining the essence, structure and functional purpose of the victimological model necessitates further theoretical understanding of this issue.

Many scientists have devoted their empirical research to the topic of the influence of antisocial behaviour of victims on their commission of offenses, including those devoted to the principles of behavioural sequence of victims of crimes. R. Movchan *et al.* (2021) examined victim behaviour in the context of online sexual violence, focusing on behavioural and situational determinants that may increase vulnerability to victimisation and on prevention through influencing the behaviour of potential victims. Their findings complement broader approaches to victimological modelling by demonstrating how individual behaviour, the digital environment, and specific situational factors interact in the formation and prevention of victimisation. V. Heap (2021) highlighted the results of the "Research on the consequences of prolonged victimisation through antisocial behaviour" conducted in England. The study interviewed victims about the long-term antisocial behaviour they experienced and the consequences that affected their lives. The author found that victims with long-term antisocial behaviour experience a range of mental and physical health consequences, as well as changes in their behaviour. The results of research on the victim behaviour of victims of crime indicate the cumulative harm associated with their antisocial behaviour, which requires a more thorough study, understanding and resolution of the problems of victims of crime, as well as providing greater support to such victims.

A separate scientific direction is formed by research on modelling in criminology and victimology. Modelling is considered as a method of scientific knowledge that allows you to reproduce the essential

properties, connections and patterns of the phenomenon under study in the form of a certain model. The application of such an approach to victimological issues creates an opportunity to systematise information about the victim, victimogenic factors, the mechanism of victimisation, the conditions for the emergence of a victimogenic situation and the consequences of an unlawful act. At the same time, the scientific literature lacks a unified approach to determining the structure, types and functions of the victimological model of crime prevention.

An important direction is research devoted to victimisation and victimisation. Within this direction, victimisation is considered as a property of a person, social group or a certain community, which characterises the tendency to acquire the status of a victim, while victimisation encompasses the process of transforming a potential victim into a real one as a result of the influence of a complex of external and internal factors. In the scientific literature, various approaches have been formed to explaining the nature of victimisation - from individual-psychological and behavioural to social, situational and systemic. Thus, G. Fuller *et al.* (2025; 2026) progressively develop a relational model of victim behaviour, moving beyond the traditional active/passive dichotomy through the application of the Interpersonal Circumplex to conceptualise victim agency during violent crime. Their subsequent use of behaviour sequence analysis extends this framework into a dynamic model of victim–offender interaction, treating victim behaviour as a situational determinant that both responds to and may influence the unfolding of criminal events. M. O'Connell (2024) concluded in his study that it is necessary to study the activities and lifestyles of crime victims, which may increase the likelihood of victimisation, and that such knowledge about crime victims should be used to prevent further victimisation, rather than to directly blame the individual. Scholars have consistently used more specific indicators of victims' activities and lifestyles immediately before the crime to explain how they influence the commission of crimes.

The purpose of the study was a comprehensive theoretical and methodological analysis of the main approaches to victimological modelling, generalisation of existing concepts of its understanding and systematisation of the main determinants of victimisation. Achieving the set goal involved determining the essence and content of victimological modelling, clarifying its role in the study of victimisation mechanisms, characterising the main theoretical approaches to building victimological models, as well as identifying and classifying factors that influence the formation and implementation of victimisation. The article main scientific concepts, approaches, and provisions regarding the essence and content of victimological modelling are investigated, and its structural and functional characteristics are also identified. The generalisation method is used to systematise scientific views on the nature of victimhood and determine the common and distinctive characteristics of existing conceptual approaches. The comparative method made it possible to compare different theoretical approaches to understanding victimological modelling, to determine their advantages, limitations, and possibilities of practical application. The structural-functional method was used to determine the main components of the victimological model and establish the nature of the relationships between them. The use of the formal-logical method contributed to the clarification of the conceptual and categorical apparatus of the study, the formulation of theoretical propositions and conclusions.

■ Research into the determination of victim behaviour and basic victimological concepts by Ukrainian scientists

The problem of the victim, the victim, victimisation, victimisation and victimological prevention was developed and studied in their works by Ukrainian scientists and scholars. The mentioned works highlight the issues of the concept and types of victimisation, the mechanism of victimisation, the classification of victims, victimological prevention and counteraction to crime, victimological modelling. Of considerable theoretical interest are also studies of mass victimisation, its determinants and patterns of distribution, which allows expanding the traditional understanding of victimological processes beyond the individual level. Thus, E.M. Moiseyev *et al.* (2006) investigated criminological victimology as a subfield of knowledge about the victim of a crime, revealed the issues of the concept, levels and types of victimisation, the mechanism of criminological victimisation, the concept of determination of victim behaviour, the regularities of the formation of the personality of victims of crimes, the classification of victims, victimological prevention of certain types of crimes. R. Movchan *et al.* (2021) conducted a study aimed at identifying the features of the manifestation of a person's victim behaviour and counteracting the commission of sexual violence on the Internet by influencing the behaviour of the victim. V.V. Golina *et al.* (2017) investigated victimology as a branch of knowledge about the victim of a crime, the regularities of the formation of his personality, victimisation and victimisation behaviour of victims and their manifestations in typical situations, as well as measures to prevent victimisation at the general social, special minological and individual levels. A.O. Dolgy *et al.* (2017) in their study concluded that victimology develops the victim from the point of view of his moral, psychological and

social characteristics that affect his vulnerability, and also highlighted the situation preceding the crime, stopped the commission of the crime. Perhaps due to the interest of victimologists in the consequences of various types of criminal victimisation, there is little empirical research devoted to the influence of antisocial behaviour of victims on the commission of offenses. A.O. Dzhuzha & D.M. Tychyna (2020), having carried out victimological monitoring, came to conclusions regarding the influence of the behaviour of victims of criminals on criminological stopping during the commission of crimes.

Analysis of scientific sources shows that research in this area is increasingly focused on a comprehensive and systematic understanding of victimological processes. This involves taking into account the simultaneous influence of the characteristics of the person, his behaviour, social environment, victimogenic determinants, characteristics of the offender and a specific situation. This approach makes it possible to move beyond the simplified interpretation of victimisation as merely a personal characteristic of the victim and to conceptualise it as the result of a complex interaction among individual, social, and situational factors. At the same time, the analysis of scientific works indicates the presence of a number of unresolved and debatable issues. In particular, the concept and structure of the victimological model, the criteria for classifying models, the relationship between the concepts of "victimhood", "victimisation", "victimogenicity" and "victimological determination", as well as the mechanisms for integrating different groups of determinants into a single model, require further clarification. The issues of using victimological modelling to predict victimisation and scientific support for the victimological prevention system remain insufficiently developed. Thus, the literature review indicates significant scientific achievements in the field of research on the victim, victimisation, victimisation and its determinants, but at the same time reveals the need for further conceptualisation of victimological modelling. It is the systematisation of existing theoretical approaches, the definition of structural components of the victimological model and the comprehensive study of the determinants of victimisation that constitute a promising direction for further scientific research.

■ World practice of researching victim behaviour and its role in the mechanism of victimisation

Identifying connections between crimes and victim behaviour at crime scenes has long been used in law enforcement practice in Europe, the United States, and Canada. However, the framework for analysing the connections between violent crimes has focused on determining the extent to which victim behaviour influenced the commission of serial sexual crimes, with the aim of further using this analysis to link victims and offenders. Since then, researchers from various disciplines, including psychology and criminology, and more recently, computer science, have conducted research focused on creating an evidence base for basic theoretical assumptions about the relationship between crime and the behaviour of crime victims, as well as on identifying behavioural characteristics that can be used to establish a connection between victims and offenders (Fuller *et al.*, 2023).

The results of the study highlighted the influence of the victim's activities on the offenders' decisions regarding target selection (e.g., attacking the victim at home, on the street, or in a social setting), and how this influence can influence the offender's change in target selection scenario (Georgoulis *et al.*, 2024). Studying marginalised victims such as sex workers and people who use drugs, A.M. Chai *et al.* (2023) concluded that offender behaviour is similar across marginalised groups, and that marginalised individuals are at risk of becoming victims of more serious violent crimes. The sample of A.M. Chai *et al.* (2023) consisted of 402 French sex workers who had been violent victimisation (1990-2018). After analysing latent crimes against victims of the sex industry, scientists came to a decision on victimological prevention of crimes in this area: 1) indoor care; 2) outdoor care; 3) mobile protection; 4) mobile care. Crime prevention methods proposed for each class to reduce the risk of violence included pre-screening clients, installing panic buttons/video surveillance systems, offering self-defence and conflict management courses, and working together.

Conducting a study, T. Bernier *et al.* (2021) found that in 56% (23/41) cases, sex workers in high-income countries created occupational health and safety strategies (e.g., lists of unsuccessful dates) and shared them online. In 24% (10/41) of cases, mostly in low- and middle-income countries, non-sex workers organisations developed and disseminated (via text messages) HIV-focused occupational health and safety strategies. In 20% (8/41) of cases, civil society organisations collaborated with the sex worker community to develop occupational health and safety strategies that were disseminated via information and communication technologies (ICTs). Thus, T. Bernier *et al.* (2021) concluded that sex workers face health inequalities due to their unique occupational risks, and to prevent the prevalence of sex work among Sexually and gender minority (SGM) individuals seeking online help, interventions need to be predicted (modelled) in the prevention and treatment of sexual and substance use-related victims of sex work. S. Arayasirikul (2026) examining the risk of sex work and substance use among individuals of sexual and

gender minority backgrounds recruited online in San Francisco (California, USA), came to the following conclusions. SGM communities experience victimisation due to persistent oppression (Hoskin, 2020). According to scientists N.K. Aggarwal *et al.* (2021), K.J. Jackson & G. Santos (2023), a combination of social isolation, economic hardship, and the Internet contribute to the formation of sex work. The results of the scientists' studies indicate that people with a history of sex work may be at increased risk of becoming a victim of domestic violence. The higher the level of domestic violence or intimate partner violence S. Kurbatfinski *et al.* (2024), and intimate partner violence is a common experience among people involved in the sex business (Zemlak *et al.*, 2024).

Relationship dynamics within SGM partnerships may differ in terms of sexual and gender roles, power, and how violence occurs and is experienced. A recent systematic review of the literature found that bidirectional violence was most prevalent among SGM intimate partners compared to non-SGM partners A. Machado *et al.* (2024). The interactions between substance use, violence, and trauma are complex and need to be explored in the future S. Morton *et al.* (2022). This study has limited generalisability due to its design and possible sampling bias toward people seeking help online who may be at increased risk. Nonetheless, these findings support the need for substance use prevention interventions to serve people with a history of sex work and to address domestic violence as a unique manifestation of violence. Although stigma remains a significant barrier for people who work in sex work and those who use psychoactive substances, addressing domestic violence can offer a personal alternative to intervention in the material possible consequences of violence and psychoactive substance use mechanisms of promotion and overcoming violence. Public health interventions that cross-train providers of psychoactive substances of domestic violence and sex work literacy, and vice versa, are needed to better facilitate screening, referral, and treatment.

Investigating the differences between child and adult sexual victimisation through the lens of their agency and behaviour theories, J. Chopin & E. Beauregard (2021) found that both types of victims were viewed as attractive targets for offenders due to their perceived vulnerability and lower likelihood of resistance. Having analysed the sexual victimisation of women with disabilities through the lens of their activities and lifestyle theories, J. Chopin & E. Beauregard (2023) concluded that women with disabilities are more likely to experience extreme forms of sexual victimisation through excessive violence, and are likely to be targeted not because they pose a particularly high risk, but because of their vulnerability and greater attractiveness to offenders. Thus, the results of the research show that a person's lifestyle and activities can have a major impact on their victimisation. Information about the victim and her circumstances can not only affect the level of risk, but also play a role in the offender's perception of the person's vulnerability.

Theoretical explanations of the determination of victimological behaviour of the victim of crimes in particular and victimology as a science in general have long focused on the perspectives of the theory of studying lifestyles and routines, one of which claimed that a person's daily life increases his risk of victimisation, the other simply claimed that crimes occur when there is a combination of motivated offenders, appropriate goals and a lack of qualified guardianship (Ahlin & Antunes, 2025). For decades, the theory of studying lifestyles and routines has been considered the predominant theoretical explanation of victimisation and the impact of violence, which is in sharp contrast to the multitude of theories developed to assess and understand crime and delinquency. Compared to criminology and other social sciences, victimology is a relatively new discipline, not because victims are a new phenomenon, but because for too long the focus has been on explaining deviant behaviour and criminal law responses to that behaviour, including prevention and punishment.

With the emergence of victim-lifestyle theory, researchers have concluded that as victimological research has grown, so have theoretical approaches to victimology. Scholars have sought to highlight current trends in victimology research, intentionally curating a variety of methodologies and topical areas to demonstrate the breadth of research (Ahlin & Antunes, 2025). Regarding current trends in research on victims of crimes, scientists (Movchan *et al.*, 2021) have proven that the development of information technology, as well as the sometimes unstable general mental state of society, makes Internet users a vulnerable category in relation to crimes committed on the Internet. A feature of committing violence on the Internet is the voluntary entry into such relationships of a person who finds himself in the role of a victim. At the same time, situations are not uncommon when a person, by his actions, subconsciously provoked the commission of violence against him, in connection with which an in-depth study of a person's victim behaviour on the Internet is an important aspect of developing a mechanism for preventing the commission of violence on the World Wide Web.

Basic categories of victimology

To reveal theoretical approaches to victimological modelling, it is advisable, first of all, to turn to scientific views on the nature of the victim of a criminal offense, the features of her behaviour, the phenomenon of victimisation, the victimological situation and

the system of determinants of victimisation. Such a sequence is due to the fact that victimological modelling cannot be separated from the basic categories of victimology: they form its conceptual and methodological foundation. In the modern sense, such a conceptual apparatus includes, in particular, the victim, victimhood, victimisation, devictimisation, victimological determination, victimological situation, victimological prevention and victimological security. In a broad social sense, a victim can be considered a person who has been harmed as a result of the influence of certain adverse circumstances or objective factors. In criminology and victimology, this concept acquires a more specific meaning and is primarily associated with causing harm as a result of a criminally unlawful act. It is this approach that makes it possible to focus research not only on the fact of causing harm, but also on the personal, social, behavioural and situational characteristics of a person, which are important for understanding the mechanism of victimisation. In this context, the position of R. Movchan *et al.* (2021) is noteworthy, who consider the victim as a person who has directly or indirectly suffered harm as a result of a criminal act. This approach creates the possibility of a comprehensive study of the victim's personality, their behaviour and interaction with other elements of the criminal situation. At the same time, the concept of a "potential victim" makes it possible to examine not only realised but also potential victimisation, which is particularly important for predicting and preventing offences.

At the same time, it is fundamentally important to avoid a simplified interpretation of the victim's behaviour as the direct "cause" of the crime. In the modern victimological approach, the victim's behaviour can be considered as one of the elements of a complex system of determination and victimisation mechanism, which interacts with the victim's personal characteristics, the offender's behaviour, the social environment and the specific situation (Klymyuk, 2021). Therefore, it is more correct to speak not about the victim's "guilt" or "reason" for committing a crime, but about the victimogenic significance of individual behavioural patterns. It is quite reasonable to assume that every person is a potential victim, but the main attention is paid to actual victims, since in this case there is a strong connection between "cause and effect". At the same time, the victim's victim behaviour has a special place in the list of possible reasons, since such behaviour is the basis for committing a crime, in particular, one accompanied by violence.

The behaviour of the victim is one of the most controversial issues in victimology. Her scientific research makes it possible to establish how personal characteristics, life experience, social environment, psychological attitudes and specific situational circumstances affect the probability of a person falling into a victimogenic situation. B.M. Golovkin (2016) considers the victim's behaviour as an external manifestation of his internal state, which is formed under the influence of genotype, life experience and habitat. At the same time, a person's behaviour is related to a complex of his psychophysiological and psychological characteristics, which can influence the perception of criminal danger and the reaction to it. This approach is important for modelling, as it allows you to consider the victim's behaviour not in isolation, but as a result of the interaction of the internal properties of the person and the external environment. Therefore, the model of individual victimisation should take into account not only the behavioural characteristics of a person, but also the conditions of his socialisation, the peculiarities of the microenvironment, life circumstances and characteristics of a specific situation.

In this aspect, the concept of V.A. Tulyakov (2003) deserves attention, according to which, depending on the degree of connection with criminal behaviour, different types of victims can be considered, in particular, accidental and determined victims. The latter is characterised by a more active behavioural interaction with the situation and the presence of behavioural manifestations that can catalyse the development of a conflict situation. At the same time, it is advisable to consider this concept as one of the theoretical approaches, and not as a universal explanation of the mechanism of victimisation. The randomness of victimisation, the victim's behaviour, his personal characteristics, and external conditions can be combined in various ratios, which necessitates the use of multifactorial models.

Modern victimology does not contain the results of special research into the motives of victim behaviour, although motivation is an important element in determining the commission of a crime. Deepening the issue, it should be recognised that the victim's behaviour has its own motivation, different from the criminal's, which acts as a specific victimological determinant of the crime. Thus, the interaction of motivation and objective victimological determinants occurs in a certain victimological situation, which predicts or contributes to the victimisation of an individual in a specific place and at a specific time (Woodhams & Toye, 2007). The next level of theoretical analysis is the concept of victimhood and victimisation. Traditionally, victimhood is considered as a probabilistic property of a person, social group or other subject, which determines the possibility of becoming a victim of a criminal offense. At the same time, victimisation can have a personal, role and situational nature and depend both on the characteristics of the person himself and on the specific circumstances of his life.

Victimisation, accordingly, characterises the process of realisation or growth of victimhood, while devictimisation is associated with a decrease in its level and the formation of a person's ability to counteract victimogenic influences. It is the dynamic nature of these processes that creates the possibility of their modelling and forecasting. Therefore, the object of victimological modelling can be not only the actual victim of a crime, but also the process of victimisation formation, the mechanism of victimisation, the victimological situation, the system of determinants and the relationships between them.

Of particular importance for the development of the relevant issues is the concept (Kornjakova *et al.*, 2016), according to which victimological modelling is formed as a relatively new direction of criminological knowledge and has the potential to develop into a separate victimological theory. The authors emphasise its interdisciplinary nature and ability to integrate victimological information formed within the framework of criminal law, criminal process, criminology and other sciences. They propose to understand the victimological model as a hypothetical construct that reflects the victimological, and in some cases, criminological object of research. The construction of such a model involves successive stages: the formation of knowledge about the object; research of the created model as an independent object; practical verification of the knowledge obtained and its use to improve the theory and practice of crime prevention. This leads to an important conclusion for the review article: victimological modelling extends beyond the statistical description of victims. Its task is to create an abstract construct that reflects the essential properties and relationships of the victimological object and can be used for its explanation, prediction, and preventive impact.

In the course of the research, the emergence of the theory of victimological modelling as a distinct victimological theory (Kornjakova *et al.*, 2016) can be identified, providing a basis for defining and refining its principal characteristics: victimological modelling is a relatively new scientific direction in criminology; victimological modelling fills with victimological information the characteristics of crime developed by other sciences, such as criminal law, criminal process, forensics, the theory of operational and investigative activities, and when feedback occurs, it uses the knowledge of these sciences to develop its own theory and create a model of victimological crime prevention; victimological modelling serves as a scientific methodological basis for the prevention of victimisation and victimological provision of national security of the state.

In authour opinion, the theory of victimological modelling is a type of sociological theories (sociological-legal), has all their features and is characterised by similar structural elements. Being closely related to theoretical sciences, the theory of victimological modelling has a number of specific features determined by the theory of law. These include, first of all, the connection with legal concepts, the theory of criminal law and criminology. The conceptual apparatus of modern victimology as an initial element of the theory of victimological modelling consists of the following concepts: victimhood and victimisation, devictimisation, victimogenic and antivictimogenic determinants, victimological crime prevention and victimological forecasting. A victimological model is understood as a hypothetical construction reflecting the victimological and, in some cases, criminological object of research. The first stage of building any victimological model assumes the availability of knowledge about the object of modelling, that is, about the future model. At the second stage, the victimological model acts as an independent object of victimological research, the result of which is a set of criminological knowledge about the victimological model.

The third stage consists in the practical verification of knowledge obtained using victimological models and their use to create a theory of victimological modelling in criminological science and crime prevention practice, to identify further opportunities for change, management and (or) control. The functions of victimological modelling include: in-depth study of existing negative socio-legal phenomena and processes related to crime based on a systemic approach, scientific knowledge from the standpoint of victimology; identification of the main areas of application and use of systematised victimological knowledge; conducting a comparative analysis of the primary object of victimological modelling and the obtained new victimological model, determining its qualitative characteristics. In addition, victimological modelling in criminological science and crime prevention practice performs important heuristic functions, i.e. it allows you to identify negative victimological trends and, taking into account the obtained victimological information, outline positive ways to solve the problems of ensuring national security. In modern conditions, the conceptual apparatus of victimology is expanding and consists of the following terms: victim, victimhood, victimisation and devictimisation, victimological determination, victimological situation, victimological prevention, victimological security.

The following are traditional victimological provisions:

1) the probability of becoming a victim of a crime depends on the specific phenomenon of victimisation;

2) victimisation is a probabilistic property of an individual, a tendency to become a victim of a crime, and it can be personal, role-related and situational;

3) the victim's behaviour has a significant impact on the motivation of criminal behaviour;

4) victimisation depends on a number of factors, in particular: on individual personal characteristics and situational factors, that is, on the degree of conflict in the situation, the specific features of the place and time in which it develops; on the legal status and professional and role characteristics of the person;

5) the degree of objectivity can change, the process of its growth is victimisation, as well as its decrease is devictimisation; at the same time, by influencing the degree of victimisation, it is possible to reduce its level and thus exercise a targeted preventive influence on crime.

The central component of victimological modelling is the study of determination. Victimological determination involves establishing relationships between social phenomena, personal characteristics, behavioural manifestations, situational circumstances and victimisation processes. The material you provided substantiates the need to study temporal, spatial, functional, correlational and other relationships between the relevant phenomena. The differentiation of causes, conditions and other factors is important. The cause directly generates a certain consequence, while the condition creates an opportunity or a favorable environment for its occurrence. Therefore, for an adequate model of victimological determination, it is necessary not only to establish a list of factors, but also to determine the nature, strength and direction of their relationship.

At this level, victimological modelling acquires particular scientific significance by enabling a transition from a simple enumeration of determinants to the identification of their structure, hierarchy, and interactions. The material provided rightly notes that the task of victimology is not only to identify determinants, but also to determine the degree and intensity of their interaction, their quantitative and qualitative characteristics. Thus, a systematic approach to the study of victimisation makes it possible to distinguish among determinants the main (actually causal) and secondary (conditions and other factors), as well as to focus the attention of victimologists on the study of the former, taking into account the existence and interrelationship with the latter. The primary task of victimology extends beyond identifying determinants to assessing the degree and intensity of their interaction, as well as their quantitative and qualitative characteristics.

In modern victimological studies, such victimological determinants as the processes of globalisation, urbanisation and fear of crime are distinguished. Most determinants do not in themselves generate victimisation, but determine its structure and dynamics in each specific period of social development. Social disadvantage is one of the main causes of victimisation of an individual. Therefore, the main determinant of victimisation of marginalised groups of the population in a number of countries is their characteristic persistent tendency to asocial behaviour, when it is difficult to distinguish a criminal from a victim if both come from a marginal environment, since they have almost the same personal deformations and stereotypes of behaviour. Social disadvantage is one of the main elements of modelling the determination of victimisation. Victims from a marginal environment are characterised by selfish habits, loss of a sense of responsibility, indifference to the problems of other people, cynicism. They are characterised by weakened feelings of shame, duty, conscience, as well as incontinence and conflict, rudeness, aggressiveness, lying, ill-mannеredness, low level of education. Among the representatives who reproduce the forms of marginal subculture, 65-75% of people become victims of crimes, in the commission of which their provocative behaviour plays a decisive role (Golina *et al.*, 2017).

Modelling of victimological determinants of criminology can be carried out on the basis of various criteria. First of all, two models of victimological determination are distinguished: what affects primary victimisation; what affects repeated (recidivist) victimisation. To build an adequate and optimal model of victimological determination, it is necessary to take into account victimogenic and anti-victimogenic factors that affect the level, structure and dynamics of crime (Dzhuzha & Kolb, 2014). Primary and recurrent victimisation are closely interconnected, therefore, both models of determination – both primary and recurrent victimisation – are interconnected. Thus, victimological modelling primarily determines the system of models of victimological determination of crime. Based on the above, it is advisable to include the following system of determinants in the victimogenic and anti-victimogenic models of determination: determinants that affect primary victimisation; determinants that affect recurrent victimisation; determinants of selfish crimes; determinants of violent crimes; universal model of determination.

A survey of experts from various scientific fields – sociology, demography, criminology, statistics – revealed the feasibility of creating a system of victimological modelling of criminological determinants, which combines the determinants of crime into the following models:

- model of victimogenic (anti-victimogenic) social-group determination;
- model of seasonal victimogenic (anti-victimogenic) determination;
- model of geographical victimogenic (anti-victimogenic) determination;
- model of criminal-legal victimogenic (anti-victimogenic) determination, which includes the

type, nature and prevalence of a particular crime among all crimes.

Social inequality in society exacerbates social conflicts that can develop into extremism and nationalism. Marginalisation of the population causes a decrease in the standard of living, while destroying traditional social ties and transforming the system of value orientations. Among the main victimogenic determinants of crime, domestic scientists especially single out illegal migration, which fuels the marginal segment of society and is accompanied by the emergence of new conflicts in the host country. The increased level of victimisation of migrants is due to the difficulties of their integration into the cultural space of the country of residence. Serious problems are also associated with internal migration caused by the armed aggression of the Russian Federation, economic uneven development of regions, interethnic problems, and the growth of crime in certain parts of the country. Public opinion often forms a negative image of a migrant, spreading xenophobic sentiments, which increases the level of social tension and causes mass victimisation. Immoral, deviant behaviour, imposing a sense of pseudo-freedom and psychological permissiveness, acts as a catalyst for the determinants of mass victimisation. The legal determinants of mass victimisation lie in the shortcomings of the legal regulation of the restoration of the violated rights of the victim. The legislation of the state is aimed at protecting rights and ensuring social justice by holding offenders accountable. At the same time, law enforcement efforts should focus not only on punishing offenders but also on providing victims with legal, psychological, and material assistance, as a sense of legal insecurity can contribute to widespread victimisation.

The model of determination of individual victimisation and individual victim behaviour is based on the interest of criminologists in the mechanism of individual criminal behaviour and the possibilities of its prediction. The interaction of the criminal and the victim in the mechanism of committing a crime leads to the idea of creating a model of determination of individual victimisation. The disclosure of such a model allows criminology in general and victimology in particular to approach the key goal – effective crime prevention. The determination of individual victim behaviour is the victimogenic conditioning of the actions of a crime victim by his or her personal properties that interact with the victimological situation in which a person finds himself or herself and chooses a victim style of behaviour. The source of information about such determination should be the created model of determination of individual victimity. Therefore, when developing a model of individual victim behaviour in the theory of victimological modelling, it is important to establish the factors that determine the most likely variant of the victim's behaviour.

Thus, some victims, regardless of social factors, have a victimogenic predisposition. Such people have individual victimisation and have victimogenic-deviant character traits. They are more likely to find themselves in victimological situations, and that is why crimes are committed against them in the subjective dimension. In this regard, it is necessary to implement victimological prevention measures. Thus, individual victimisation means the critical admissibility of victimogenic behaviour and provocation of a crime, which is realised due to the action of factors, but at the same time does not deprive the potential victim of the opportunity to choose a style of anti-victim behaviour. Individual victimisation can be corrected and reduced by purposefully changing personal properties and character traits in an anti-victimogenic direction. Since individual victimisation is determined by the manifestations of the psychophysiological characteristics of the potential victim, it is necessary to study these features and explain to the potential victim why the realisation of his individual victimisation is possible. Individual victimisation is socially controlled if it is determined by socio-psychological and moral properties, because these qualities can be regulated and orient the potential victim towards anti-victim behaviour. In the process of modelling the determination of individual victimisation, it is important to study the personality from the position of its victimological identification in relation to society, social group and self-identification. Such a three-part victimological study of the victim's personality allows for a more qualitative determination of individual victimisation and the development of an appropriate victimological prevention program.

One of the components of modelling the determination of mass victimisation is the creation of a model of determination of individual victimisation and victim behaviour. However, if the determinants of mass victimisation are caused by unfavorable conditions of the social environment, individual victimisation is more influenced by the person's immediate environment and the microenvironment in which it is formed. When modelling the determination of mass victimisation, the degree of influence of urbanisation, industrialisation, technologisation of production, migration processes, as well as unemployment and social tension is of great importance. Most of the determinants known to criminological science do not in themselves generate victimhood, but act as its background factors and contribute to the formation of a model of determination of mass victimhood.

Recognising the uniqueness of each crime and its victim, it is possible to identify mechanisms common to all cases of individual victimhood. When

modelling the determination of individual victimhood, the socio-psychological mechanism of victimisation should be considered. This mechanism is understood as a system of elements and stages of changing the degree of victimhood of an individual as a result of the interaction of external and internal factors. At the same time, the social (external) component of this mechanism is represented by a complex of conditions that exist in society and have victimogenic potential, and the psychological (internal) component is represented by a system of psychological processes that form the victim's motivation for behaviour.

The analysis of scientific approaches makes it possible to classify the determinants of victimisation at several levels. At the individual level, psychophysiological, psychological, behavioural, and personal characteristics are considered. At the microsocial level, the family, household, professional and leisure environment are important. At the macrosocial level, socio-economic, political, legal, cultural, migration and other processes influence. To build models of determination, it is proposed to distinguish between determinants of primary and repeated victimisation, as well as determinants of selfish, violent offenses and universal determinants. Separately, socio-group, seasonal, geographical and criminal-legal models can be formed. This approach indicates the multilevel nature of victimological modelling. Accordingly, a universal model should not exclude specialised models, but should integrate them as separate levels or subsystems. The determinants of victimisation should be sought in a wide range of relationships between a potential victim – a person as a social being – and the surrounding reality, as well as in what constitutes the meaning of a person's life. The determinants of mass victimisation should be understood as interconnected, mutually conditioned victimogenic social phenomena and processes, as well as the features of the emergence and development of the most victimogenic circumstances that provoke the realisation of mass victimisation. These include victimogenic phenomena in the political, economic, legal, social and moral-spiritual spheres of society's life. The phenomena that cause the most acute human reaction occur in the political sphere. Political interests associated with the struggle for power determine the commission of crimes, especially those that are realised through violence. The most striking examples of negative criminal phenomena determined by political processes include terrorism and corruption, which, in turn, have significant victimogenic potential and cause mass victimisation.

A special place in the structure of the victimological model is occupied by the victimological situation. It is a spatial-temporal and socio-psychological context within which the victim, the offender, the social environment and specific circumstances interact. Thus, it is advisable to consider the victimological situation not simply as a set of circumstances, but as a dynamic system of interaction of internal and external determinants, which can precede victimisation, contribute to its implementation or arise directly during the commission of a criminal offense. The classifications proposed in the studies distinguish victimogenic, neutral and anti-victimogenic situations, as well as situations of varying intensity. It is proposed to consider personally formed, pre-criminal, criminogenic-victim and post-criminal situations separately. This provision is directly relevant to modelling, as it makes it possible to conceptualise victimisation as a process rather than as a one-time event. The classification of victimological situations within the framework of the study of victimological determination includes:

1) victimogenic, neutral and anti-criminogenic situations;

2) high-intensity, medium-intensity and weakly expressed situations.

The review makes it possible to propose the following logic for theoretical victimological modelling: determinants → victimisation formation → victimological situation → victim/anti-victim behaviour → victimisation → consequences → devictimisation/ preventive influence. At the same time, the relationship between the indicated elements is not linear. It is systemic, probabilistic and interdependent in nature. The same factors can have different effects depending on the personal characteristics of the potential victim, the specific situation, the behaviour of the offender and the social environment. That is why a model in which individual victimisation is considered at the intersection of three blocks seems promising: internal characteristics of the person – needs, motives, attitudes, values, psychological properties, life experience; external environment – family, everyday life, work, leisure, social group, economic and legal conditions; situational factors – place, time, nature of interaction, level of conflict, presence of criminal threat and possibility of anti-victim behaviour. In the provided material, a similar approach can already be traced: the social component of the victimisation mechanism is associated with external conditions, and the psychological component – with the processes of forming victim motivation; motives, attitudes, needs, interests and expectations are separately determined as elements of the psychological component of the model.

When modelling the phenomenon of social life that causes victimisation, it is advisable to consider it through the prism of the existence of two models: victimogenic and anti-victimogenic. The first is the model of causes, the second is the model of conditions. Victimological modelling of criminological determination of crime is designed to analyse

statistical and dynamic patterns of causes and conditions of victimisation. It is impossible to develop a system for preventing crime in the future without knowledge of the victimological causes and conditions of this phenomenon and their extrapolation. In constructing a model of victimological determination, a general victimological causal model can be distinguished, in which social phenomena are viewed as dynamically interrelated with crime and as factors contributing to its occurrence. A social victimological causal model is also distinguished, in which one phenomenon, owing to its intrinsic causal nature, gives rise to another under favourable conditions, forming a model of conditions conducive to crime commission. This model consists of victimogenic conditions of personality formation, subjective and victimogenic conditions of the situation of committing a crime, as well as objective conditions. At the same time, it is important to know the victimological elements of the causal relationship of crimes, as well as victimogenic and anti-victimogenic models of determination.

The considered positions are fundamental in the victimological modelling of criminological determination. A special place in victimological modelling is occupied by the study of the general patterns of the internal dynamics of crime, as well as its relationship with mass victimisation and other social phenomena. Acting as an element of the model of determination of individual activity, social processes and phenomena acquire specific objective forms. As such elements, the spheres of the victim's social life that have victimological significance and are characterised by quantitative and qualitative model parameters can be considered. In science, the following spheres of human life are distinguished: family, everyday life, leisure, education, work. For each of these areas, it is necessary to identify victimological parameters that can be included in the modelling of the determination of individual victimisation. The psychological component of the model of determination of individual victimisation can be represented by the following main elements: motives, attitudes, claims, expectations, needs, interests, which act as determinants when filling them with victimological content.

A number of victimological studies indicate the presence of a certain similarity between the mechanisms of criminal and victim behaviour, focusing on their substantive similarity (Bennell & Canter, 2002; Tonkin *et al.*, 2011; Slater *et al.*, 2015). Analysing such a position, it should be recognised that victim behaviour has its own, different from criminal, motivation, which is a specific victimological determinant of crime. From these positions, the study of the motivation of victim behaviour of crime victims within the framework of modelling the determination of individual victimisation is one of the tasks and components of the subject of the theory of victimological modelling in modern criminological science and the practice of crime prevention. Hence the need to classify the motives of victims' behaviour into victimogenic and anti-victimogenic, which requires a separate large-scale study, similar to that which was carried out and continues to be carried out within the framework of criminological study of the motivation of criminal behaviour.

Another element of the mechanism of committing a crime – a specific life situation - is of no less interest for modelling the determination of individual victimhood. The situation, which within the framework of such modelling is appropriately called victimological, encompasses the parameters of the interaction of the criminal, the victim and the social environment, as well as the features of the subjective reflection of objective reality in the minds of both the criminal and the victim. Thus, the victimological situation is one of the key elements of the model of determination of individual victimhood. The interaction of motivation, subjective determinants and objective victimological determinants of individual victimisation occurs against the background of a certain victimological situation that precedes or contributes to the victimisation of a person in a specific place and at a specific time.

The results of victimological studies of M.G. Verbenksy *et al.* (2024) indicate that victimogenicity has the following features of a victimological situation:

1) by place of commission: residential sector – 80%, with about 40% of crimes committed in individual apartments;

2) by time: night period – from 20:00 to 6:00;

3) by types of victim behaviour of the victim: impudent (provoking) – 37%; careless – 30%; provocative – 29%; frivolous – 10%.

These conclusions can serve as an empirical basis for the scientific classification of victimological situations. In particular, according to the peculiarities of the formation of the situation, they are divided into: personally formed, which affect the formation of increased individual victimisation; pre-criminal, which are formed immediately before the commission of a crime; criminogenic-victimogenic, which arise during the commission of a crime; post-criminal, which occur after the commission of a crime. The proposed and developed classifications in the future should be closely related to the practice of victimological crime prevention and meet its needs. Developing the proposed approach, modelling the determinants of individual victimisation involves the isolation of: victimological (victimogenic, neutral and anti-victimogenic) situations; highly significant, medium-intensity and weakly expressed situations. Such a model makes it possible to apply it in statistical observation of victimisation and in programming of victimological crime prevention measures. With

regard to modelling the determination of individual victimisation, the following should be highlighted: motivation constitutes the central element of the mechanism of crime commission on the part of both the offender and the victim, particularly the motivation underlying individual victim behaviour and its specific characteristics; moreover, the proposed model of victimological situations can be applied to develop more advanced tools for the statistical observation of crime and victimisation.

Conclusions

Based on the findings of the study, the following conclusions can be drawn. The study substantiates the need for the emergence of a theory of victimological modelling of the behaviour of victims of offenses. The conceptual apparatus of modern victimology as the initial element of the theory of victimological modelling, the conceptual principles of victimological modelling, its essence, structure, functions and significance for the scientific knowledge of victimisation processes are highlighted. The conceptual foundations of modern victimology are considered as a fundamental element of the theory of victimological modelling. Special attention was paid to the definition and systematisation of the determinants of victimisation, which are considered as interrelated and mutually conditioned victimogenic phenomena and processes that create conditions for the implementation of victim behaviour and the emergence of victimogenic situations. The results of studies of victim behaviour of crime victims are analysed, which indicate cumulative harm associated with antisocial behaviour of crime victims, which requires a more thorough study, understanding and solution of the problems faced by crime victims, as well as providing them with greater support.

The main scientific approaches to building victimological models are summarised, in particular, systemic, structural-functional, deterministic, socio-psychological and situational approaches. The feasibility of comprehensive use of various theoretical and methodological approaches when modelling victimological processes is substantiated. The prospects of victimological modelling as a methodological basis for predicting victimisation, identifying victimogenic factors and developing measures to prevent it are determined. The study found that individual victimisation can be corrected and reduced by purposefully changing personal properties and character traits in an anti-victimogenic direction. In the process of modelling the determination of individual victimisation, it is important to study the individual from the position of his victimological identification in relation to society, social group and self-identification. One of the components of modelling the determination of mass victimisation is the creation of a model of determination of individual victimisation and victim behaviour. However, if the determinants of mass victimisation are caused by unfavourable conditions of the social environment, individual victimisation is more influenced by the immediate environment of the person and the microenvironment in which its formation takes place. When modelling the determination of mass victimisation, the degree of influence of urbanisation, industrialisation, technologisation of production, migration processes, as well as unemployment and social tension is of great importance. Most of the determinants known to criminological science do not in themselves generate victimisation, but act as its background factors and contribute to the formation of a model of determination of mass victimisation.

Thus, the conducted research indicates that systematic modelling of victimological processes can contribute to a deeper theoretical understanding of the mechanisms of victimisation and, consequently, enhance the effectiveness of victimological prevention measures. Thus, a review of theoretical approaches shows that victimological modelling was formed at the intersection of studies of the victim, victimhood, victimisation and criminological determination. Its modern understanding involves a transition from studying individual characteristics of the victim to systemic modelling of the interaction of personal, behavioural, social and situational factors. At the same time, an analysis of scientific approaches indicates that the primary object of modelling should not be the victim but rather the process of victimisation and its realisation under the influence of a complex set of interrelated determinants. Such an approach makes it possible to avoid excessive concentration on the victim's behaviour and provides a comprehensive understanding of the causes and conditions of victimisation. In this context, a promising direction for further theoretical development is the construction of a multilevel victimological model integrating individual, social-group, situational, and mass levels of victimisation, while also enabling the relationship between victimogenic and anti-victimogenic factors to be determined. It is this model that can become the theoretical basis for victimological forecasting, statistical observation, and programming of victimological prevention measures.

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Теоретичні підходи до віктимологічного моделювання: огляд концепцій та детермінант

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■ **Анотація.** Актуальність теми дослідження зумовлена необхідністю поглиблення наукового осмислення закономірностей формування та реалізації віктимізації в сучасних умовах у результаті зростання різноманітності віктимогенних чинників, ускладнення механізмів віктимізації, появи нових форм протиправних посягань і трансформації соціальних, економічних, інформаційних та безпекових процесів, а також актуалізацією необхідності вдосконалення методичного інструментарію для вивчення віктимологічних явищ. Метою дослідження був комплексний теоретико-методологічний аналіз основних підходів до віктимологічного моделювання, узагальнення наявних концепцій його тлумачення та систематизація основних детермінант віктимізації. Методологічною основою дослідження став комплекс загальнонаукових і спеціально-наукових методів, таких як: порівняльний, структурно-функціональний, формально-логічний, а також методи узагальнення та класифікації. У статті здійснено теоретичний аналіз основних підходів до віктимологічного моделювання як важливого напряму дослідження закономірностей формування та реалізації віктимізації, виявлення зв'язків між правопорушеннями й поведінкою їх жертв. Виокремлено понятійний апарат сучасної віктимології як вихідний елемент теорії віктимологічного моделювання, його сутність, структуру, функції та значення для наукового пізнання процесів віктимізації. Посилену увагу зосереджено на визначенні та систематизації детермінант віктимізації як взаємопов'язаних і взаємозумовлених віктимогенних явищ і процесів, що створюють умови для реалізації віктимної поведінки та виникнення віктимогенних ситуацій. Окреслено перспективи віктимологічного моделювання як методологічної основи прогнозування віктимізації, виявлення віктимогенних чинників і розроблення заходів запобігання їм. Практичне значення дослідження полягає в можливості використання систематизованих детермінант віктимізації та положень віктимологічного моделювання для прогнозування віктимогенних ризиків, удосконалення методик їх оцінювання та розроблення обґрунтованих напрямів протидії віктимізації

■ **Ключові слова:** антисоціальна поведінка; віктимологія; віктимогенні чинники; віктимологічна поведінка; жертви правопорушень; моделювання поведінки

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State financial control in customs: The administrative-law mechanism of implementation and judicial protection of payers' rights

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■ **Abstract.** The study was aimed at the analysis of theoretical-legal bases, administrative-legal mechanism of state financial control in customs and procedural safeguards for the protection of the rights of payers. Methods of research: analysis of scientific literature, theoretical systematisation, formal-legal analysis, generalisation of judicial practice. The study used these methods to justify the administrative-law mechanism for the implementation of state financial control in customs, analyse the legal framework for its functioning and generalise the procedural guarantees for payers developed in the practice of the Supreme Court. The administrative-law character of state financial control in customs was defined, and this form of control was characterised as an independent, complex administrative-law institution combining rules of administrative, financial, and customs law. A system of five institution-forming features was developed: its public-authority character, financial orientation, procedural form of implementation, risk-oriented character, and combination of preventive and control functions. The principles of state financial control were systematised by function. Fundamental and special principles were distinguished; they define the limits of control powers and maintain a balance between the public financial interests of the state and the procedural rights of payers. The structural elements of the administrative-law mechanism for implementing state financial control in customs were generalised, and their functions were described. The procedural element performed an integrating function by linking the other structural components of the mechanism through control procedures. Judicial review verified the legality of the control procedure, specified the limits of discretionary powers of customs authorities, and developed common standards for the application of customs legislation. The practical value of the results lies in their possible use by customs authorities when exercising control powers, by courts when resolving customs disputes, and in law-making aimed at improving the administrative-law regulation of state financial control in customs

■ **Keywords**: customs control; state financial control; judicial protection of payers; discretionary powers; risk-oriented approach; Supreme Court case law

■ Introduction

State financial control in customs forms part of the mechanism through which public financial resources are generated because it verifies the legality, correctness, and completeness of the calculation and payment of customs payments. Its implementation involves administrative-law procedures, the exercise of control powers by customs authorities, and the possibility of judicial protection of payers' rights through challenges to decisions, actions, or inaction of customs authorities. The development of international trade, digitalisation of customs administration, and introduction of risk-oriented approaches to control are changing the content of control activity. These developments require clarification of the

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legal nature of state financial control in customs, its position in the system of public law regulation and approaches to its administrative legal support. Judicial protection of the rights of payers is an important guarantee of legality, because the practice of the Supreme Court determines the limits of discretionary powers of customs authorities and sets standards for evaluating whether the adopted decisions are justified and properly reasoned. This makes it necessary to examine not only substantive legal issues but also the procedural aspects of protecting payers' rights in customs control.

The study of the administrative-law framework for state financial control in customs is interested in a number of related areas. The reviewed publications are dedicated to the character of state financial control, the legal status of customs authorities, administrative procedures of customs control and specific aspects of the exercise of control powers. The first group consists of studies dedicated to the theoretical basis of state financial control and the role of customs authorities in the system of implementation of control functions by the state. V. Verbytska & V. Yakushkina (2024) systematised scientific approaches to the concept of state financial control and offered its classification by parties, functional purpose and object of control. They treated state financial control as a system combining fiscal, preventive, informational, and regulatory functions and reviewed its classification in current scientific literature. Y. Bondarenko (2021) examined the exercise of control powers by customs authorities, treating them as bodies that combine fiscal and control functions in the administration of customs payments. The study traced the relationship between securing revenue for the state budget and carrying out customs control and described the exercise of control powers during customs clearance of goods. Particular attention was given to the content of control activity by customs authorities and its place in the system of state financial control.

A separate area of research addresses the administrative-law regulation of customs activity and the development of customs administration. O. Polishchuk (2019) analysed the model of customs administration in Ukraine and the factors affecting its operation during reform of the customs service. The study considered the organisational foundations of customs authorities, digitalisation of administrative procedures, and ways of aligning the national customs administration system with European approaches. V. Zherebets (2024) examined the administrative-law aspects of customs control over imported goods. The Article covered the legal framework for customs control, the powers of customs authorities when carrying out control measures, and the implementation of administrative procedures for imports. It also described the legal grounds for customs control and the sequence of individual procedural actions used when control powers are exercised.

Administrative procedures in customs constitute a separate research area concerned with the exercise of public powers by customs authorities, safeguards for the rights of participants in administrative legal relations, and procedural requirements for administrative decisions. The importance of this area follows from changes in administrative legislation and the development of procedural standards in public administration. V. Tymoshchuk (2024) analysed the effect of Law of Ukraine No. 2073-IX "On Administrative Procedure"[1] on the operation of tax and customs authorities. The study covered the principles of administrative procedure, the procedure for adopting administrative acts, the right of a person to be heard, requirements for the reasoning of decisions, and the adaptation of the legislation of Ukraine to European procedural standards. It also described the changes required in the work of customs authorities following the introduction of a general administrative procedure. V. Samus & V. Tylchyk (2024) examined administrative procedures in proceedings concerning violations of customs rules. Their work addressed the place of administrative procedures in the mechanism for imposing liability for breaches of customs legislation, the sequence of procedural actions, and their legal regulation. Particular attention was given to the relationship between administrative procedure and the tasks of customs control and to compliance with procedural requirements when control powers are exercised. S.T. Mamyrova & E.S. Alpysbaeva (2024) addressed a related issue in their study of procedures for administrative-offence cases in customs. The researchers described the stages of administrative proceedings, the procedural status of participants, and decision-making in cases involving customs offences. The study also addressed procedural safeguards for persons subject to administrative proceedings and their importance for compliance with the requirements of legality.

A separate line of research concerns the practical exercise of control powers by customs authorities. I. Mishchenko (2023) examined adjustments to the customs value of goods and the causes of disputes between participants in foreign economic activity and customs authorities. The Article described the grounds for decisions to adjust customs value, the documentary substantiation of declared information, and the reasons disputes arise during customs control. The conclusions presented in the study linked the exercise of control powers with the practical

[1] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.

application of customs legislation when individual administrative decisions are adopted.

The scientific literature on the administrative-law framework for state financial control in customs covers several related areas. The studies considered the theoretical foundations of state financial control, the exercise of control powers by customs authorities, administrative-law regulation of customs activity, administrative procedures, and individual forms of customs control. These areas, however, were generally examined separately rather than as interrelated elements of a single system. The literature contains little integrated analysis of the administrative-law mechanism for implementing state financial control in customs that combines its normative, institutional, procedural, and safeguard components with the practice of their application. The legal positions of the Supreme Court have also received little attention as a basis for examining procedural safeguards for payers and the limits of control powers of customs authorities.

The purpose of the study was to outline the theoretical and legal bases of state financial control in customs and administrative legal characteristics of its realisation with emphasis on procedural guarantees of the rights of taxpayers' protection. The research objectives were: to define the legal nature, features, principles and place of state financial control in customs; to describe the structure of the administrative-legal mechanism for its realisation and to delineate the powers of authorised bodies; to generalise procedural safeguards for payers and the legal positions of the Supreme Court; and to suggest directions for their improvement.

Materials and Methods

The study was theoretical in nature and was aimed at substantiating the administrative-law mechanism of implementation of state financial control in customs and analysing its functioning in Ukraine using an integrated administrative-law approach. Ukraine was chosen as the object of study, because of changes in administrative legislation, adaptation of customs legislation to the international standards of the World Customs Organization (2021) and reform of the system of state financial control in customs. Analysis of scientific literature was used to generalise research approaches to the legal character of state financial control in customs, the administrative-law foundations of customs administration, the organisation of control activity, and procedural safeguards for participants in customs legal relations. In particular, the works of M. Antov *et al.* (2026) and A.A.P. Azcárraga *et al.* (2022) provided the theoretical basis for analysing existing approaches to the functional purpose of state financial control in customs, its relationship with customs administration and post-clearance control, and the protection of public financial interests.

The method of theoretical systematisation was used to develop an approach to state financial control in customs as an independent administrative-law institution. The materials comprised doctrinal works in administrative, financial, and customs law dealing with state financial control, customs administration, administrative procedures, and the exercise of control powers (Harlow & Rawlings, 2021; Laajaj *et al.*, 2023). Scientific approaches were compared and generalised using the following criteria: the functional purpose of control activity, the subject matter of legal regulation, the parties to control legal relations, the administrative-procedural form of implementation, the exercise of control powers, and procedural safeguards. A feature was included in the proposed system only when it simultaneously characterised the legal character of state financial control, distinguished it from general customs control and other forms of state financial control, and appeared in several research approaches. The principles of state financial control were systematised in a similar way by grouping them according to functional purpose into fundamental and special principles. The structure of the administrative-law mechanism was also defined by generalising the normative, institutional, procedural, information-analytical, and safeguard components that are consistently identified in scientific literature and legal regulation.

The formal legal method was used to analyse the legal basis for implementing state financial control in customs in Ukraine. Articles 318, 336, and 344-1 of the Customs Code of Ukraine[1], together with Articles 44 and 102 of the Tax Code of Ukraine[2], were examined to determine the legal regulation of control procedures, the procedure for calculating customs payments, and the relationship between customs and financial legislation. Law of Ukraine No. 2073-IX[3], Law of Ukraine No. 3166-VI "On Central Executive Authorities"[4], and Resolution of the Cabinet of Ministers of Ukraine No. 375-2014-p "On Approval of the Regulation on the Ministry of Finance of Ukraine"[5]

[1] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
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[4] Law of Ukraine No. 3166-VI "On Central Executive Authorities". (2011, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en/3166-17.
[5] Resolution of the Cabinet of Ministers of Ukraine No. 375-2014-p "On Approval of the Regulation on the Ministry of Finance of Ukraine". (2014, August). Retrieved from https://zakon.rada.gov.ua/laws/show/en/375-2014-%D0%BF.

were used to define the administrative-law basis for the exercise of control powers, the competence of authorised bodies, and procedural requirements for administrative decisions. Resolution of the Cabinet of Ministers of Ukraine No. 227-2019-p "On Approval of the Provisions on the State Tax Service of Ukraine and the State Customs Service of Ukraine"[1], together with the International Convention on the Simplification and Harmonization of Customs Procedures[2] and the SAFE framework of standards (World Customs Organization, 2021), was used to analyse the institutional foundations of customs authorities, the application of the risk-oriented approach, and the influence of international standards on the legal regulation of state financial control in customs.

The method of generalising judicial practice was used to examine procedural safeguards for payers and the features of judicial review of the legality of decisions by customs authorities. The source base comprised six Supreme Court rulings adopted in 2020-2026 in cases concerning determination of the customs value of goods, requests for additional documents, use of the fallback method for determining customs value, and compliance with administrative procedure during customs control.[3][4][5] The analysis also included rulings containing legal positions on the limits of discretionary powers of customs authorities, standards of proof, and procedural safeguards for declarants.[6][7][8] Judicial decisions were selected according to the following criterion: the presence of legal conclusions on the application of Articles 49-64, 53-55, 318, 336, and 337 of the Customs Code of Ukraine[9] and Articles 2 and 77 of the Code of Administrative Judicial Procedure of Ukraine[10]. Decisions were also chosen based on the following criteria: the dispute concerned state financial control in customs legal relations; the decision included a formulated legal position on administrative procedures, the determination of customs value, the exercise of discretionary powers by customs authorities or procedural safeguards for payers; and the judgment was final and relevant to the development of consistent judicial practice. The generalised decisions of the selected cases were used to systematise procedural safeguards for payers, to define standards of judicial review of the activities of customs authorities and to establish their importance for the operation of the administrative-law mechanism of state financial control in customs.

The method of legal modelling was used in the paper for formulating the theoretical directions of improvement of the administrative-legal mechanism of realisation of state financial control in customs. It was applied on the basis of theoretical systematisation, analysis of the legal framework and generalisation of judicial practice. The proposals were developed in accordance with three criteria: compliance with the principles of the rule of law and the administrative procedure; consistency with the international standards of the World Customs Organization and the legislation of Ukraine; orientation towards a balance between the effective exercise of control powers by customs authorities and procedural safeguards for participants in customs legal relations.

Results and Discussion

Theoretical-legal foundations of state financial control in customs. Research on customs administration and post-clearance control associates state financial control in customs with ensuring the lawful collection of customs payments, compliance with customs legislation, and protection of public financial interests (Azcárraga *et al.*, 2022; Antov *et al.*, 2026). This approach does not fully explain its legal character because it concentrates on fiscal functions or individual customs-control procedures. As a result, the administrative-law characteristics of control activity, its institutional content, procedural form, and place in the system of public administration remain insufficiently defined. State financial control in customs should therefore be considered not only as a set of control measures but also as an independent

[1] Resolution of the Cabinet of Ministers of Ukraine No. 227-2019-p "On Approval of the Provisions on the State Tax Service of Ukraine and the State Customs Service of Ukraine". (2019, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en/227-2019-%D0%BF.
[2] International Convention on the Simplification and Harmonization of Customs Procedures. (1973, May). Retrieved from https://treaties.un.org/doc/Publication/UNTS/Volume%201029/volume-1029-A-13561-English.pdf.
[3] Resolution of 17.11.2020 in case 804/5249/16. (2020, November). Retrieved from https://opendatabot.ua/court/92902373-797101ae607e5f61c651218ac373c8af.
[4] Resolution of 01/27/2021 in case 480/859/19. (2021, January). Retrieved from https://opendatabot.ua/court/94458250-7a49b9d6cf1cb32ba4cea4e46308fc8a.
[5] Resolution of July 13, 2021 in case No. 200/6521/20-a. (2021, July). Retrieved from https://reyestr.court.gov.ua/Review/98306315.
[6] Resolution of 18.11.2022 in case 166/574/17. (2022, November). Retrieved from https://opendatabot.ua/court/107428960-0e1226d9473d0adfbf00c3dd45415d89.
[7] Resolution of 10.01.2024 in case 817/1500/17. (2024, January). Retrieved from https://opendatabot.ua/court/116212276-72d722893988cbb2c8d9d9b411be0c1e.
[8] Resolution of 07.01.2026 in case 817/1353/17. (2026, January). Retrieved from https://opendatabot.ua/court/133149637-f976a81eee6deff7c88e85830de5dc98.
[9] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[10] Code of Administrative Judicial Procedure of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2747-15.

legal phenomenon that combines financial, administrative, and customs-law components.

The existence of its own subject matter of legal regulation, a specific group of participants, particular regulatory features, and administrative procedures provides grounds for considering state financial control in customs as a relatively independent, complex administrative-law institution. This proposition requires identification of the system-forming features of such control. Its functional purpose is to ensure the lawful generation of public financial resources when goods cross the customs border through a set of control procedures that verify proper fulfilment of customs obligations. This control is implemented through administrative-law procedures, involves the exercise of public powers by authorised bodies, and is accompanied by procedural safeguards for payers' rights. The combination of functional, institutional, and procedural characteristics therefore provides a basis for further substantiating state financial control in customs as an independent legal institution situated at the intersection of administrative, financial, and customs law.

Within the general system of state financial control, state financial control in customs has a particular place because it is directed at ensuring the lawful collection of state-budget revenue through customs payments. Budgetary control concerns the use of budget funds, while tax control addresses the correct calculation and payment of taxes. State financial control in customs, by contrast, focuses on verification of the customs value of goods, their classification and country of origin, correct determination of the tax base, application of customs privileges, and completeness of customs payments. It is therefore a specialised form of state financial control implemented within customs administration through specific administrative procedures.

Substantiating the independent status of state financial control in customs requires criteria that distinguish it from general customs control and other forms of state financial control. The theoretical analysis suggested that this distinction should not be based on individual functions or control procedures. It should instead rely on a system of institution-forming features that reflect the functional orientation, administrative-law character, and implementation of this form of control. On this basis, a system of institution-forming features of state financial control in customs was proposed by generalising doctrinal provisions of administrative, financial, and customs law and critically analysing approaches to the organisation of control activity (Abduazizov, 2022; Nurwanto & Abbas, 2025). The approaches were compared using three selection criteria: the feature had to characterise the legal character of state financial control; it had to distinguish this control from general customs control and other forms of state financial control; and it had to be reflected both in doctrinal approaches and in the specific legal regulation of control activity. Application of these criteria produced five interrelated institution-forming features which, taken together, characterise the administrative-law character of state financial control in customs (Table 1).

Table 1. Institutional features of state financial control in customs

Institution-forming feature	Content of the feature	Importance for distinguishing it from customs control	Importance for distinguishing it from state financial control
Public-authority character	Control is exercised by authorised bodies on behalf of the state through public powers and, where provided by law, administrative coercion	Customs control covers a broad range of control actions relating to the movement of goods, whereas financial control concentrates on public powers aimed at ensuring the lawful generation of public revenue	Public powers are exercised within customs legal relations and are connected with fulfilment of customs obligations
Financial orientation	The principal object of control is the legality, correctness, and completeness of customs payments as a component of public financial resources	Customs control also performs security, authorisation, statistical, and regulatory functions that do not have a direct financial orientation	It differs from other forms of financial control because the financial result arises exclusively within international trade and customs administration
Administrative-procedural form of implementation	Control is carried out through administrative procedures defined by customs legislation and subject to procedural safeguards for participants in the legal relations	Unlike general customs control, the procedure is directed at verifying fulfilment of financial obligations	It differs through the use of special customs procedures that are not applied in budgetary, tax, or currency control
Risk-oriented character	Control measures are based on assessment of the risk of breaches of customs and financial legislation, which determines their scope and form	Risk is used not only to select objects of customs control but also to ensure effective control over the assessment of customs payments	Unlike other forms of financial control, risk assessment takes account of the specific features of foreign economic transactions and customs clearance
Combination of preventive and control functions	Control is directed both at preventing violations and at verifying lawful fulfilment of customs obligations	Customs control includes control of customs payments, whereas state financial control focuses on ensuring the legality of their assessment	The combination of the two functions integrates financial and administrative mechanisms of influence within a single control process

Source: compiled by the author based on D.V. Pryimachenko & O.V. Tylchyk (2019), C. Harlow & R. Rawlings (2021), R. Laajaj *et al.* (2023)

Under the proposed systematisation, the specific character of state financial control in customs is determined by a combination of features rather than by any single one. Its financial orientation, administrative-procedural form of implementation, risk-oriented approach, and specific subject matter of control distinguish it from general customs control and other forms of state financial control. The definition of the institutional features of state financial control in customs is not a full explanation of its legal character without the definition of the principles of the relevant control powers. These principles define the boundaries of control activity, the content of administrative procedures and the permissible ratio of public financial interests of the state and payers' rights. The theoretical analysis served for systematisation of the principles of the state financial control in customs in terms of their functional purpose (Table 2).

Table 2. Systematisation of the principles of state financial control in customs by functional purpose

Principle	Content of the principle	Functional purpose in the mechanism of state financial control
Fundamental		
Rule of law	Control activity is carried out exclusively under law, with priority given to the protection of human rights and the public interest.	Defines the legal limits of control powers and ensures the legitimacy of administrative intervention.
Legality	All control measures are carried out in accordance with legislation and within the competence of authorised bodies.	Prevents arbitrary exercise of control powers.
Proportionality	The scope of control measures must correspond to the level of risk and the character of the possible violation.	Ensures that interference with payers' rights is proportionate to the purpose of control.
Legal certainty	Control procedures must be clear, predictable, and defined by law.	Ensures predictability of the legal consequences of control activity.
Equality before the law and non-discrimination	The same legal standards apply to all payers regardless of ownership form or type of activity.	Ensures the non-discriminatory character of control activity.
Special		
Risk orientation	The intensity of control is determined by the results of assessing risks of breaches of customs legislation.	Improves the effectiveness of control measures and minimises unjustified inspections.
Objectivity	Control decisions are based on verified facts and proper evidence.	Ensures impartial assessment of control results.
Documentary substantiation	Each decision must be based on properly documented materials and evidence.	Strengthens the legal sustainability of control decisions and their capacity for judicial review.
Minimisation of administrative intervention	Control measures should impose only the minimum necessary burden on the payer.	Reduces administrative barriers and supports voluntary fulfilment of customs obligations.
Procedural fairness	Control procedures must ensure the right to be heard, the right to participate in the procedure, access to case materials, and the opportunity to provide explanations.	Ensures the procedural rights of payers and improves trust in the results of control activity.
Effectiveness	Control measures must achieve the purpose established by law with minimal administrative and time costs.	Supports effective control activity and efficient use of the resources of control bodies.
Balance between public financial interests and payers' rights	The exercise of control powers must provide proper protection of the financial interests of the state without disproportionate restriction of the rights and legitimate interests of payers.	Balances the fiscal effectiveness of control with safeguards for the rights of participants in customs legal relations.

Source: compiled by the author based on P. Craig (2015), World Customs Organization (2021), L. Pech (2022), J. Anđelković (2023), Customs Code of Ukraine[1], Law of Ukraine No. 2073-IX[2], International Convention on the Simplification and Harmonization of Customs Procedures[3]

The practical implementation of these principles can be traced in all stages of state financial control in customs. The principle of legality requires that the customs authorities act only in the competence established by law. Proportionality is achieved by selecting the form and scope of customs control based on the level of risk. The risk-oriented approach in the risk-management system for selecting objects of control and the principle of documentary support of administrative decisions on the basis of appropriate evidence. Procedural fairness guarantees the right of a person to be heard, submit explanations, and challenge a decision of a customs authority. The principles of state financial control in customs therefore perform

[1] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[2] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.
[3] International Convention on the Simplification and Harmonization of Customs Procedures. (1973, May). Retrieved from https://treaties.un.org/doc/Publication/UNTS/Volume%201029/volume-1029-A-13561-English.pdf.

a regulatory function and also provide the normative basis for the administrative-law mechanism of control activity, defining the limits of public powers in relation to payers. Compliance with these principles is a necessary condition for lawful control procedures and effective judicial protection when the rights of participants in customs legal relations are infringed.

The theoretical analysis provided grounds for defining state financial control in customs as an independent, complex administrative-law institution. It is a system of control measures implemented by authorised bodies and regulated by administrative, financial and customs law, the purpose of which is to ensure the legality of the formation of public financial resources in the movement of goods across the customs border. This control is implemented through administrative procedures based on the rule of law, legality, proportionality, risk orientation, objectivity and a balance between the public financial interests of the state and the procedural rights of payers.

Administrative-law mechanism for implementing state financial control in customs in Ukraine. In practice, state financial control in customs is implemented through an administrative-law mechanism that links the normative, institutional, and procedural elements of control activity. Research on customs administration and customs law usually concentrates on the legal basis of control, the competence of authorised bodies, and the administrative procedures through which customs administrations exercise their control powers (Erkoreka, 2020; Lyons, 2025). This approach examines the separate components of control activity, while their functional relationship within a single administrative-law system receives less attention. The administrative-law mechanism for implementing state financial control in customs can be defined as a system of interrelated legal means, organisational elements, administrative procedures, information and analytical support, and procedural safeguards regulated by administrative, financial, and customs law. Through this system, the state performs its control function, authorised bodies exercise their powers, and payers' rights are protected during state financial control. The structural elements of this mechanism and their functional purposes are summarised in Table 3.

Table 3. Structural elements of the administrative-law mechanism for implementing state financial control in customs

Structural element	Content of the element	Functional purpose in the mechanism of state financial control
Normative	The body of administrative, customs, and financial legislation that defines the legal basis of state financial control, the competence of authorised bodies, administrative procedures, and the rights of payers.	Forms the legal basis of control activity, defines the limits of public powers, and provides legal certainty for control procedures.
Institutional	The system of authorised bodies that exercise state financial control in customs, including their competence, interaction, and allocation of control powers.	Organises control activity, coordinates powers, and enables the functions of state financial control to be performed.
Procedural	Administrative procedures for control measures, application of the risk-management system, documentary control, post-clearance control, recording of inspection results, and adoption of administrative decisions.	Defines the sequence of control measures, supports lawful decision-making, and enables control powers to be exercised.
Information-analytical	Information resources, electronic systems, mechanisms for risk analysis and data processing, and information exchange between control bodies.	Provides the information basis for managerial decisions, improves the effectiveness of control, and supports the risk-oriented approach.
Safeguard	A system of administrative and procedural safeguards for payers' rights, requirements for substantiation of control decisions, and opportunities for administrative and judicial challenge.	Balances the public financial interests of the state with protection of payers' rights and ensures the legality of control activity.

Source: compiled by the author based on N. Shpak *et al.* (2020), D. Widdowson (2020), O. Cherkunov (2026), Tax Code of Ukraine[1], Customs Code of Ukraine[2], Law of Ukraine No. 2073-IX[3]

The legal modelling produced a structural model of the administrative-law mechanism for implementing state financial control in customs. The model includes normative, institutional, procedural, information-analytical, and safeguard elements. These elements were found to be functionally interrelated and to support control activity only when they operate coherently. The model shifted the analysis from separate components to their interaction, functional purposes, and the administrative-law means used to ensure the legality of state financial control in customs. The proposed structure of the administrative-law mechanism acquires practical content through the legal recognition of each structural

[1] Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2755-17.
[2] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[3] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.

element in the legislation of Ukraine. The normative element is represented by provisions of the Customs Code of Ukraine[1], the Tax Code of Ukraine[2], Law of Ukraine No. 2073-IX[3], Law of Ukraine No. 3166-VI[4], and the international standards of the World Customs Organization (2021), which define the legal basis of control activity.

The analysis of Articles 318, 336, and 344-1 of the Customs Code of Ukraine[5] provided grounds for stating that the legislative model of state financial control in customs combines preliminary, current, and post-clearance control. Article 318 defines the general principles of customs control and directs it towards minimising customs formalities while ensuring compliance with legislation. Article 336 establishes the forms of customs control used to verify the financial subject matter of state financial control. In particular, examination of documents and information, customs inspection, use of the risk-management system, documentary audits, and post-clearance control are applied to verify the customs value of goods, their classification under the Ukrainian Classification of Goods for Foreign Economic Activity (UCGFEA), confirmation of the country of origin, lawful application of customs privileges, correct determination of the tax base, and completeness of the calculation and payment of customs payments. The focus of these control procedures on the listed elements ensures implementation of the financial component of state financial control in customs. Article 344-1, however, reflects a shift from control carried out only during customs clearance towards post-clearance control, which allows the lawfulness of fulfilment of customs obligations to be assessed after customs procedures have been completed. Taken together, these provisions suggest that the legislature treats state financial control as a continuous process rather than a set of isolated control measures.

The complex character of legal regulation is also reflected in the interaction between the Customs Code of Ukraine[6] and the Tax Code of Ukraine[7]. Analysis of Articles 44 and 102 of the Tax Code of Ukraine revealed no duplication of customs legislation by financial-law rules. Instead, they support its operation by establishing rules for documentary confirmation of tax obligations and time limits for the exercise of control powers. This relationship means that the financial-law component of the administrative-law mechanism defines the substantive basis of control, while customs legislation sets the procedural order for exercising the relevant powers. The regulation of state financial control therefore has an intersectoral character and cannot be identified exclusively with either customs or financial control.

A separate level of the regulatory framework is formed by Law of Ukraine No. 2073-IX[8], which establishes general requirements for administrative bodies regardless of the area in which public powers are exercised. The provisions on legality, proportionality, substantiation of an administrative act, the right of a person to be heard, and the duty of an administrative body to give reasons for its decision suggest that administrative procedures are gradually changing from an internal organisational instrument of customs authorities into an independent mechanism for ensuring the legality of control activity. The administrative-law component of state financial control is therefore expressed not only through the competence of customs authorities but also through the legal recognition of procedural safeguards for participants in customs legal relations.

The regulatory model of state financial control in Ukraine is also shaped by the international standards of the World Customs Organization, particularly the International Convention on the Simplification and Harmonization of Customs Procedures[9] and the SAFE Framework of Standards to Secure and Facilitate Global Trade (World Customs Organization, 2021). Their implementation can be seen in the legal recognition of the risk-oriented approach, development of post-clearance control, use of electronic information systems, and gradual shift from comprehensive control towards selective control procedures based on risk assessment. This reflects the development of the normative element of the administrative-law mechanism from a model aimed mainly at detecting violations towards a model of customs risk management and voluntary compliance with customs obligations.

The normative element therefore performs a regulatory function by defining the competence of the

[1] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[2] Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2755-17.
[3] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.
[4] Law of Ukraine No. 3166-VI "On Central Executive Authorities". (2011, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en/3166-17.
[5] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[6] Ibidem, 2012.
[7] Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2755-17.
[8] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.
[9] International Convention on the Simplification and Harmonization of Customs Procedures. (1973, May). Retrieved from https://treaties.un.org/doc/Publication/UNTS/Volume%201029/volume-1029-A-13561-English.pdf.

bodies involved in state financial control, the administrative procedures through which it is exercised, and procedural safeguards for participants in customs legal relations. Overall, the regulatory framework provides a legal basis for control activity. Some administrative procedures, however, remain regulated by different legal acts, which complicates their integrated application. Interaction of the normative element with the institutional and procedural elements enables control powers to be exercised, while procedural safeguards and judicial review limit the possibility of arbitrary use of those powers.

The institutional element operates through a system of bodies vested with control powers in customs. The Ministry of Finance of Ukraine is responsible for forming state financial policy under Resolution of the Cabinet of Ministers of Ukraine No. 375-2014-p[1]. Direct customs control and post-clearance control, verification of the correct determination of customs value, classification of goods, country of origin, and completeness of customs payments fall within the competence of the State Customs Service of Ukraine and its territorial customs offices under Resolution of the Cabinet of Ministers of Ukraine No. 227-2019-p[2]. The authority of these bodies is different in nature and is exercised at different levels of the administrative-law mechanism. The Ministry of Finance of Ukraine develops state customs policy, defines the main directions of its implementation, carries out legal regulation of customs affairs, develops legal acts, coordinates the work of the State Customs Service of Ukraine, provides methodological support in the sphere of customs policy, ensures the adaptation of customs legislation of Ukraine to the legislation of the European Union. The powers of the Ministry of Finance are mainly strategic, coordinating and law-making, and do not include direct control procedures of particular participants in foreign economic activity.

Unlike the Ministry of Finance, the State Customs Service of Ukraine implements state customs policy by organising the system of customs authorities and exercising control powers. Its competence includes organising customs control and collection of customs payments, coordinating customs offices, organising post-clearance control, maintaining the risk-management system, information and analytical resources, and electronic information systems, adopting individual administrative decisions within the powers established by law, and generalising the practice of applying customs legislation. The State Customs Service therefore combines managerial, organisational, and control functions and provides the practical implementation of state customs policy.

Control procedures at customs offices are carried out by them personally, and they have public powers in relation to some participants of foreign economic activity. They carry out customs control and customs clearance of goods, check documents and information, apply the forms of customs control provided for by The Customs Code of Ukraine, check the correctness of determination of customs value, classification by the Ukrainian Classification of Goods for Foreign Economic Activity (UCGFEA), country of origin, lawful use of tariff privileges, completeness of calculation and payment of customs payments. Customs offices also conduct documentary audits and post-clearance control, adopt decisions on adjustment of customs value, classification of goods, and determination of country of origin, draw up reports on violations of customs rules, and adopt other individual administrative acts provided for by customs legislation. Customs offices are therefore the bodies that directly exercise control powers in relation to participants in foreign economic activity.

This division of competence supports functional interaction between three levels of public administration. The Ministry of Finance of Ukraine provides the normative and strategic basis for customs policy, the State Customs Service of Ukraine organises its implementation and coordinates customs offices, and customs offices directly conduct the administrative procedures of state financial control and adopt individual administrative decisions concerning particular parties. This division of competence supports the legality of control powers, the proper sequence of administrative procedures, and procedural safeguards for the rights of participants in customs legal relations. The institutional element therefore performs an organisational function through a clear division of competence between the Ministry of Finance of Ukraine, the State Customs Service of Ukraine, and customs offices. The legal allocation of powers generally prevents duplication of functions, although some aspects of coordination of control activity require further improvement. Interaction of the institutional element with the normative and procedural elements enables control powers to be exercised, while legally defined limits of competence and procedural safeguards prevent their arbitrary use.

The procedural element of the administrative-law mechanism for implementing state financial control in customs defines the legally established sequence in which customs authorities exercise control powers.

[1] Resolution of the Cabinet of Ministers of Ukraine No. 375-2014-p "On Approval of the Regulation on the Ministry of Finance of Ukraine". (2014, August). Retrieved from https://zakon.rada.gov.ua/laws/show/en/375-2014-%D0%BF.
[2] Resolution of the Cabinet of Ministers of Ukraine No. 227-2019-p "On Approval of the Provisions on the State Tax Service of Ukraine and the State Customs Service of Ukraine". (2019, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en/227-2019-%D0%BF.

Its principal legal basis is provided by Articles 318, 320, 336, 344-1, and 361 of the Customs Code of Ukraine[1], which regulate the grounds, forms, scope, and procedure of state financial control and the requirements for administrative decisions. The institutional element defines the competence of authorised bodies, whereas the procedural element establishes how their control powers are exercised in practice.

Control procedures are carried out in cases defined by the Customs Code of Ukraine, such as submission of a customs declaration, application of the risk-management system, detection of signs of a breach of customs legislation or the need for post-clearance control. Depending on identified risks, customs authorities may carry out documentary control, customs inspection and verification of the correct customs value, classification of goods under the UCGFEA, country of origin, justification for customs privileges, correct determination of the tax base, completeness of the calculation and payment of customs payments. The financial subject matter of state financial control is summarised in Table 4.

Table 4. Financial subject matter of state financial control in customs and the consequences of control decisions

Subject of control	Content of verification	Possible financial consequences
Customs value of goods	correct determination of customs value and its documentary substantiation	additional assessment or reduction of customs payments
Classification of goods (UCGFEA)	correct classification of goods	change in duty rates, additional assessment of payments
Country of origin of goods	lawful application of rules of origin	application or withdrawal of preferential rates
Tax base	correct determination of the basis for calculating customs duty, VAT, and excise duty	recalculation of tax liabilities
Customs privileges	justification for exemptions and preferential regimes	withdrawal of privileges, additional assessment of payments
Completeness and timeliness of customs payments	correct and complete fulfilment of the financial obligation	recovery of underpaid amounts, financial penalties, or refund of overpaid funds

Source: compiled by the author based on Tax Code of Ukraine[2], Customs Code of Ukraine[3], Law of Ukraine No. 2073-IX[4]

Under this systematisation, administrative procedures are directed not only at checking compliance with customs formalities but primarily at verifying the financial indicators on which state-budget revenue depends. Verification of customs value, classification of goods, country of origin, tax base, customs privileges, and completeness of customs payments determines whether additional payments may be assessed, financial sanctions imposed, or overpaid amounts refunded. Further implementation of the administrative procedure involves documentary control and post-clearance audits. Documentary control verifies the reliability of documents and information submitted during customs clearance, while post-clearance control extends verification of financial indicators and fulfilment of the customs obligation beyond completion of customs formalities. Completion of customs clearance therefore does not end state financial control; it changes only the procedural form through which the control is implemented. The final stage of the administrative procedure is the adoption of an individual administrative act following the control measures. Such acts include decisions on adjustment of customs value, determination of a goods code, confirmation or refusal of preferential treatment, additional assessment of customs payments, issue of a refusal card, and other decisions provided for by customs legislation. These decisions are adopted in accordance with the Customs Code of Ukraine[5] and Law of Ukraine No. 2073-IX[6].

Implementation of the administrative procedure is accompanied by procedural safeguards for participants in customs legal relations. They include the right to be heard, the right to submit documents, explanations, and objections, the duty of the customs authority to adopt a reasoned administrative decision, access to case materials, compliance with procedural time limits, and the right to administrative and judicial challenge of the adopted decision. These safeguards support the legality of control powers and restrict their arbitrary exercise. The procedural element therefore performs a procedural function by

[1] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[2] Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2755-17.
[3] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[4] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.
[5] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[6] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.

defining how the control powers of customs authorities are exercised. Its interaction with the information-analytical element supports application of the risk-oriented approach, while the safeguard element sets procedural limits on administrative intervention by protecting the rights of participants in customs legal relations. The regulatory framework generally preserves the integrity of the administrative procedure, although some procedures for post-clearance control and documentary audits require further specification.

The information-analytical element is implemented through the automated risk-management system, electronic declarations, information resources of the State Customs Service, information exchange between public authorities, and customs-risk analysis mechanisms provided for by the Customs Code of Ukraine[1] and the international standards of the World Customs Organization (2021). This element performs a supporting function by providing the information base for control decisions. Its interaction with the procedural element enables use of the risk-management system and electronic information resources, while legally established requirements for the use of information safeguard the legality of administrative decisions. Further development of this element is associated with the digitalisation of customs administration and integration of information systems of public authorities.

The safeguard element is supported by legal recognition of the right to be heard, the right to participate in an administrative procedure, the duty of a customs authority to give reasons for an administrative decision, the possibility of administrative and judicial challenges to customs decisions, and the procedural safeguards established by Law of Ukraine No. 2073-IX[2], the Customs Code of Ukraine[3], and the practice of the Supreme Court. This element performs a protective function by safeguarding the procedural rights of participants in customs legal relations and the legality of control powers. It interacts with the normative, institutional, procedural, and information-analytical elements of the mechanism, defines the limits of administrative intervention, and enables effective administrative and judicial protection. Further development of the safeguard element is associated with the application of Law of Ukraine No. 2073-IX and the development of common standards for the administrative activity of customs authorities. The analysis therefore established that the administrative-law mechanism for implementing state financial control in customs is a system of interrelated normative, institutional, procedural, information-analytical, and safeguard elements whose operation supports the lawful exercise of control powers by customs authorities. The practical effectiveness of this mechanism depends not only on the legal regulation of its individual components but also on how they are applied in legal practice.

Procedural safeguards for payers and judicial review of the legality of decisions by customs authorities. Procedural safeguards for payers in state financial control are not limited to the formal recognition of relevant rights in customs or administrative legislation. Their content is specified through the application of legal rules during judicial review of customs decisions. Supreme Court practice clarifies standards for the exercise of discretionary powers by customs authorities, requirements for the reasoning of administrative acts, the limits of control procedures, and the content of procedural safeguards for participants in customs legal relations. These safeguards include proper notification of control measures where required by law, access to the materials on which a decision was based, the right to submit explanations, documents, and objections, the right to legal assistance, compliance with procedural time limits, the possibility of an administrative challenge to a customs decision, and the right to effective judicial protection, including judicial review of legality, substantiation, proportionality, and adequacy of reasoning in administrative decisions. Analysis of the legal positions developed by the Supreme Court in cases concerning determination of customs value and the related administrative procedures clarified particular features of the procedural and safeguard elements of the administrative-law mechanism of state financial control in customs. Administrative challenge of customs decisions is a procedural safeguard for payers, as it provides a means of remedying possible violations without recourse to court. Decisions on adjustment of customs value, classification of goods under the UCGFEA, determination of country of origin, refusal to apply tariff privileges, and other individual administrative acts of customs authorities may be challenged through the administrative procedure. Such complaints are submitted to the State Customs Service of Ukraine as the higher-level body under Chapter 4 of the Customs Code of Ukraine[4] and Law of Ukraine No. 2073-IX[5]. Legislation establishes

[1] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[2] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.
[3] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[4] Ibidem, 2012.
[5] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.

time limits for filing and considering complaints, requires the authority to provide a reasoned decision, and guarantees the right of the person to submit explanations, additional documents, and evidence in support of their position. Generalisation of this category of cases identified procedural safeguards that have become consistently applied specifically in disputes over verification of the correct determination of customs value and the adoption of the relevant administrative decisions (Table 5).

Table 5. Procedural safeguards for payers in Supreme Court practice and their importance for the administrative-law mechanism of state financial control in customs

Procedural safeguard	Generalisation of the legal positions of the Supreme Court	Judicial practice	Importance for the administrative-law mechanism
Reasoning of the administrative decision	A decision of a customs authority must contain specific reasoning on the established circumstances, the reasons for doubt, and the legal grounds for control measures. A formal reference to information databases or a difference in customs value is not regarded as sufficient reasoning.	No. 200/6521/20-a [1]; No. 804/5249/16[2]; No. 480/859/19[3]; No. 817/1500/17[4]	Enables review of the legality of administrative decisions and effective judicial control.
Justification for additional control procedures	Additional documents may be requested only where specific facts suggest that the declared information may be unreliable. A deviation of customs value from statistical indicators does not in itself provide sufficient grounds for additional control.	No. 804/5249/16; No. 480/859/19; No. 817/1353/17	Limits unjustified expansion of the control powers of customs authorities.
Right to participate in the administrative procedure	The declarant must be informed of the specific circumstances that gave rise to the doubts of the customs authority and must have an opportunity to submit documents needed to address them before the administrative decision is adopted.	No. 480/859/19; No. 804/5249/16; No. 817/1500/17	Ensures the principles of adversarial procedure and openness of the administrative procedure and the right to be heard.
Limits of discretionary powers of customs authorities	The fallback method for determining customs value or other discretionary powers may be used only after proper justification of why the preceding control methods cannot be applied.	No. 804/5249/16; No. 480/859/19; No. 817/1500/17	Defines the legal limits of control powers and prevents their arbitrary use.
Standards of proof in customs disputes	The burden of proving the legality of an administrative decision rests with the customs authority, which must establish factual and legal grounds for control measures or for holding a person liable.	No. 166/574/17[5]; No. 804/5249/16	Maintains a balance between the public interest of the state and the procedural rights of payers during state financial control.

Source: compiled by the author

Generalisation of the analysed category of court cases shifted the analysis from individual procedural safeguards to the role of judicial review within the administrative-law mechanism for implementing state financial control in disputes concerning the customs value of goods. The normative, institutional, and procedural elements determine how customs authorities exercise control powers, whereas judicial review verifies the legality of the use of those powers within the category of disputes examined.

A particular feature of judicial review in customs is that the court examines not the expediency of an administrative decision but the legality of the procedure by which it was adopted and the sufficiency of its factual and legal basis. In Supreme Court practice, the legality of decisions by customs authorities is assessed through several related aspects: the existence of legal grounds for control measures, compliance with administrative procedure, justification for the exercise of discretionary powers, sufficiency of the evidence, and consistency of the decision with principles of administrative law. Judicial review therefore covers not only the final result of control activity but also the entire process through which state financial control is implemented.

This approach corresponds to Article 2 of the Code of Administrative Judicial Procedure of Ukraine (CAJPU)[6], under which an administrative court reviews whether a decision of a public authority was adopted on the grounds, within the powers, and in

[1] Resolution of July 13, 2021 in case No. 200/6521/20-a. (2021, July). Retrieved from https://reyestr.court.gov.ua/Review/98306315.
[2] Resolution of 17.11.2020 in case 804/5249/16. (2020, November). Retrieved from https://opendatabot.ua/court/92902373-797101ae607e5f61c651218ac373c8af.
[3] Resolution of 01/27/2021 in case 480/859/19. (2021, January). Retrieved from https://opendatabot.ua/court/94458250-7a49b9d6cf1cb32ba4cea4e46308fc8a.
[4] Resolution of 10.01.2024 in case 817/1500/17. (2024, January). Retrieved from https://opendatabot.ua/court/116212276-72d722893988cbb2c8d9d9b411be0c1e.
[5] Resolution of 18.11.2022 in case 166/574/17. (2022, November). Retrieved from https://opendatabot.ua/court/107428960-0e1226d9473d0adfbf00c3dd45415d89.
[6] Code of Administrative Judicial Procedure of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2747-15.

the manner established by law and also assesses its substantiation, proportionality, good faith, and reasonableness. Under Article 77 of the CAJPU, the burden of proving the legality of a decision, action, or inaction rests with the public authority. This is one of the main procedural safeguards for a payer in disputes concerning state financial control in customs. In practical terms, the declarant is not required to prove that a customs decision was unlawful. The customs authority must establish sufficient factual and legal grounds for requesting additional documents, adjusting customs value, or adopting another administrative decision. If such evidence is not provided or does not support the circumstances relied upon, the court declares the decision unlawful. This allocation of the burden of proof maintains procedural balance between a private party and a public authority.

Analysis of judicial practice established that the Supreme Court does not substitute itself for customs authorities when control powers are exercised and does not determine the correct customs value or select a form of customs control in place of the authorised authority. The court checks whether the customs office acted within the powers established by law, whether the prescribed administrative procedure was followed, whether the decision was based on proper evidence, and whether its reasoning corresponded to the factual circumstances of the case. Judicial review thus operates as a procedural mechanism for ensuring the legality of administrative activity without disturbing the division of competence between public authorities and the court.

The legal positions developed by the Supreme Court in the category of cases examined affect the practice of state financial control when the correct determination of customs value is verified. Judicial requirements concerning the reasoning of administrative decisions, justification for additional control procedures, implementation of the declarant's right to participate in the administrative procedure, and support of decisions by proper evidence establish standards for customs authorities specifically when these control procedures are carried out. Considered together, the provisions of customs and administrative procedural legislation and the legal positions of the Supreme Court establish procedural safeguards not as separate rights of a payer but as a sequential mechanism of protection at different stages of state financial control. This approach traces the relationship between administrative and judicial remedies and identifies the place of each procedural safeguard in ensuring the legality of control activity (Table 6).

Table 6. Model for protecting a payer's rights during state financial control in customs

Stage of protection	Main procedural safeguards	Result of the safeguards
Before adoption of an administrative decision	Notification of the person about control measures (where required by law), access to materials, the right to submit documents, explanations, and objections, and access to legal assistance	Full and objective establishment of the factual circumstances and prevention of unjustified administrative intervention
During adoption of an administrative decision	Duty of the customs authority to act within its competence, compliance with administrative procedure, adequate reasoning of the decision, and adoption of the decision based on proper and admissible evidence	Adoption of a lawful, substantiated, and proportionate administrative act
Administrative challenge	Right to challenge the decision of the customs authority before a higher-level body, submission of additional evidence and explanations, and a duty to re-examine the legality and substantiation of the decision	Remedy of violations without recourse to court and restoration of infringed rights through the administrative procedure
Judicial protection	Review of legality under Article 2 of the CAJPU, allocation of the burden of proof under Article 77 of the CAJPU, the possibility of interim relief, and annulment of an unlawful decision	Effective judicial review of customs authorities and final restoration of infringed rights

Source: compiled by the author based on Code of Administrative Judicial Procedure of Ukraine[1], Tax Code of Ukraine[2], Customs Code of Ukraine[3], Law of Ukraine No. 2073-IX[4]

The proposed model shows that effective protection of a payer's rights is achieved not through a single procedural safeguard but through their sequential operation at all stages of state financial control, from the administrative procedure to administrative and judicial challenge of the adopted decision. This integrated arrangement reduces the risk of unsubstantiated administrative acts and gives practical effect to the principles of legality, proportionality, due administrative procedure, and effective judicial protection. The analysis identified several directions for improving procedural safeguards for payers. The

[1] Code of Administrative Judicial Procedure of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2747-15.
[2] Tax Code of Ukraine. (2010, December). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/2755-17.
[3] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/en-pt/4495-17.
[4] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.

procedure for administrative challenge of certain categories of customs decisions should be clarified in legislation, opportunities for electronic participation in administrative procedures should be expanded, mechanisms for access to case materials should be improved, requirements for the reasoning of administrative acts should be specified in greater detail, and administrative procedures should be unified in accordance with Law of Ukraine No. 2073-IX[1]. These measures would improve the predictability of administrative activity by customs authorities and provide more effective protection of the rights of participants in customs legal relations.

The study identified the main features of the administrative-law mechanism for implementing state financial control in customs. The risk-oriented approach, which scientific literature treats as one principle of customs administration, operates in conjunction with administrative procedures, procedural safeguards for payers, and judicial review of the legality of customs decisions. State financial control can therefore be considered as a system of interrelated normative, institutional, procedural, and safeguard elements, each performing a separate function in the exercise of control powers.

The results are related to the conclusions of M. Ylönen & T. Aven (2023), who treated integration of the risk-management system with customs-intelligence analytical tools as part of the organisation of customs and border control. Their study analysed the use of information models for managerial decisions under uncertainty and increasing cross-border risks and considered the relationship between analytical support and risk assessment. Administrative procedures for the exercise of control powers and procedural safeguards for participants in customs legal relations were not examined separately. The present analysis extends that approach by arguing that risk-assessment results are used within an administrative procedure and that the legality of decisions based on those results is secured through judicial review.

D. Widdowson (2020) examined another aspect of risk-oriented control, linking integrated customs risk management with differentiated forms of control and voluntary compliance with customs legislation. The author argued that control measures should be selected according to the level of identified risk, allowing customs administrations to use their resources more efficiently. The present results do not contradict this approach, but they also show that a risk-oriented model depends on legally defined grounds for additional control procedures, adequate reasoning of administrative decisions, and the possibility of subsequent judicial review. Risk management in customs is therefore treated not as an autonomous administrative tool but as one element of the administrative-law mechanism of state financial control.

A related research direction was presented by O. Fedotov & O. Zotenko (2020), who examined the use of risk-management systems during customs inspection of goods. The researchers analysed methods for identifying risky transactions and the use of automated information processing in the organisation of customs control. Their work focused mainly on the organisational and technological aspects of the risk-management system. The present analysis extends these conclusions by showing the relationship of risk-oriented control with administrative procedure, procedural safeguards for payers, and judicial review of the legality of control powers. A similar approach appeared in A. Stoyanova & V. Marinova (2023), who treated risk management as an instrument for organising the activities of customs administrations when controlling foreign economic transactions. The authors linked the risk-oriented approach with concentrating control measures on transactions characterised by higher risk. The present study is consistent with this conclusion, but it also suggests that practical implementation of risk-oriented control depends not only on risk-assessment procedures but also on the legal regulation of the administrative procedures within which control powers are exercised. Risk management is therefore a component of the administrative-law mechanism rather than an independent model of customs control.

S. Karklina-Admine *et al.* (2024) generalised the main directions in the development of customs risk-management systems. The researchers associated further development with digitalisation of administrative procedures, use of data-analysis technologies, automation of decision-making, and inter-agency information exchange. The present results generally correspond to these conclusions but extend them by including the administrative-law aspect of the exercise of control powers. Regardless of how information and analytical support for customs control is organised, the relevant tools are used within an administrative procedure, and the resulting decisions are subject to review for legality, substantiation, and adequate reasoning. Unlike the studies considered, which focus mainly on organisational and technological aspects of customs risk management, the present results support treating the risk-oriented approach as a component of the administrative-law mechanism of state financial control. Its operation is determined by interaction between normative, institutional, procedural, and safeguard elements.

[1] Law of Ukraine No. 2073-IX "On Administrative Procedure". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/en/2073-20.

The study established that state financial control in customs involves not only control procedures but also compliance with procedural requirements when administrative decisions are adopted. In Supreme Court practice, the legality of customs decisions is assessed by examining the adequacy of their reasoning, the existence of factual grounds for control measures, compliance with administrative procedure, and protection of the right of a person to participate in decision-making. Procedural safeguards are therefore an integral component of the administrative-law mechanism for implementing state financial control and not merely a procedural stage of customs control. V. Petrosian (2023) considered a related issue in a study of the legal character of binding customs rulings in Canadian legislation and the possibility of using this experience in European countries. The work analysed the procedure for advance rulings by customs authorities, their legal certainty, and their importance for predictable administrative practice. The present study is consistent with this approach but extends it through analysis of procedural requirements for individual administrative decisions in state financial control. Legal certainty of an administrative act depends not only on regulation of its content but also on compliance with administrative procedure, adequate reasoning, and the possibility of judicial review of legality.

The legal characteristics of customs decisions were also examined by O. Drofich (2022), who considered the adoption, amendment, and withdrawal of customs decisions under the law of the United States of America. The author analysed the legal basis for the stability of administrative acts and the procedure for their review when factual or legal circumstances change. The present analysis, by contrast, focused not on the legal characteristics of the administrative act itself but on the procedural conditions of its adoption and subsequent review. This provides grounds for treating a decision of a customs authority not only as the result of control powers but also as an element of administrative procedure whose legality depends on a combination of substantive and procedural requirements.

E.S. Addin (2025) addressed another aspect of administrative activity by examining the relationship between administrative efficiency and procedural safeguards in public authorities. The study argued for combining efficient administrative procedures with the right to be heard, adequate reasoning of administrative acts, and procedural fairness. The present results generally correspond to these propositions but illustrate their operation in state financial control in customs. Analysis of Supreme Court practice established that procedural safeguards define the limits of discretionary powers of customs authorities and allow the legality of administrative decisions to be reviewed regardless of the control procedures applied.

Most researchers discussed above examined separate aspects of customs administration, focusing either on the organisation of risk-oriented control, the legal characteristics of administrative decisions, or general principles of administrative procedure. The present analysis instead integrated these components within a single model of the administrative-law mechanism for implementing state financial control in customs. In the proposed approach, legal regulation, institutional organisation, administrative procedures, procedural safeguards, and judicial review are interrelated elements whose interaction supports the exercise of control powers by customs authorities.

Conclusions

The presented study substantiated the treatment of state financial control in customs as a complex intersectoral legal phenomenon formed at the intersection of administrative, financial, and customs law. Its specific character is determined by the combination of a distinct subject matter of control, special administrative procedures, a risk-oriented approach, a system of procedural safeguards, and functional interaction between authorised bodies when ensuring the lawful assessment of customs payments.

The principles of state financial control were systematised according to their functional purpose by distinguishing fundamental and special principles. General legal principles define the limits of control powers and ensure the legitimacy of administrative intervention, whereas special principles specify the operation of state financial control within customs legal relations. The administrative-law mechanism for implementing state financial control in customs was found to consist of interrelated normative, institutional, procedural, information-analytical, and safeguard elements whose operation enables customs authorities to exercise control powers. These elements do not operate in isolation. Their continuous interaction supports the control function of the state at all stages of customs administration. Analysis of the legally defined powers of the bodies involved in state financial control in customs established a functional division of competence. The Ministry of Finance of Ukraine forms state financial and customs policy, provides legal regulation, and coordinates activity in this field. The State Customs Service of Ukraine organises implementation of the control function, while customs offices directly carry out control measures and adopt individual administrative decisions on customs value, classification of goods under the UCGFEA, country of origin, correct application of customs privileges, the tax base, and completeness of customs payments.

As part of the study, the legal positions of the Supreme Court were generalised in six administrative cases, and the procedural safeguards for payers that have developed in the resolution of customs disputes

were systematised. These safeguards include requirements for adequate reasoning of administrative decisions, justification for additional control procedures, protection of the right to participate in the control process, observance of the limits of discretionary powers of customs authorities, and proper standards of proof. Judicial protection was found to have a central role in securing these safeguards. Requiring the customs authority to prove the legality of its decision (Article 77 of the CAJPU) and judicial review of the substantiation, proportionality, and reasoning of the decision (Article 2 of the CAJPU) turn judicial review from a formal stage of challenge into an effective mechanism for restoring an infringed right of a payer. These procedural safeguards not only protect payers' rights but also define legal standards for the exercise of control powers by customs authorities. A limitation of the study is that the review of judicial practice mainly covered disputes concerning determination of the customs value of goods. The conclusions therefore relate primarily to this category of customs disputes. Further research may develop methodological approaches for assessing the effectiveness of the administrative-law mechanism of state financial control in customs, examine its operation under the digitalisation of customs administration, and analyse the influence of international standards and European Union practice on procedural safeguards and judicial protection of payers' rights in customs control.

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Державний фінансовий контроль у митній сфері: адміністративно-правовий механізм реалізації та судовий захист прав платників

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■ **Анотація.** Метою дослідження був аналіз теоретико-правових засад й адміністративно-правового механізму державного фінансового контролю в митній сфері, а також процесуальних гарантій захисту прав платників. У дослідженні використано аналіз наукової літератури, метод теоретичної систематизації, формально-юридичний метод і метод узагальнення судової практики, що дало змогу обґрунтувати адміністративно-правовий механізм реалізації державного фінансового контролю в митній сфері, проаналізувати нормативно-правові засади його функціонування та узагальнити процесуальні гарантії платників, сформовані в практиці Верховного Суду. Визначено адміністративно-правову природу державного фінансового контролю в митній сфері та запропоновано його визначення як самостійного комплексного адміністративно-правового інституту, що поєднує норми адміністративного, фінансового й митного права. Сформовано систему з п'яти системоутворювальних інституційних ознак державного фінансового контролю в митній сфері, до якої віднесено публічно-владний характер, фінансову спрямованість, процесуальну форму реалізації, ризик-орієнтований характер і поєднання превентивної та контрольної функцій. Розроблено функціональну систематизацію принципів державного фінансового контролю, у межах якої виокремлено фундаментальні та спеціальні принципи, що визначають межі реалізації контрольних повноважень і забезпечують баланс між публічними фінансовими інтересами держави та процесуальними правами платників. Узагальнено структурні елементи адміністративно-правового механізму реалізації державного фінансового контролю в митній сфері та запропоновано їх функціональну характеристику. Виявлено, що процедурний елемент виконує інтегрувальну функцію, забезпечуючи взаємодію інших структурних складових механізму через процедури здійснення контролю. Встановлено, що судовий контроль забезпечує перевірку законності процедури здійснення контролю, конкретизує межі реалізації дискреційних повноважень митних органів і формує єдині стандарти застосування митного законодавства. Практичне значення отриманих результатів полягає в можливості їх використання митними органами під час реалізації контрольних повноважень, судами для вирішення митних спорів, а також у нормотворчій діяльності з удосконалення адміністративно-правового регулювання державного фінансового контролю в митній сфері

■ **Ключові слова:** митний контроль; державний фінансовий контроль; судовий захист платників; дискреційні повноваження; ризик-орієнтований підхід; судова практика Верховного Суду

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Materials and conclusions of a blockchain systems analyst: Issues of admissibility and the application of law in criminal proceedings

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■ **Abstract.** This study aimed to substantiate the legal nature of the materials and conclusions of a blockchain systems analyst, establish criteria for their procedural assessment, and synthesise approaches to use in criminal proceedings. The methodological design combined a review of scholarly literature with formal legal and comparative legal methods, case-law analysis, and conceptual modelling. The study substantiates the legal nature of materials and conclusions prepared by a blockchain systems analyst as independent results of applying specialised knowledge, generated through the professional analytical processing of distributed-ledger data. Distinctions between the analyst's materials and conclusions were identified in terms of their legal nature, content, functional purpose, and role in the evidential process; both were also differentiated from a forensic expert's opinion and a specialist's consultation. It was established that the procedural assessment of an analyst's materials and conclusions should be based on the classical criteria of relevance, admissibility, and reliability, taking account of the particularities of their formation rather than the technical characteristics of blockchain technology. Relevance is determined by the connection between the results of blockchain analysis and the facts to be proved; admissibility, by the lawfulness of obtaining the source data, the transparency of the analytical methodology, and the possibility of its independent verification; and reliability, by the reproducibility of results, the verifiability of heuristic models, algorithmic transparency, and the scientific soundness of the conclusions drawn. A conceptual model for the comprehensive procedural assessment of a blockchain systems analyst's materials and conclusions was developed. It comprises three interrelated stages: assessment of the source of evidential information, assessment of the blockchain-analysis methodology, and assessment of the results of analytical activity. The findings may be used by investigators, prosecutors, defence counsel, forensic experts, and blockchain systems analysts when assessing blockchain-analysis materials,

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determining their evidential value, and ensuring consistent approaches to the use of such evidential information in criminal proceedings

■ **Keywords:** criminal proceedings; digital evidence; evidential information; procedural assessment; virtual assets

■ Introduction

The development of blockchain technology and the growing use of crypto-asset transactions have led to the use in criminal proceedings of new sources of digital information generated from distributedledger data. In the investigation of criminal offences, materials and conclusions prepared by blockchain systems analysts are used following the analysis of transactions and relationships between crypto-assets. At the same time, the criminal procedure legislation of most states does not define their procedural status or the procedures for obtaining, verifying, and assessing them. This creates uncertainty regarding their admissibility and evidential value. The limited treatment of these issues in procedural law necessitates comprehensive scholarly research into the legal foundations for using the materials and conclusions of blockchain systems analysts as a source of evidential information.

The expanding use of virtual assets and blockchain technologies in various areas of social relations has given rise to a distinct field of research concerning their application in the detection, investigation, and proof of criminal offences. The first group of scholarly studies comprises studies on forensic support for the investigation of criminal offences involving virtual assets and blockchain technologies. V.M. Shevchuk (2026) examined blockchain as one of the promising tools for providing forensic support to law-enforcement activities and demonstrated that its use creates additional opportunities for recording, preserving, and verifying digital information. The author associated the practical value of this technology not only with ensuring data integrity, but also with expanding the possibilities for documenting evidential information under martial law and amid the growing number of cyber threats. The practical application of blockchain technologies was further considered by D. Ovsianiuk *et al.* (2025a). Drawing on international experience, the authors showed that the effectiveness of investigating criminal offences involving virtual assets depends on the use of specialised tools for analysing blockchain transactions, the capacity for international information exchange, and the application of contemporary forensic methodologies. Summarising developments in this field, K.V. Martynenko (2026) drew attention to trends in research on the investigation of criminal offences involving virtual assets. The analysis showed that the most extensively developed issues remained the identification and seizure of crypto-assets, international cooperation between competent authorities, and the use of specialised software in investigations.

The proliferation of digital assets in criminal proceedings has prompted another strand of research concerned with their legal nature, their place in the evidential framework, and the criteria for their procedural assessment. Unlike forensic studies focusing on the detection and analysis of digital assets, scholars working in this area have concentrated on identifying procedural mechanisms for using such information in criminal proceedings and defining the conditions under which it may acquire evidential value. In this context, O.P. Metelev (2025) proposed an approach whereby virtual assets should be assessed not only as a new category of digital objects, but also as a source of evidential information whose use requires due regard to the particularities of proof in criminal proceedings. The author argued that the evidential value of crypto-assets is determined not solely by their technological properties, but also by the lawfulness of obtaining the relevant information, the possibility of verifying it, and its proper procedural assessment. This approach was further developed in the study of O.S. Starenkyi (2026), which focused on the use of virtual assets in proof in criminal proceedings. The author concluded that applying traditional rules of evidential assessment to digital assets involves a number of difficulties arising from insufficient legal certainty regarding their procedural status. At the same time, the study demonstrated that resolving this issue requires clear criteria for the admissibility of such information, capable of ensuring consistent approaches to its assessment in criminal proceedings. Issues concerning the procedural assessment of digital evidence were further explored by V.V. Romaniuk & S.Ye. Ablamskyi (2024). Having synthesised the provisions of criminal procedure legislation and contemporary judicial practice, the authors concluded that the admissibility of digital evidence is determined not by its electronic form, but by compliance with general procedural requirements governing the collection, recording, examination, and assessment of evidential information.

A separate strand of research has developed around the use of blockchain technology as a means of ensuring the integrity of digital evidence and improving forensic procedures for handling it. S.M. Shinde & V.R. Gurrala (2023) examined the issue of ensuring the integrity of digital evidential information in cloud forensics. The authors demonstrated that

integrating blockchain technology with digital-evidence storage systems enabled changes to information to be monitored, improved its protection, and provided additional safeguards for confirming the authenticity of digital data. Blockchain was therefore considered primarily as a technological tool for maintaining the integrity of digital information in forensic practice. The development of this line of research can also be seen in the study of I. Lavín & D.R. Llanos (2026), who linked the use of blockchain technology to ensuring continuity in the chain of custody of digital evidence. The solutions proposed by the authors were based on the possibility of recording every procedural action involving digital information. This provides additional safeguards for transparency in handling evidence and simplifies verification of its processing history.

An analysis of the scholarly literature showed that existing studies address the use of blockchain technologies and virtual assets in criminal proceedings, including forensic aspects of examining digital assets, ensuring the integrity of digital evidence, and determining its procedural status. However, comprehensive studies of the legal nature of the materials and conclusions prepared by blockchain systems analysts as a result of applying specialised knowledge in criminal proceedings are virtually absent. The criteria for their procedural assessment and the particularities of their use in the practice of applying the law also remain insufficiently explored. The study aimed to determine the legal nature of the materials and conclusions prepared by a blockchain systems analyst, substantiate criteria for their admissibility in criminal proceedings, and systematise approaches to their use in the application of the law. Its objectives were to clarify the legal nature of such materials and conclusions and determine their place within the evidential framework of criminal proceedings; examine the criteria for assessing their admissibility, relevance, and reliability, as well as the procedural features of their use as evidential information; and analyse the practice of US courts in using the materials and conclusions of blockchain systems analysts in criminal proceedings and synthesise the approaches developed for their procedural assessment.

Materials and Methods

The study is a theoretical legal investigation incorporating case-law analysis and conceptual modelling. Its methodological design combined a review of scholarly literature with formal legal and comparative legal methods, case-law analysis, and conceptual modelling. The literature review was used to systematise doctrinal approaches to defining the legal nature of the materials and conclusions prepared by blockchain systems analysts and to establish their place within the evidential process in criminal proceedings. The comparative legal method was used to compare the materials and conclusions of blockchain systems analysts with comparable outputs arising from the application of specialised knowledge in criminal proceedings, particularly a forensic expert's opinion and a specialist's consultation or explanation. The comparison was conducted according to the criteria of legal nature, the person responsible for preparing the material, the subject matter of the examination, the content of the result obtained, and its functional purpose in criminal proceedings. The theoretical basis for the comparative analysis comprised the scholarly studies of T.D. Albright (2023) and A.M. Ayub *et al.* (2025), which address the use of specialised knowledge, digital evidence, and the results of blockchain analysis in criminal proceedings.

The formal legal method was applied to examine the regulatory foundations for using the materials and conclusions of blockchain systems analysts in criminal proceedings. At the international level, Articles 14, 16, 18, and 19 of the Convention on Cybercrime[1], which govern procedural mechanisms for obtaining, preserving, seizing, and disclosing computer data, were analysed. Articles 7-9 of the Second Additional Protocol to the Convention on Cybercrime on Enhanced Cooperation and Disclosure of Electronic Evidence[2], concerning international access to electronic evidence and cooperation between competent authorities and service providers, were also examined. To assess whether blockchain-analysis materials comply with international standards for the use of digital evidential information, the provisions of the Financial Action Task Force (2021), which establish approaches to obtaining, documenting, and using electronic evidence in cross-border criminal investigations, were also analysed. At the national level, the study was based on Articles 71, 84-86, 94, and 101 of the Criminal Procedure Code of Ukraine[3], which govern the use of specialised knowledge, define the concept of evidence, establish criteria for its relevance, admissibility, and reliability, regulate the assessment of evidence, and determine the legal nature of a forensic expert's opinion. The analysis of these provisions aimed to establish the applicability of general procedural rules of proof to the materials and conclusions of blockchain systems analysts and to

[1] Convention on Cybercrime. (2001, November). Retrieved from https://www.coe.int/en/web/cybercrime/convention-on-cybercrime.
[2] Second Additional Protocol to the Convention on Cybercrime on Enhanced Co-operation and Disclosure of Electronic Evidence. (2022, May). Retrieved from https://www.coe.int/en/web/cybercrime/second-additional-protocol.
[3] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17?lang=en&utm#Text.

determine their place within the evidential framework of criminal proceedings. The conceptual modelling method was used to develop a model for the comprehensive procedural assessment of the materials and conclusions of blockchain systems analysts. The model was constructed by synthesising the findings of the literature review and international and national legal instruments. The modelling process identified the structural elements of procedural assessment, including the stage of comprehensive assessment, the subject matter of assessment, the content of procedural verification, and the assessment outcome.

The case-law analysis method was used to examine approaches to the use of blockchainanalysis materials in criminal proceedings. The empirical basis for this stage of the study comprised the following US court decisions: Case of the United States v. Gratkowski[1], Case of the United States v. Harmon[2], and Case of the United States v. Sterlingov[3]. Ukrainian court decisions were also analysed, namely the Ruling of the Appeal Chamber of the High Anti-Corruption Court in Case No. 991/10335/23[4] and the Ruling of the Shevchenkivskyi District Court of Kyiv in Case No. 761/11447/24[5]. The US cases were selected because they contain reasoned judicial assessments of blockchain analysis, including its use to reconstruct the movement of digital assets, establish links between crypto-addresses, and assess the analytical methods employed. The Ukrainian cases were incorporated into the empirical basis in order to examine the various national methods of assessing information about virtual assets, crypto-wallets, and transactions, as well as the evidential value of such information in criminal proceedings. The application of US case law was purely comparative and did not involve the transfer of any US procedural standards into Ukrainian criminal procedure. It enabled a comparison between the conceptual model developed in this study and the ways in which blockchain analysis is treated in another legal system, while the Ukrainian court decisions were used to check whether the model was compatible with the nation's own procedural approaches.

■ Results

Legal nature of the materials and conclusions of a blockchain systems analyst in criminal procedure

The development of distributed ledgers and the increasing use of transactions involving crypto-assets have changed both the methods employed for recording digital information and the way in which this information is used in criminal investigations. When blockchain technology was first being developed, it was mainly seen as a means of ensuring that data could not be altered. But since large amounts of transaction data have been accumulated, this has given rise to a particular kind of professional activity concerned with examining the digital traces left in distributed ledgers. As a result, the aspect of interest in legal proceedings is not the blockchain entries themselves, which are publicly accessible and can be checked by any member of the network, but rather the outcomes of the specialised analytical work carried out on them. This type of analysis enables the reconstruction of the movement of digital assets, the identification of links between addresses, the determination of the nature of the financial transactions, and the drawing of conclusions about circumstances that may be pertinent to criminal proceedings (Wu & Zheng, 2020; Watters, 2023).

An examination of the various scholarly methods shows that legal doctrine is slowly becoming more distinct between the notions of "blockchain data", "blockchain evidence", and "blockchainanalysis materials", even though their exact meanings have still not been uniformly established (Harris, 2023; Chen *et al.*, 2024). It is still generally the case that evidential value is linked to the distributed-ledger entries themselves. Yet this view does not take into account the fact that blockchain records only contain information regarding transactions that have already taken place, while determining their legally relevant significance requires specialised knowledge, analytical algorithms, and a professional interpretation of the results. Because of this, it is not the individual blockchain entries that have procedural importance, but rather the materials and conclusions produced by a blockchain systems analyst as a result of a thorough analysis of the digital data.

Even though there has been an increasing amount of research into the analytical examination of blockchain data, legal scholarship has not arrived at a consensus regarding the term for the professional who carries out this type of work. Different scholarly publications refer to this person as a specialist in blockchain data analysis, a researcher of digital transactions, a specialist in forensic blockchain analysis, or a specialist in investigating crypto-asset transactions

[1] Case of the United States v. Gratkowski. (2020, June). Retrieved from https://www.govinfo.gov/app/details/USCOURTS-ca5-19-50492.
[2] Case of the United States v. Harmon. (2020, July). Retrieved from https://case-law.vlex.com/vid/united-states-v-harmon-893236324.
[3] Case of the United States v. Sterlingov. (2024, February). Retrieved from https://caselaw.findlaw.com/court/us-dis-crt-dis-col/115886148.html.
[4] Ruling of the Appeal Chamber of the High Anti-Corruption Court in Case No. 991/10335/23. (2024, October). Retrieved from https://opendatabot.ua/court/122788762-d3bb098fe38ee6185f61abea1e44ec47.
[5] Ruling of the Shevchenkivskyi District Court of Kyiv in Case No. 761/11447/24. (2024, April). Retrieved from https://zakononline.ua/court-decisions/show/118588220.

(Pasupuleti, 2024; Pérez *et al.*, 2025). No matter what terms are employed, the essence of this professional activity is unchanged: it involves examining data from a distributed ledger using special methods for analysing digital transactions. This analysis leads to the conclusion that the duties of such a specialist do not stop at the technical processing of information. They also include setting up connections between digital assets, reconstructing the paths that these assets have taken, identifying transaction patterns, interpreting the results obtained, and reaching conclusions about circumstances which might be of legal significance in criminal proceedings. On this basis, a blockchain systems analyst should be regarded as a specialist who uses specialised knowledge, analytical methods, and dedicated software to carry out a thorough examination of distributed-ledger data, to identify the informational links between digital objects, and to prepare the materials and conclusions for use in establishing circumstances that are legally relevant in criminal proceedings.

The materials prepared by a blockchain systems analyst represent an independent outcome of intellectual and analytical work. They are based on the original information found in a distributed ledger and also include the results of its systematisation, classification, visualisation, and interpretation. Different from the information which is directly stored in the blockchain, these materials are the result of specialised analytical techniques that enable the detection of hidden connections between digital assets, crypto-wallet addresses, the temporal features of transactions, and other information elements (Ovsianiuk *et al.*, 2025b). Hence, they must not be seen as a simple reproduction of blockchain data, since they include extra informational value that has been generated through professional analytical processing.

Blockchain analysis does not generate any new digital evidence and does not change the content of the information stored in a distributed ledger. Instead, its aim is to organise, compare, and interpret large amounts of transaction data so as to identify legally relevant connections between digital assets, crypto-wallet addresses, and other informational objects. The materials and conclusions produced by a blockchain systems analyst are therefore independent outcomes of professional analytical work. They are not simply a direct reflection of the entries in the blockchain, since they result from the application of specialised knowledge, analytical techniques, and professional judgement to the digital data in question. It is this which gives them independent value in legal proceedings and means that their procedural aspects must be examined separately from the features of blockchain technology. This way of proceeding is in line with trends in digital justice, where blockchain is used not only as a technology for ensuring the integrity of information but also as a means of producing analytical materials that have evidential importance for the application of the law (Alyas *et al.*, 2025; Ardian *et al.*, 2025).

At the same time, the materials and the conclusions of a blockchain systems analyst should not be considered as equivalent products of professional activity. They differ from each other both in terms of content and in their functional role within the evidential process. The materials give an account of the course and the results of the analysis carried out, comprising analytical reports, diagrams showing the movement of digital assets, tables of transactions, the results of address clustering, graphical models of the links between crypto-wallets, the temporal features of the transactions, and other information derived from the examination of distributed-ledger data (Fahmideh *et al.*, 2023). Their main function is to establish and document the informational links and to allow the results of the analysis to be verified. The conclusion of a blockchain systems analyst has a different legal status. It is not merely a summary or a visual representation of the data collected, but the outcome of a professional assessment of the facts as established, using specialised knowledge and analytical techniques. It is in the conclusion that the information obtained is interpreted, the causal relationships between the digital objects under investigation are proved, and general findings are set out regarding the routes by which digital assets have been transferred, the nature of the interactions between crypto-addresses, and other circumstances which may be relevant to criminal proceedings. The distinction proposed allows the materials and the conclusions of a blockchain systems analyst to be seen as closely related yet separate outputs of analytical work. While the materials mainly serve an informative and documentary purpose, the conclusion offers an analytical synthesis of the findings and their professional interpretation. This relationship enables the legal character of both to be described not as separate items of blockchain data, but as the result of applying specialised knowledge to the information contained in a distributed ledger.

To ascertain the legal status of the materials and conclusions produced by a blockchain systems analyst, it is necessary to differentiate them from the results obtained when specialised knowledge is applied in the course of criminal proceedings. Even though all these outputs are aimed at establishing circumstances pertinent to criminal proceedings, the materials and conclusions of a blockchain systems analyst are different from a forensic expert's opinion or a specialist's consultation or explanation in respect of the way in which they are prepared, the kind of specialised knowledge used, the content of the results

arrived at, and their role in the evidential process. A thorough comparative analysis is therefore required in order to establish their legal nature. The findings of this analysis are given in Table 1.

Table 1. Comparative characteristics of the results of applying specialised knowledge in criminal proceedings

Comparison criterion	Materials of a blockchain systems analyst	Conclusion of a blockchain systems analyst	Forensic expert's opinion	Specialist's consultation or explanation
Legal nature	Result of professional analytical activity documenting the findings of an examination of distributed-ledger data	Result of the professional assessment and interpretation of the findings of an analysis of distributed-ledger data	Result of an expert examination carried out through the application of specialised knowledge	Result of applying specialised knowledge to provide technical, scientific, or advisory assistance in criminal proceedings
Prepared by	Blockchain systems analyst	Blockchain systems analyst	Forensic expert	Specialist
Subject matter of examination	Distributed-ledger data, digital transactions, crypto-assets, crypto-wallet addresses, and digital links	Results of analysing digital transactions and the patterns and links established between them	Material, digital, or other objects whose examination requires specialised knowledge	Circumstances requiring specialised knowledge to explain them or provide technical support for procedural actions
Content of the result	Analytical reports, transaction tables, address-clustering results, graphical diagrams of digital-asset movements, visualisations of network links, and other outputs of analytical processing	A synthesis of examination results, interpretation of the facts established, substantiation of relationships between digital objects, and formulated analytical conclusions	Answers to the questions posed, substantiated by the results of the expert examination performed	Oral or written explanations, recommendations, and technical consultations enabling the use of specialised knowledge
Functional purpose	Recording, systematising, and documenting the results of blockchain-data analysis for subsequent use in criminal proceedings	Providing a professional assessment of the facts established and explaining their legally significant relationships	Providing a substantiated forensic expert's opinion on circumstances requiring specialised knowledge	Facilitating procedural actions and clarifying issues requiring specialised knowledge

Source: compiled based on T.D. Albright (2023), A.M. Ayub *et al.* (2025)

What the comparison shows is that the findings and conclusions of a blockchain systems analyst belong to a distinct category of results obtained as a result of the application of specialised knowledge and cannot be entirely included within any of the conventional institutions of criminal procedure. The way in which their studies differ from that of a forensic expert is not merely because it does not result from a formal expert examination, but primarily due to the nature of the analytical work involved. This involves processing large amounts of distributed-ledger data, detecting hidden links between pieces of information, and then interpreting them in a professional manner. At the same time, it is different from a specialist's consultation or explanation in the extent of the analytical processing and in the fact that it focuses on producing a coherent set of findings rather than just assisting with individual procedural steps.

Given what has been said above, the position that the materials and conclusions of a blockchain systems analyst should have within the evidential framework of criminal proceedings must be based on their informational and cognitive purpose. On their own, they do not prove legal facts nor do they determine their evidential value. Yet they do allow for the gathering, organisation, and professional interpretation of information which may either confirm or disprove the circumstances that are within the scope of proof. The informational value of such materials consists not just in recording individual transactions or the technical features of how a blockchain operates, but mainly in the ability to establish connections between digital assets, crypto-addresses, the temporal aspects of transactions, the behavioural patterns of the people who carry out the transactions, and other circumstances that cannot be seen from the original data of a distributed ledger alone. It is precisely their ability to build a coherent informational model of the events under investigation that gives them a stand-alone importance within the structure of criminal procedural proof and sets them apart from other outcomes of the application of specialised knowledge.

Admissibility of the materials and conclusions of a blockchain systems analyst as evidential information

The fact that the materials and conclusions of a blockchain systems analyst cannot be judged merely on the technical features of blockchain technology should be obvious. While the immutability of entries in a distributed ledger, the cryptographic protection of the information, and the decentralised storage of data describe how digital data is created, they do not determine the evidence value of that data in criminal proceedings. Since the analyst's materials and conclusions are the result of specialised knowledge being applied to the information found in the blockchain, their procedural assessment must follow the general

rules relating to proof in criminal cases rather than the technical features of the information system.

The conclusion is in line with the international standards relating to electronic evidential information. Specifically, Articles 14, 16, 18 and 19 of the Convention on Cybercrime[1] set out the procedural procedures for obtaining, preserving and seizing computer data, yet they do not include any special rules for evaluating different kinds of digital information. The same approach is taken in Articles 7-9 of the Second Additional Protocol to the Convention on Cybercrime concerning Enhanced Co-operation and the Disclosure of Electronic Evidence[2], since these Articles regulate international access to electronic evidence and cooperation between the competent authorities and service providers without changing the general procedural criteria for assessing it. International legal regulation thus starts from the idea that the way in which electronic information is obtained does not affect the general requirements applicable to its evidential value.

The same approach is taken in Ukraine's criminal procedure law. Articles 84-86 of the Criminal Procedure Code of Ukraine[3] set out what constitutes evidence and determine its relevance and admissibility without providing for a special procedural regime regarding information obtained through blockchain technologies. Article 94 of the Criminal Procedure Code of Ukraine lays down general rules for evaluating any evidence on the grounds of its relevance, admissibility, reliability and sufficiency when taken as a whole. The use of specialist knowledge is regulated by Article 71 of the Criminal Procedure Code of Ukraine, which deals with specialists, and by Article 101, which concerns the forensic expert's opinion. These provisions form the basis for deciding where the materials and conclusions of blockchain systems analysts fit within the evidential framework of criminal proceedings. The analysis leads to the conclusion that their procedural evaluation should involve modifying the traditional criteria of relevance, admissibility and reliability to take account of the particular features of how they are produced. Blockchain analysis does not give rise to a separate kind of procedural evidence and does not call for a distinct set of assessment criteria. What is specific about it is the combination of the original distributed-ledger data, the specialised methods of analytical processing and the professional interpretation of the results obtained. Because of this composite character, the traditional evidential criteria must be clarified in relation to the materials and conclusions of blockchain systems analysts, not their regulatory basis being altered.

The fact that the materials and conclusions of a blockchain systems analyst are relevant does not depend on the fact that they are based on data from a distributed ledger, but rather on their ability to confirm or disprove the circumstances that are within the scope of what must be proven in a particular criminal case (Tsymbaliuk, 2025). From this point of view, information about transactions, crypto-wallet addresses, or the routes taken by crypto-assets has no standalone evidential value. Such value only appears when an objective link has been made between the results of the blockchain analysis and legally relevant facts which have to be proven. Hence, the criterion of relevance should not be seen as simply the presence of digital information in a distributed ledger, but rather as the capacity of that information to confirm specific elements of the subject matter of proof.

This method is in line with the general principles of proof in criminal proceedings, according to which only evidence that is either directly or indirectly connected with the facts of the case is considered to be relevant (Articles 84 and 85 of the Criminal Procedure Code of Ukraine). The same kind of reasoning can be found in the Convention on Cybercrime[4], where Articles 14, 16, 18 and 19 set out the procedural rules for obtaining and preserving computer data without attributing to it any predetermined evidential value. This shows that the international standards also require electronic information to be evaluated on the basis of its connection with the subject matter of the proof, and not according to the way in which it was created or stored.

The particular value of the materials and conclusions produced by a blockchain systems analyst stems from the fact that their informational worth does not come from looking at individual blockchain entries, but rather from the results of a thorough analytical analysis (Mollajafari & Bechkoum, 2023). It is only through the analytical identification of the connections between transactions, crypto-addresses, digital assets, the temporal features of transactions, and other information elements that it becomes possible to link the findings to the subject matter of the proof. Hence, when assessing the relevance of such materials, it is not adequate to examine each distributedledger entry on its own, but rather the evidential value of the analytical model that has been developed – which shows the relationship between the digital data and the circumstances pertinent to the

[1] Convention on Cybercrime. (2001, November). Retrieved from https://www.coe.int/en/web/cybercrime/convention-on-cybercrime.
[2] Second Additional Protocol to the Convention on Cybercrime on Enhanced Co-operation and Disclosure of Electronic Evidence. (2022, May). Retrieved from https://www.coe.int/en/web/cybercrime/second-additional-protocol.
[3] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17?lang=en&utm.
[4] Convention on Cybercrime. (2001, November). Retrieved from https://www.coe.int/en/web/cybercrime/convention-on-cybercrime.

criminal proceedings – should be taken into account. By adopting this approach, the traditional criterion of relevance can be applied consistently to the materials from blockchain analysis without the need to establish a special procedural regime for this kind of evidential information.

The admissibility of the materials and conclusions prepared by a blockchain systems analyst depends on whether the way in which the information has been obtained, processed, and presented is in line with the requirements of criminal procedure law. The fact that specialised analytical tools have been used does not by itself give rise to procedural grounds for treating the materials as admissible evidence. The key factors are whether it is possible to establish the lawful origin of the source data, to trace the sequence of the analytical processing carried out, to verify the methods employed, and to ensure that procedural safeguards are in place so that all parties involved in the criminal proceedings can check the results (Oliinyk *et al.*, 2020).

This method is in line with the general provisions of criminal procedure law as they pertain to the admissibility of evidence. So far as the Criminal Procedure Code of Ukraine[1] is concerned, Article 86 defines admissibility on the grounds of the lawfulness of the procedure used to obtain evidential information, whereas Article 94 deals with its assessment in terms of relevance, admissibility, reliability and sufficiency when taken into account together with other evidence. Moreover, Articles 16, 18 and 19 of the Convention on Cybercrime[2] lay down the rules concerning the rapid preservation, production, search and seizure of computer data and ensure the procedural legitimacy of the source of digital information, but do not create a presumption of admissibility for information obtained from electronic systems. The same approach is taken in Articles 7-9 of the Second Additional Protocol to the Convention on Cybercrime concerning Enhanced Co-operation and Disclosure of Electronic Evidence[3], which regulate access to electronic evidence in cases that are transnational and require compliance with procedural safeguards regardless of the means by which the digital information is obtained.

The analysis shows that, when it comes to a blockchain systems analyst, the question of procedural admissibility goes beyond just checking that the primary blockchain data was obtained lawfully. It is also necessary to examine the whole analytical process, including the specialised software employed, the analytical algorithms used, the criteria for clustering addresses, the methods employed for linking up digital assets, and the possibility of independently reproducing the results obtained. If any one of these elements cannot be verified or if its application cannot be open to objective examination, this casts doubt not only on the reliability of the analyst's conclusions but also on the procedural admissibility of the materials produced as evidence.

This conclusion is in line with the international methods of using blockchain analysis in financial investigations. The Financial Action Task Force's (2021) recommendations on virtual assets and virtual asset service providers call on competent authorities to make use of analytical tools in order to track the movement of digital assets, while stressing the importance of ensuring that the information acquired is verifiable and can be used in criminal proceedings in accordance with national law. The admissibility of the materials and conclusions of a blockchain systems analyst should therefore be seen as a combined procedural criterion involving the legality of obtaining the original digital information, the transparency of the analytical method, the possibility of independently verifying the methods employed, and the protection of the procedural rights of the parties involved in the criminal proceedings. It is this combination of factors, not the technical features of blockchain technology or the reputation of a specific analytical platform, that decides whether the results of the blockchain analysis can be accepted as admissible evidence.

One cannot equate the reliability of the materials and the conclusions of a blockchain systems analyst with the immutability of the entries in a distributed ledger. While the immutability of blockchain data ensures the integrity of the information in the relevant ledger, it does not guarantee that the results of any subsequent analytical processing are correct. It follows that a procedural assessment should cover not only the original digital data but also the methodology employed to examine it, the analytical algorithms used, the soundness of the conclusions reached, and the possibility of verifying them independently. This method of assessment is in line with the general principle laid down in Article 94 of the Criminal Procedure Code of Ukraine[4], which provides that the court is to evaluate each item of evidence in terms of its relevance, admissibility, reliability, and sufficiency when taken together with the other evidence.

[1] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17?lang=en&utm#Text.
[2] Convention on Cybercrime. (2001, November). Retrieved from https://www.coe.int/en/web/cybercrime/convention-on-cybercrime.
[3] Second Additional Protocol to the Convention on Cybercrime on Enhanced Co-operation and Disclosure of Electronic Evidence. (2022, May). Retrieved from https://www.coe.int/en/web/cybercrime/second-additional-protocol.
[4] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17?lang=en&utm#Text.

It has been determined that the special feature of blockchain analysis is the multi-stage processing of digital data, involving the use of clustered addresses, the identification of digital assets, the mapping of network links, and a number of other analytical techniques. At this stage, information is generated which is not directly present in the blockchain but is the result of the application of specialised analytical methods. As a result, the reliability of an analyst's findings and conclusions depends not just on the authenticity of the source data but also on the scientific validity of the methods employed and on the possibility of verifying the results by independent means.

A sign of the reliability of blockchain analysis is the ability to reproduce the results. Where the same method is applied to identical source data and yet different results are obtained, this shows that the conclusions reached cannot be adequately verified and therefore have reduced probative value. Just as important is the transparency of the analytical algorithms employed. When closed software packages are used, and their mode of operation cannot be checked by the other parties involved in the criminal proceedings, it becomes impossible to evaluate the reliability of the materials produced. For this reason, research in the field of digital forensics stresses that the probative value of blockchain analysis depends directly on recording all the stages of the analytical process, allowing the analysis to be carried out independently again, and making the methods used transparent (Dudani *et al.*, 2023; Su, 2025). Special attention is also paid to the evaluation of the heuristic models used to cluster crypto-addresses and to establish connections between digital assets. Unlike the cryptographic mechanisms that underlie the operation of blockchain, heuristic algorithms are based on probabilistic assumptions regarding the behaviour of network users, and this may result in incorrect outcomes (Vozniuk *et al.*, 2020). It is possible therefore that crypto-addresses will be incorrectly attributed, that independent wallets will be improperly grouped, or on the other hand that the actual links between them will fail to be detected. It follows that the clustering results cannot be regarded as definitive proof of the circumstances in question and must be checked against other sources of evidence.

The analysis indicates that relying solely on the criteria of relevance, admissibility, and reliability does not allow for a full evaluation of the materials and conclusions produced by a blockchain systems analyst. Although each of these criteria relates to a separate feature of evidential information, none of them by itself is sufficient to enable an assessment of the specific nature of the results obtained from blockchain analysis, since these results are the product of combining digital data with specialised methods for examining it and with professional interpretation. It has been shown that a proper procedural assessment of such materials involves three closely related lines of review. The first of these relates to adherence to the procedural rules concerning the acquisition and use of evidential information. The second deals with the scientific validity of the blockchain-analysis methodology, covering the verifiability of the algorithms employed, the transparency of the analytical procedures, and the reproducibility of the results achieved. The third is concerned with the content of the conclusions reached, examining their logical consistency, completeness, and agreement with the digital data obtained as a result of the examination. Consequently, because of the special characteristics of the materials and the conclusions produced by a blockchain systems analyst, a thorough procedural assessment is required. This assessment must be carried out not only by means of the normal evidential criteria, but also via an interconnected system involving procedural-legal, scientific-methodological, and evidentialanalytical review. This approach to evaluation is due to the particular nature of blockchain analysis when it is applied in criminal proceedings (Table 2).

Table 2. Conceptual model for the procedural assessment of the materials and conclusions of a blockchain systems analyst

Stage of comprehensive assessment	Subject of assessment	Content of procedural review	Assessment outcome
I. Assessment of the source of evidential information	Materials and conclusions prepared by the analyst as outputs arising from the acquisition and use of digital information	Verification of the lawfulness of obtaining the source data, the relevance of the materials to the subject matter of proof, and compliance with procedural requirements for their preparation and use	Establishing the procedural permissibility of using the materials and conclusions in criminal proceedings
II. Assessment of the research methodology	Blockchain-analysis methods and the procedure used to conduct the analytical examination	Assessment of the transparency of the algorithms applied, the reproducibility of results, the verifiability of heuristic models, and the completeness of the documentation of analytical procedures	Establishing the scientific soundness and reliability of blockchain-analysis results
III. Assessment of the results of analytical activity	Materials and conclusions prepared by a blockchain systems analyst	Verification of the logical consistency of the conclusions, their correspondence with the source digital data, the completeness of the interpretation of the facts established, and consistency with other evidence in criminal proceedings	Establishing the evidential value of the materials and conclusions of a blockchain systems analyst

Source: compiled based on O. Olukoya (2021), F. Casino *et al.* (2022), F. Nujumudeen *et al.* (2026)

The model suggested changes the way in which the procedural evaluation of the materials and findings of a blockchain systems analyst is carried out by shifting the emphasis from examining the individual characteristics of the evidential information to evaluating the whole process by which it is generated. It enables the results of a blockchain analysis to be treated as a single entity in the context of procedural review, with the legality of the way digital data was obtained, the scientific validity of the methodology used, and the logical strength of the conclusions reached being interconnected components of this one assessment process. The practical advantage of the model is that it offers a general approach to the assessment of the materials and conclusions of a blockchain systems analyst, regardless of the software employed, the kind of blockchain network involved, or the type of digital assets under examination. It permits the use of consistent criteria for procedural review both in the pre-trial investigation and in judicial proceedings, and at the same time provides a methodological foundation for establishing a uniform legal practice in the use of blockchain analysis.

Application of the materials and conclusions of a blockchain systems analyst in criminal proceedings

It is necessary to test the consistency of a theoretical model designed for assessing the materials and findings of a blockchain systems analyst against the actual methods that have developed in legal practice. The evidential value of the results of a blockchain analysis is finally determined at trial, the court having not only to decide whether the results can be used to support circumstances pertinent to a criminal case but also to judge whether the examination methods employed were adequate, whether the conclusions reached are well grounded, and whether they are in agreement with the other evidence. Thus, by examining the case law, it is possible to discover the criteria which in fact come into use when evaluating blockchain-analysis materials, no matter what the specific features of the individual criminal cases are.

The decisions of the courts show a change in the way blockchain-analysis evidence is evaluated: rather than viewing blockchain technology as a technical tool for recording digital information, the courts now assess the outcome of professional analytical work carried out by examining distributed-ledger data. Today's judicial scrutiny does not stop at information regarding the movement of digital assets; it also looks at the validity of the methods employed to reconstruct that information, the verifiability of the algorithms used, the reliability of the connections made between crypto-addresses, and the extent to which the analytical conclusions are sufficient to support legally relevant facts. This suggests that a comprehensive approach has developed towards the evaluation of the materials and conclusions provided by a blockchain systems analyst, one that goes beyond checking the technical accuracy of the entries in the blockchain. It is for this reason that the following analysis aims to identify general patterns in the way such materials and conclusions are used in criminal proceedings and to ascertain how well the judicial approach corresponds with the conceptual model of comprehensive procedural assessment set out in this study.

Approaches to the use of blockchain-analysis materials in criminal proceedings are most fully illustrated by judicial decisions in which the results of analyses of public blockchain networks have been assessed. An examination of such decisions shows that the scope of judicial review increasingly encompasses not only information on digital transactions, but also the methods used for its analytical processing. This is directly relevant to determining the evidential value of the materials and conclusions of a blockchain systems analyst. The only case in which the court examined the admissibility of blockchain-analysis material was the Case of the United States v. Gratkowski[1]. This case dealt with whether information derived from examining publicly available data on the Bitcoin network could be used to prove certain circumstances in a criminal trial. The court started from the assumption that transaction data is stored in a publicly accessible distributed ledger and that its analytical processing allows the reconstruction of the pathways of digital asset movements and the establishment of links between individual transactions. The court admitted the use of specialised blockchain-analysis tools for tracing cryptoassets and for subsequently identifying digital addresses, even though the court did not independently assess the scientific validity of the methods employed.

The same approach can be seen in the Case of the United States v. Harmon[2], with the difference that blockchain analysis was applied on a wider scale. Beyond reconstructing the flow of digital assets, the findings from the analytical investigation were employed to establish financial connections between various transactions, to identify the methods used for hiding the origin of crypto-assets, and to confirm that a money-laundering scheme had operated via the Helix cryptocurrency-mixing service. In reaching its conclusion, the court essentially acknowledged that the results of blockchain analysis can be used to reconstruct complicated financial relationships, on the

[1] Case of the United States v. Gratkowski. (2020, June). Retrieved from https://www.govinfo.gov/app/details/USCOURTS-ca5-19-50492.
[2] Case of the United States v. Harmon. (2020, July). Retrieved from https://case-law.vlex.com/vid/united-states-v-harmon-893236324.

condition that they are supported by other evidence. At the same time, the main emphasis continued to be on the evidential value of the circumstances proven, while the scientific reliability of the methodology in question had not yet become an independent matter for procedural evaluation.

A more thorough method of evaluating materials obtained from blockchain analysis is demonstrated in the Case of the United States v. Sterlingov[1], in which the court's analysis did not stop at the results of the blockchain analysis but also included a judgment of the scientific validity of the methodology employed to arrive at those results. The court looked into the operating principles of the Chainalysis Reactor software, the specific aspects of applying techniques for clustering cryptoaddresses, the means by which digital assets were attributed to particular individuals, and the possibility of testing the methodology against scientific-reliability standards established in the case law using the Case of Daubert v. Merrell Dow Pharmaceuticals, Inc.[2]. In that case, the court did not merely consider the findings and conclusions of the blockchain systems analyst but also examined the reproducibility of the analytical results, the transparency of the algorithms employed, and the possibility of independently verifying the conclusions reached. This kind of approach indicates that judicial evaluation involves not just the outcome of the blockchain analysis but also the process by which that outcome is reached, something which is directly pertinent to assessing the evidential value of the materials in question.

An examination of court rulings shows that, even though there are differences in the factual situations of criminal cases, the way in which the courts have evaluated materials produced by blockchain analysis is in line with the model of comprehensive procedural assessment set out in this study. In the Case of the United States v. Gratkowski[3], the emphasis was placed on deciding whether information derived from a public blockchain could be used, in other words, on judging the source of the evidential information. In the Case of the United States v. Harmon[4], the court evaluated the evidential value of the blockchain-analysis results together with other evidence, thus showing a move towards looking at the outcomes of the analytical work. The most thorough approach is seen in the Case of the United States v. Sterlingov[5], where the court looked not only at the findings of the analysis but also at the scientific validity of the blockchain-analysis methodology employed. This demonstrates that the model proposed is not merely an abstract theoretical idea, but rather mirrors actual patterns that are already present in current legal practice when assessing the materials and conclusions of blockchain systems analysts. The need for the source data to have a lawful and verifiable origin, for the analytical results to be linked to the subject matter of the case, for the methodology to be transparent, and for the results to be reproducible, independently verifiable, and supported by other evidence is common to all cases. These criteria are in agreement with the general provisions of Articles 84-86 and 94 of the Criminal Procedure Code of Ukraine[6] and can therefore be applied when assessing blockchain-analysis materials in Ukraine. At the same time, the Daubert standard, the procedural rules concerning the admission of expert evidence, the binding character of court decisions, and the US courts' views on reasonable expectations of privacy with regard to public blockchain data reflect the specific features of the American legal system. They can therefore be used only as a point of comparison, and not as criteria to be directly applied in Ukrainian criminal procedure.

The way in which the Ukrainian judicial system evaluates documents relating to virtual assets is somewhat different. In its Ruling of the Appeal Chamber of the High Anti-Corruption Court in Case No. 991/10335/23[7] examined information about crypto-wallets, transactions involving Bitcoin and Tether USD, a seed phrase (which is a mnemonic phrase used to regain access to a crypto-wallet), the records of the inspection of the information, and the transaction data in order to conclude that the virtual assets in question belonged to a specific person. The court placed more emphasis on evidence showing the establishment of the wallets, the possession of them, and actual control over the assets, taking into account the entire body of this information. It also considered separately the documents relating to the inspection of the information on the virtual assets and the transactions, as well as the arguments that the seed phrase and the crypto-wallets belonged

[1] Case of the United States v. Sterlingov. (2024, February). Retrieved from https://caselaw.findlaw.com/court/us-dis-crt-discol/115886148.html.
[2] Case of Daubert v. Merrell Dow Pharmaceuticals, Inc. (1993, June). Retrieved from https://www.govinfo.gov/app/details/USREPORTS-509/USREPORTS-509-579.
[3] Case of the United States v. Gratkowski. (2020, June). Retrieved from https://www.govinfo.gov/app/details/USCOURTS-ca5-19-50492.
[4] Case of the United States v. Harmon. (2020, July). Retrieved from https://case-law.vlex.com/vid/united-states-v-harmon-893236324.
[5] Case of the United States v. Sterlingov. (2024, February). Retrieved from https://caselaw.findlaw.com/court/us-dis-crt-discol/115886148.html.
[6] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17?lang=en&utm.
[7] Ruling of the Appeal Chamber of the High Anti-Corruption Court in Case No. 991/10335/23. (2024, October). Retrieved from https://opendatabot.ua/court/122788762-d3bb098fe38ee6185f61abea1e44ec47.

to someone else. Finally, the court decided that the circumstances established were enough to keep the relevant virtual assets seized.

Another feature of the Ukrainian approach can be seen in the Ruling of the Shevchenkivskyi District Court of Kyiv in Case No. 761/11447/24[1]. In this case, a detective from the Department of Detectives for Economic Protection in the Field of Virtual Assets of the Bureau of Economic Security of Ukraine submitted an application for temporary access to certain items and documents. The court rejected the application since the prosecution had not stated which circumstances in the criminal proceedings were to be proven by the information requested or what material importance it had in establishing those circumstances. The ruling therefore demonstrates the application of the general procedural criterion of evidential value irrespective of the digital form of the information: access to information must be justified by its specific connection with the circumstances to be established in criminal proceedings.

A comparison of USA and Ukrainian judicial practice indicates different degrees of development in approaches to the procedural assessment of blockchain-analysis materials. In US practice, the subject of judicial assessment has gradually expanded from verifying the source of blockchain information and its evidential value to examining the scientific reliability of blockchain-analysis methods. In Ukraine, this method is still in its early stages of development. Although Ukrainian courts have already incorporated various aspects of the proposed model – particularly when looking at the link between digital information and the circumstances in issue, the information's origin, and its consideration together with other evidence – a full evaluation of the blockchain-analysis methodology, including its reproducibility and scientific reliability, has not yet reached the level of development found in current US practice. This indicates a transformation of blockchain analysis from an auxiliary technical tool into a specialised means of obtaining evidential information. The identified patterns support the need to distinguish blockchain-analysis materials from the conclusion of a blockchain systems analyst as distinct procedural forms through which specialised knowledge is used.

Discussion

The study substantiated that the materials and conclusions of a blockchain systems analyst are products of applying specialised knowledge and cannot be reduced to a reproduction of information contained in a distributed ledger. This approach made it possible to distinguish primary blockchain data from the results of their professional analytical processing and to determine the independent place of the analyst's materials and conclusions within the evidential framework of criminal proceedings. The findings are consistent with those of H.F. Atlam *et al.* (2024), whose systematic review of research in blockchain forensics showed that the principal areas of development remain the improvement of transaction-analysis methods, crypto-address clustering, and the tracing of digitalasset movements. However, the authors focused primarily on the functional capabilities of blockchain-analysis tools, while the procedural status of the results of such analytical activity was not examined separately. In the present study, the focus was shifted from the technological characteristics of blockchain analysis to the legal nature of the materials and conclusions produced through its use, which made it possible to identify them as independent products of applying specialised knowledge.

M. Fröwis *et al.* (2020) examined the conditions under which the results of cryptocurrency forensic examinations retain their evidential value. The authors demonstrated that documenting the examination procedure, the possibility of reproducing it, and control over the integrity of the results are decisive. This approach accords with the findings of the present study, but addresses the forensic aspect of the issue primarily. The study further shows that, even where the requirements of forensic reliability are met, the materials and conclusions of a blockchain systems analyst require a separate procedural-legal assessment. Their evidential value depends not only on the manner in which the examination was conducted, but also on the nature of the analytical result produced. The evidential value of blockchain data was also examined by O.A. Musbih (2026) in a study devoted to the use of blockchain entries in criminal proceedings. The author argued that the defining characteristics of such entries are their authenticity, integrity, and verifiability, which permit their use as a source of evidential information. The findings of the present study do not contradict this conclusion, but offer a different level of analysis. Whereas O.A. Musbih regarded blockchain entries themselves as the object of assessment, the present study identifies the materials and conclusions of a blockchain systems analyst as the result of intellectual and analytical activity formed on the basis of those entries. This distinction explains why the procedural assessment of blockchain-analysis results cannot be confined to verifying the properties of primary distributed-ledger data.

The study also substantiated that the procedural assessment of the materials and conclusions of a

[1] Ruling of the Shevchenkivskyi District Court of Kyiv in Case No. 761/11447/24. (2024, April). Retrieved from https://zakononline.ua/court-decisions/show/118588220.

blockchain systems analyst cannot be limited to verifying their compliance with the traditional criteria of relevance, admissibility, and reliability. The proposed conceptual model is based on the need for a comprehensive assessment of three interrelated components: the lawfulness of obtaining and using digital information, the scientific soundness of the blockchain-analysis methodology applied, and the logical cogency of the analytical conclusions drawn. This approach takes account of the particular manner in which evidential information is formed through the professional analytical processing of distributed-ledger data. A similar issue was explored by I.A. Haji *et al.* (2026) in a study on ensuring continuity in the chain of custody of digital evidence and assessing its lawfulness in criminal proceedings related to post-conflict investigations. The authors argued that the evidential value of digital information depends on the ability to confirm the immutability of digital data, trace every stage of their processing, and ensure oversight of the lawfulness of their use. The findings of the present study accord with this approach, but extend its scope. Whereas the study by I.A. Haji *et al.* associates procedural reliability primarily with compliance with requirements for preserving digital evidence, the present study demonstrates that this is insufficient for assessing blockchain-analysis materials. In addition to verifying the source of digital information, it is also necessary to assess the scientific soundness of the methods used to examine it and the reasoning underlying the analytical conclusions drawn.

The integrity of digital evidence was also examined by A.Y. Krishna & N. Kumar Chaudhary (2026), who proposed a model for using blockchain technology to document, preserve, and monitor digital evidence in criminal proceedings. Their study concluded that the use of blockchain increases confidence in digital evidence by preventing unauthorised alteration and making information-recording procedures transparent. The present study does not challenge this conclusion, but demonstrates that ensuring the integrity of digital data is not equivalent to confirming the evidential value of blockchain-analysis results. The immutability of information concerns the properties of the source data, but does not enable an assessment of the validity of the analytical methodology applied or the soundness of the conclusions based on it. For this reason, the proposed model of procedural assessment encompasses not only the properties of digital information, but also the procedure for its analytical interpretation.

Another line of research is represented by the study of Y. Park & D. Jeong (2026), which developed a digital-evidence management model combining forensic procedures with multi-level access-verification mechanisms. The authors proceed from the premise that the proper organisation of processes for storing, documenting, and using digital evidence creates the necessary conditions for ensuring its evidential value. The present findings generally accord with this position, but support a broader conclusion. Effective digital-evidence management does not in itself resolve the issue of assessing the materials and conclusions of a blockchain systems analyst, as this requires verification not only of the process of handling digital information, but also of the scientific soundness of the blockchain-analysis methods used and the logical coherence of the conclusions drawn. In this respect, the conceptual model proposed in the study may be regarded as a procedural complement to existing technical models of digital-evidence management, as it establishes criteria for assessing the outputs of analytical activity, rather than merely requirements for their preparation and storage.

The analysis of legal practice showed that the procedural assessment of the materials and conclusions of a blockchain systems analyst is gradually moving beyond verification of the authenticity of digital data. Judicial assessment now concerns not only information obtained from a distributed ledger, but also the methods of its analytical processing, the soundness of the research methods used, and the persuasiveness of the conclusions drawn. This makes it possible to regard blockchain-analysis materials as an independent object of procedural assessment, whose evidential value is determined by a combination of legal, scientific-methodological, and analytical characteristics. Similar trends are evident in the study by S. Kaya *et al.* (2026), which addressed the evidential value of blockchain technology in civil justice. The authors concluded that the use of blockchain entries in judicial proceedings is gradually shifting from viewing them as a technical means of confirming the authenticity of information to assessing their evidential value in conjunction with other evidence and the procedural circumstances of the case. The present findings accord with this approach, but extend it to criminal procedure. The study showed that, in criminal proceedings, the subject of judicial assessment is broader, as it encompasses not only the properties of blockchain entries, but also the results of professional analytical activity formed on their basis. This indicates that the procedural significance of blockchain-analysis materials is not determined in isolation, but in the context of assessing the manner in which they are formed and used in the evidential process.

Another dimension of the issue is addressed in the study by N. Xiao *et al.* (2024), which proposed a blockchain-based digital-forensics model for ensuring the preservation of evidence and supporting investigations in industrial Internet of Things networks. The authors argued that the use of blockchain ensures the integrity of digital information, transparency in its processing, and the possibility of monitoring all

operations involving evidence. This approach accords with developments in digital forensics, although its main emphasis is on the technological mechanisms by which the system operates. The findings of the present study make it possible to complement this approach with a procedural dimension, showing that even proper technical arrangements for handling digital evidence do not remove the need for a separate assessment of the materials and conclusions of a blockchain systems analyst. The evidential value of such materials is determined not only by the possibility of tracing the provenance of digital information, but also by the soundness of its analytical interpretation and its capacity to confirm circumstances falling within the subject matter of proof.

A synthesis of the findings supports the conclusion that the development of blockchain technologies in criminal proceedings is accompanied by a gradual shift in emphasis from examining the technical characteristics of digital evidence to developing procedural approaches for assessing the results of its professional analytical processing. Accordingly, future research should be directed not only towards improving blockchain-analysis technologies, but also towards developing uniform procedural criteria for assessing the materials and conclusions of blockchain systems analysts. This approach will help align advances in digital forensics with the requirements of proof in criminal proceedings and ensure a more consistent use of blockchain-analysis results in legal practice.

■ Conclusions

It was established that these outputs of professional activity cannot be regarded as a type of blockchain data or as a technical reproduction of information contained in a distributed ledger. They constitute independent products of applying specialised knowledge, formed through the comprehensive analytical processing and interpretation of digital data and the identification of legally significant links between digital assets, crypto-addresses, and other information objects. The comparison of the materials and conclusions of a blockchain systems analyst with a forensic expert's opinion and a specialist's consultation or explanation according to five criteria – their legal nature, the person responsible for their preparation, the subject matter of the examination, the content of the result, and their functional purpose – supports the conclusion that they constitute an independent category of results arising from the application of specialised knowledge in criminal procedure. This indicates that they cannot be fully equated with existing procedural institutions.

It was substantiated that the procedural assessment of the materials and conclusions of a blockchain systems analyst should be based on the general criteria of relevance, admissibility, and reliability, although their content requires adaptation to the particularities of blockchain analysis. Relevance is determined by the connection between the results of analytical processing and the subject matter of proof. Admissibility encompasses not only the lawfulness of obtaining the source data, but also the verifiability of the entire analytical-processing cycle. Reliability depends on the reproducibility of the examination results, the transparency of the algorithms used, the verifiability of heuristic models, and the possibility of independently confirming the conclusions drawn. The study resulted in the development of a conceptual model for the comprehensive procedural assessment of the materials and conclusions of a blockchain systems analyst. The study resulted in a conceptual model that submits the materials and conclusions of a blockchain systems analyst to three interdependent stages of procedural scrutiny: the source of the evidential information, the methodology of the blockchain analysis, and the results of the analytical activity. Unlike the conventional approach, the proposed model considers the entire process through which evidential information is formed, from the lawfulness of obtaining digital data to the logical soundness of the analytical conclusions.

The analysis of court decisions confirmed that legal practice is gradually moving from assessing the technical properties of blockchain technology to examining the scientific soundness of blockchain-analysis methods, the reliability of the conclusions drawn, and the possibility of their independent verification. The identified progression of judicial approaches indicates that the proposed model is practically consistent with current trends in the use of blockchain analysis in criminal proceedings. The study is limited by its reliance on decisions of US courts, where issues concerning the use of blockchain analysis have received the most thorough procedural treatment. This makes it necessary to expand the comparative basis of the research by examining the judicial practice of other states as it develops. Further research should focus on developing procedural requirements for the formal presentation of the materials and conclusions of blockchain systems analysts, defining criteria for assessing individual blockchain-analysis methods, and examining the use of analytical findings from different types of blockchain networks in criminal proceedings.

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None.

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Матеріали та висновки аналітика блокчейн-систем: проблеми допустимості і правозастосування в кримінальному процесі

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■ **Анотація.** Метою дослідження було обґрунтування правової природи матеріалів і висновків аналітика блокчейн-систем, визначення критеріїв їх процесуальної оцінки й узагальнення підходів до використання в кримінальному провадженні. Методологічний дизайн дослідження ґрунтувався на поєднанні аналізу наукової літератури, формально-юридичного, порівняльно-правового методів, аналізу судової практики та концептуального моделювання. У дослідженні з'ясовано правову природу матеріалів і висновків аналітика блокчейн-систем як самостійних результатів застосування спеціальних знань, сформованих унаслідок професійної аналітичної обробки даних розподілених реєстрів. Виокремлено відмінності між матеріалами та висновком аналітика блокчейн-систем за їхньою правовою природою, змістом, функціональним призначенням і місцем у процесі доказування, а також обґрунтовано їх відмежування від висновку судового експерта та консультації спеціаліста. Встановлено, що процесуальна оцінка матеріалів і висновків аналітика має здійснюватися на основі класичних критеріїв належності, допустимості та достовірності з урахуванням особливостей їх формування, а не технічних характеристик блокчейн-технології. Доведено, що критеріями належності є зв'язок результатів блокчейн-аналітики з предметом доказування, допустимості – законність отримання вихідних даних, прозорість аналітичної методики та можливість її незалежної перевірки, а достовірності – відтворюваність результатів, перевірюваність евристичних моделей, прозорість алгоритмів і наукова обґрунтованість сформульованих висновків. Розроблено концептуальну модель комплексної процесуальної оцінки матеріалів і висновків аналітика блокчейн-систем, яка охоплює три взаємопов'язані етапи: оцінку джерела доказової інформації, оцінку методології блокчейн-аналізу та оцінку результатів аналітичної діяльності. Отримані результати можуть бути використані слідчими, прокурорами, адвокатами, судовими експертами й аналітиками блокчейн-систем під час оцінювання матеріалів блокчейн-аналітики, окреслення їх доказового значення та забезпечення єдиних підходів до використання такої доказової інформації в кримінальному провадженні

■ **Ключові слова:** кримінальне провадження; цифрові докази; доказова інформація; процесуальна оцінка; віртуальні активи

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Mediation in Ukraine's administrative justice system: Potential, barriers and implementation mechanisms

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■ **Abstract.** The aim of the study was to identify the theoretical and legal foundations for the application of mediation in Ukraine's administrative justice system, to identify barriers to its widespread adoption, and to justify mechanisms for its implementation. The methodological design of the study was based on a combination of formal-legal and statistical methods, content analysis of materials and case studies of judicial practice, alongside the methods of systematisation and legal modelling. The study found that current Ukrainian legislation provides the legal framework for the use of mediation in administrative proceedings through the institutions of conciliation between the parties and dispute resolution with the participation of a judge. It has been demonstrated that administrative disputes relating to the exercise of discretionary powers by public authorities, particularly in the areas of social protection, the civil service and certain categories of tax law, offer the greatest potential for the use of mediation. It has been established that the scope for applying mediation is limited in disputes where the content of an administrative decision is strictly defined by law or relates to the protection of the public interest. It has been found that the increasing workload on administrative courts is not accompanied by a wider adoption of consensual dispute resolution methods. It has been established that the limited use of mediation in Ukraine's administrative justice system is due to a combination of legal, institutional and procedural barriers. A lack of proper institutional integration of mediation into the administrative justice system has been identified, in particular the absence of specialised mechanisms for referring parties to a mediator, mediation centres attached to administrative courts, and procedures for interaction between courts and mediators. The practical significance of the research findings lies in the potential use by the legislature when improving Ukraine's administrative procedural legislation, by judicial administration bodies and administrative courts when developing mechanisms for integrating mediation into judicial practice, and by mediators and academics in preparing proposals for the development of alternative methods of resolving public-law disputes

■ **Keywords**: public law disputes; reconciliation of the parties; public authority; discretionary powers; alternative dispute resolution

■ Introduction

The relevance of this study stems from the growing number of administrative cases in Ukraine, which is accompanied by an increased workload on the administrative justice system. This trend is linked to the expansion of the practice of challenging, through the courts, the decisions, actions, and omissions of public authorities; an increase in the number of disputes in the areas of social protection and the civil service; and the exercise by citizens of the right to judicial protection in the context of martial law and socio-economic transformations (Rostovska *et al.*, 2021; Shapenko & Kushnir, 2023). Under these

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circumstances, it becomes crucial to identify effective mechanisms for resolving public-law disputes that can reduce the burden on the judicial system and ensure the timely protection of human rights (Lunina & Poplavskyi, 2022). One such mechanism is mediation, which enables the parties to reach mutually acceptable solutions and facilitates more effective dispute resolution (Hopt & Steffek, 2012). In Ukraine, the legal framework for the development of mediation has been established; in particular, Law of Ukraine No. 1875-IX "On Mediation"[1] has been adopted, and the institutions of conciliation between the parties and dispute resolution with the participation of a judge have been enshrined in the Code of Administrative Proceedings of Ukraine[2] (CAP of Ukraine). At the same time, the integration of mediation into administrative proceedings remains limited due to the insufficient regulation of its procedural status, the absence of a defined procedure for interaction between the court and the mediator, and the lack of legislative criteria regarding the suitability of certain categories of administrative disputes for mediation; this highlights the need to explore the possibilities for utilising this institution in the sphere of public law relations.

The issue of the use of mediation in administrative proceedings has become a common topic in legal research. In the study, K. Rostovska & N. Hryshyna (2020) justified the possibility of using mediation as an additional mechanism for resolving administrative disputes. The authors concluded that the presence of a public authority in a dispute does not preclude the use of consensual procedures; however, the practical implementation requires consideration of the specific nature of public-law relations. It has been established that one of the factors hindering the spread of mediation in administrative proceedings is the insufficient regulation of the procedural aspects of its application. I. Verba (2021) explored this issue in greater depth, establishing that Ukraine's administrative procedural legislation contains certain elements capable of facilitating the use of mediation in the resolution of public-law disputes. At the same time, the researcher drew attention to the lack of a clear mechanism for interaction between mediation and the administrative process, which limits the practical use of this institution. Among the main problems identified were the uncertainty regarding the procedural status of mediation and the absence of specific procedures for its application in administrative cases.

The issue of drawing on European experience to modernise the Ukrainian model of administrative mediation was the subject of a study by O.F. Melnychuk (2022). The findings showed that in most European Union member states, mediation is regarded as a component of the alternative dispute resolution system and is supported at an institutional level by the judicial authorities. The author justified the advisability of adopting certain European practices relating to the referral of parties to mediation by the courts and organisational support for consensus-based procedures. A comparative analysis of Ukrainian and European approaches to the resolution of administrative and legal disputes was presented in the work by V. Teremetskyi *et al.* (2023). The researchers found that the legal framework for mediation in Ukraine is ahead of the level of its actual use. The findings allowed the authors to conclude that there is a gap between the legislative possibilities for applying mediation and the actual practice of resolving administrative disputes.

The issue of adapting foreign experience of administrative mediation was further explored in the study by N.V. Bozhenko (2024). The author established that the effectiveness of mediation in administrative proceedings depends not only on the legislative enshrinement of the relevant procedures, but also on the existence of organisational mechanisms for interaction between courts and mediators. The study resulted in a justification of the need for a comprehensive approach to the implementation of mediation, combining regulatory, procedural and institutional elements. N. Cherevko's (2025) study focused on the institutional aspects of the development of mediation in Ukraine's administrative courts. The author demonstrated that the further spread of mediation procedures depends directly on the level of integration of European standards into the activities of the judicial system. Emphasis is placed on the need to establish an institutional infrastructure for mediation, to train judges in the use of consensus-based mechanisms, and to create mechanisms for cooperation between courts and professional mediators.

A separate aspect of the issue was explored in the work by O. Skochylias-Pavliv (2025), which distinguished between dispute resolution involving a judge and mediation. The author established that these institutions have different legal natures and perform distinct functions within the alternative dispute resolution system. On this basis, the conclusion was drawn that it is inappropriate to equate dispute resolution involving a judge with mediation, and that there is a need for the further development of mediation procedures. The practical aspects of applying mediation in administrative proceedings were analysed by K. Chmielarz *et al.* (2025) using the Polish experience as an example. The researchers found that the effectiveness of mediation is

[1] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[2] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.

determined by the extent to which it is integrated into the procedures of the judicial authorities. The findings showed that the existence of specific procedures for referring parties to mediation and the regulatory framework governing the interaction between the court and the mediator contribute to a more active use of consensual methods of dispute resolution. The issue of identifying the categories of public-law disputes most suitable for mediation was examined by Ye.V. Mykhailovska (2025). The author concluded that the potential for applying mediation depends directly on the nature of the powers held by the public authority and the degree of regulatory certainty regarding the disputed legal relationships. The findings indicate that disputes relating to the exercise of discretionary powers by public authorities are the most suitable for the use of mediation procedures.

An analysis of academic works indicates the gradual development of a comprehensive academic approach to the study of mediation in administrative proceedings. At the same time, the vast majority of existing studies focus on the theoretical and legal aspects of mediation, international experience of its use, or specific issues of regulatory framework. Issues relating to the actual use of conciliation procedures in Ukraine's administrative justice system, based on official judicial statistics; the assessment of mediation's potential for specific categories of administrative disputes; and a comprehensive analysis of the legal, institutional and procedural barriers to its wider adoption remain under-researched. The aim of the study was to identify the characteristics of the use of mediation in administrative proceedings in Ukraine, to identify obstacles to its wider adoption, and to justify mechanisms for its integration into judicial practice. The objectives of the study were: to analyse the practice of resolving public-law disputes in Ukraine and to assess the scope for the use of mediation in administrative proceedings; to identify factors limiting the spread of mediation procedures; and to justify mechanisms for integrating mediation into Ukraine's administrative proceedings.

Materials and Methods

The study was conducted within the framework of a doctrinal-empirical design, which combines normative legal analysis with an empirical study of the practice of applying mediation in administrative proceedings. The methodological design of the study was based on a combination of formal legal and statistical methods, content analysis of materials, and case studies of judicial practice, using the methods of systematisation and legal modelling. The formal-legal method was used to examine the normative foundations for the application of mediation in public law disputes. The normative basis of the study was constituted by the Code of Administrative Proceedings of Ukraine[1] and Law of Ukraine No. 1875-IX[2], the provisions of which were applied to determine the procedural mechanisms for resolving public-law disputes, the limits of the admissibility of reconciliation between the parties, and the specific features of the legal status of mediation in administrative proceedings.

The comparative law method was used to compare the mechanisms for integrating mediation into Ukraine's administrative justice system with the approaches set out in Recommendation Rec(2001)9 of the Committee of Ministers to member states on alternatives to litigation between administrative authorities and private parties[3], the Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties[4] and the European Handbook for Mediation Lawmaking (European Commission for the Efficiency of Justice, 2019), with a view to identifying gaps in national legislation.

A statistical method was used to assess the potential of mediation in the resolution of public law disputes. The research was based on official statistical data from the Ukrainian judiciary, specifically the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2024 (2025) and the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2025 (2026). The study analysed indicators relating to the number of administrative cases and case files received by courts of first instance, the number of cases heard and pending, instances where the dispute resolution procedure involving a judge was applied, as well as the structure of administrative disputes by main categories. The choice of the 2020-2025 period was dictated by the need to assess the dynamics of the development of administrative justice and the practice of using consensual dispute resolution mechanisms. Its application was aimed at examining the dynamics of administrative cases, assessing the workload on administrative courts, determining the extent to which the judge-mediated dispute resolution procedure is used, and analysing the structure of administrative disputes.

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.
[2] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[3] Recommendation Rec(2001)9 of the Committee of Ministers to member states on alternatives to litigation between administrative authorities and private parties. (2001, September). Retrieved from https://rm.coe.int/16805e2b59.
[4] Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties. (2007, December). Retrieved from https://rm.coe.int/1680747683.

To analyse the structure of administrative disputes, individual categories of cases set out in the Report of courts of first instance on the consideration of cases in the procedure of administrative judicial proceedings for 2024 (2025) and the Report of courts of first instance on the consideration of cases in the procedure of administrative judicial proceedings for 2025 (2026) were aggregated. The aggregation was carried out based on the commonality of the subject of the dispute and the nature of public-law relations. The "social protection" category included cases concerning pensions, social benefits, allowances, compensation, social insurance, provision for war veterans and other disputes related to the exercise of the right to social protection. The "public service" category covered disputes concerning civil service, service in local government bodies, military service, service in law enforcement agencies, as well as disputes concerning recruitment, service, and dismissal. The 'tax disputes' category included cases relating to the administration of taxes and duties, appeals against tax assessment notices and other decisions by tax authorities. The "land disputes" category covered cases concerning the exercise of land rights, the use of land plots and appeals against decisions by public authorities in the field of land relations. The "migration disputes" category comprises cases concerning citizenship, immigration, refugees, forced return and other issues of migration control. The "other disputes" category was formed by grouping together the remaining administrative cases, none of which, taken individually, accounted for a significant proportion of the overall structure of administrative proceedings, including disputes in the fields of urban planning, the environment, the electoral process, access to public information, state supervision (control), licensing and other types of public-law relations.

The potential for the use of mediation in various categories of administrative disputes was assessed by combining a statistical analysis of the structure of administrative cases with a formal legal analysis of the legal nature. The assessment criteria included the nature of the disputed legal relationship, the scope of the discretionary powers of the public authority, the possibility of the parties reaching a lawful compromise, the impact of the dispute on the public interest and the rights of third parties, and the degree of regulatory certainty regarding the subject of the dispute. The assessment of the mediation potential of specific categories of administrative disputes was carried out on the basis of the expert application of the defined criteria and was not intended to establish the absolute suitability or unsuitability of the relevant disputes for mediation.

To identify the practice of using mediation in administrative proceedings, a content analysis was carried out on court decisions selected from the Unified State Register of Court Decisions using the keywords "mediation" and "conducting mediation". The initial sample comprised 67 documents. After excluding decisions in which mediation was mentioned only in the context of statutory provisions or was not linked to the factual circumstances of the case, five decisions were included in the subsequent analysis; these contained information on the conduct of mediation, the suspension of proceedings to allow for mediation, or references to its outcomes.

The case study method was used to examine the practice of applying mediation in administrative proceedings. The analysis included the following cases: Judgment dated 16 January 2025 in case No. 160/23652/24[1], Judgment dated 10 January 2025 in case No. 160/8128/18[2] and Judgment of 24 July 2025 in case No. 160/8944/25[3], which contained information on the conduct of mediation, the suspension of proceedings to allow for mediation, or the use of conciliation procedures by the parties. The following cases were also analysed: Judgment of 30 October 2025 in case No. 160/15683/25[4] and Judgment dated 6 May 2026 in case No. 160/36014/25[5], which were selected on the basis of the presence of procedural decisions allowing for an assessment of the practical possibilities and limitations of the application of mediation, as well as to identify the legal, institutional and procedural barriers to its use in administrative proceedings.

The classification of barriers to the spread of mediation in Ukraine's administrative justice system was carried out using a systematisation method. The systematisation was based on the nature of the impact of the relevant factors on the possibility of using mediation procedures in public law disputes. On this basis,

[1] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/23652/24. (2025, January). Retrieved from https://opendatabot.ua/court/124569077-655811e86bbea987bcdc422bf1836552.
[2] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/8128/18. (2025, January). Retrieved from https://opendatabot.ua/court/124464454-bfc1bad9ac8992b94ffc1bda6b3397e6.
[3] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/8944/25. (2025, July). Retrieved from https://opendatabot.ua/court/129194794-4cd57e3d8fde8a8cdafc8c26ef66fea4.
[4] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/15683/25. (2025, October). Retrieved from https://opendatabot.ua/court/131699050-6207b76cd2399bd2cda5e15b7efa61db.
[5] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/36014/25. (2026, May). Retrieved from https://opendatabot.ua/court/136629635-b84f7182cd8175ea3075cb15047d40fe.

the following were identified: legal barriers related to the specific features of the regulatory framework for mediation and the limits of the powers of public authorities; institutional barriers resulting from the development of the organisational infrastructure for mediation and the mechanisms for interaction between courts and mediators; and procedural barriers linked to the specific features of administrative proceedings and the integration of mediation into the procedural framework for the consideration of administrative cases. The legal modelling method was used to develop a model for integrating mediation into Ukraine's administrative justice system. Its application was aimed at formulating proposals for improving the regulatory framework for the use of mediation in administrative cases, justifying institutional mechanisms for interaction between administrative courts and professional mediators, and developing procedural mechanisms for the application of mediation during court proceedings.

Results

Assessment of the potential of mediation in the resolution of public law disputes. To assess the prerequisites for introducing mediation into administrative proceedings, it is advisable to analyse the trends in the handling of administrative cases and the use of existing conciliation procedures. Such a study makes it possible to determine the caseload of administrative courts, identify trends in the development of public law disputes and assess the extent to which existing consensual mechanisms for the resolution are utilised. Analysis of these indicators provides a basis for assessing the potential for using mediation as an additional mechanism for resolving public law disputes (Table 1).

Table 1. Trends in the handling of administrative cases and the application of dispute resolution procedures involving a judge in Ukraine in 2020-2025

Indicator	2020	2021	2022	2023	2024	2025	Change 2025/2020, %
Administrative cases and files received	303,749	425,493	340,358	450,993	455,368	495,336	+63.1
Administrative cases and files considered	297,479	380,744	299.883	41,180	456,840	44,2812	+48.9
Pending cases at the end of the year	2,216	54,004	5,991	35,694	1,096	6,976	+214.8
Orders for the settlement of a dispute with the participation of a judge	0	3	0	1	2	0	-
Orders terminating the settlement of a dispute involving a judge	1	4	2	0	3	0	-

Source: compiled by the author based on the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2024 (2025) and the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2025 (2026)

The data in Table 1 indicate a trend towards an increase in the number of administrative cases brought before courts of first instance. In 2025, the number of administrative cases and files submitted to the courts for consideration stood at 495,300, which is 63.1% higher than in 2020. At the same time, the number of cases heard rose by 48.9%. Despite the increase in the volume of court proceedings, the number of pending cases at the end of the year rose from 2,200 in 2020 to 7,000 in 2025, an increase of 214.8%. These changes indicate that the administrative justice system continues to face a significant workload amid a rise in the number of public-law disputes. To assess the practice of using conciliation procedures, it is useful to analyse the figures for the application of the dispute resolution procedure involving a judge. In 2020, 2022 and 2025, no instances of this procedure being applied were recorded, whereas in 2024 two relevant orders were issued, and in 2023, one. A comparison of these figures with the total number of administrative cases indicates that the use of the dispute resolution procedure involving a judge is limited in administrative justice practice. The results suggest that this consensual mechanism, provided for in the Code of Administrative Procedure of Ukraine, has not yet become widespread as a tool for resolving public law disputes. At the same time, the statistical data provided do not allow for an assessment of the actual extent to which mediation is used, as court statistics do not contain separate figures on the conduct of mediation procedures.

The identified limitations on the use of the dispute resolution procedure involving a judge necessitate a comparison of the statistical findings with the current procedural regulations. An analysis of the provisions of the Code of Administrative Proceedings of Ukraine[1] shows that national administrative procedural legislation provides for two consensual mechanisms for resolving public-law disputes. The first is dispute resolution with the participation of a judge, governed by Articles 184-188 of the Code of Administrative Proceedings of Ukraine, which is

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.

applied by mutual agreement of the parties prior to the commencement of proceedings on the merits of the case. The second mechanism is conciliation between the parties, provided for in Article 190 of the Code of Administrative Procedure of Ukraine, which is permitted at any stage of the judicial proceedings and may result in the closure of the proceedings, provided that the agreements reached comply with the requirements of the law and do not infringe the rights or interests of other persons.

The existence of these procedural mechanisms indicates that Ukraine's administrative justice system does not preclude the use of consensual methods for resolving public-law disputes. At the same time, the results of statistical analysis demonstrate the limited application of the procedure for settling disputes with the participation of a judge, which indicates that it is not widely used in judicial practice. This situation suggests the existence of a gap between the legally enshrined possibilities for reaching agreements and the practical implementation. Furthermore, the scope for using consensual mechanisms in public-law relations is narrower than in the private-law sphere, since conciliation is permitted only where its terms do not contravene the law and do not exceed the competence of the public authority. Accordingly, the scope for applying mediation in administrative proceedings depends to a large extent on the nature of the disputed legal relationship, the extent of the public authority's discretionary powers, and the degree of legal certainty regarding the subject of the dispute.

To assess the extent to which the consensus-based mechanisms provided for in the Code of Administrative Procedure of Ukraine are implemented in practice, a case study was conducted of selected administrative cases in which the parties-initiated conciliation through mediation. A notable example is the Decision dated 16 January 2025 in case 160/23652/24[1] concerning the claim brought by the Private Joint-Stock Company (PJSC) "Avdiivka Coke Chemical Plant" against the Eastern Interregional Directorate of the State Tax Service (STS) for Work with Large Taxpayers, challenging a series of tax assessment notices relating to substantial amounts of tax liabilities and penalties. The dispute was characterised by the complexity of the factual circumstances, a substantial volume of evidence and a protracted tax audit. During the proceedings, the court granted the parties' application for conciliation and stayed the proceedings to allow for mediation. However, following the expiry of the specified time limit, the proceedings were resumed, indicating that a final settlement of the dispute had not been reached. This example demonstrates that even in complex tax disputes, the parties view mediation as a potential tool for reducing conflict and finding a mutually acceptable solution; however, reaching an agreement in disputes involving the application of mandatory provisions of tax legislation remains challenging. A similar situation can be observed in the Judgment of 30 October 2025 in Case 160/15683/25[2] concerning a claim brought by the Limited Liability Company (LLC) "Adel Group" against the Main Directorate of the State Tax Service (Main Directorate of the STS) in Kyiv. The subject of the dispute was an appeal against tax assessment notices issued following a field audit of the business entity. Although the parties-initiated conciliation and the court stayed the proceedings to allow for mediation, a final settlement of the dispute was not reached. An analysis of the case file indicates that the reason for this was the high degree of regulatory certainty surrounding the subject of the dispute: the tax authority was bound by the statutory requirements regarding the procedure for calculating tax liabilities and did not have sufficient discretion to reach a compromise solution. An analysis of the Judgment dated 10 January 2025 in case 160/8128/18[3], involving the Joint-Stock Company (JSC) 'Gas Distribution System Operator "Kryvorizhgaz"', also confirms the limited effectiveness of mediation in administrative disputes. Although the parties took the opportunity to resort to mediation, the procedure itself did not lead to a final settlement of the dispute. This indicates that the mere existence of a procedural mechanism for conciliation does not guarantee its effective use. For mediation to be successfully applied, there must be genuine scope for negotiation, which is determined by the nature of the disputed legal relationship and the extent of the discretionary powers of the public authority. The case analysis carried out leads to the conclusion that the practice of using mediation in Ukraine's administrative justice system is gradually taking shape, but is currently at an early stage of development. The cases examined confirm the parties' willingness to use consensus-based procedures; however, these cases also demonstrate the limited effectiveness of such procedures in the context of a high level of regulatory certainty and the limited discretion of public authorities. The results of the analysis suggest that the increase in the number of administrative cases is not accompanied by a wider use of conciliation procedures. In this regard, it is

[1] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/23652/24. (2025, January). Retrieved from https://opendatabot.ua/court/124569077-655811e86bbea987bcdc422bf1836552.
[2] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/15683/25. (2025, October). Retrieved from https://opendatabot.ua/court/131699050-6207b76cd2399bd2cda5e15b7efa61db.
[3] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/8128/18. (2025, January). Retrieved from https://opendatabot.ua/court/124464454-bfc1bad9ac8992b94ffc1bda6b3397e6.

advisable to examine the structure of administrative disputes in order to identify the categories of cases for which the use of mediation may be most promising. To address this issue, the structure of administrative cases in 2025 was analysed, the results of which are presented in Table 2.

Table 2. Structure of administrative disputes in 2025

Category of disputes	Number of cases	Proportion, %
Social protection	271,555	54.8
Public service	71,883	14.5
Tax disputes	53,749	10.9
Land disputes	2,893	0.6
Immigration disputes	850	0.2
Other categories of disputes	94,406	19.0
Total	495,336	100.0

Note: the categories of disputes have been formed by aggregating individual types of administrative cases, as set out in Form No. 1-a "Report by courts of first instance on the consideration of cases under administrative proceedings", based on the criteria of the common subject of the dispute and the nature of public-law relations
Source: compiled by the author based on the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2024 (2025) and the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2025 (2026)

The structure of administrative disputes in 2025 was characterised by a concentration of cases in the field of social protection of citizens, which accounted for 54.8% of the total number of administrative cases and files received by courts of first instance in 2025. Disputes arising from public service relations ranked second (14.5%), whilst tax disputes accounted for 10.9%. Land and migration disputes constituted a relatively minor part of administrative proceedings. The results indicate that the vast majority of administrative disputes relate to the realisation of citizens' social rights and the conduct of public service. The significant prevalence of these categories suggests that further research into such categories is warranted in the context of assessing the potential for the use of mediation. At the same time, the quantitative dominance of a particular category of disputes does not in itself indicate its high potential for mediation. Assessing the suitability of administrative disputes for mediation requires consideration of the nature of the disputed legal relationship, the scope of the public authority's discretionary powers, the parties' ability to reach a lawful compromise, the degree of legal certainty regarding the subject of the dispute, and the impact of potential agreements on the rights of third parties and the public interest. It is for this reason that the subsequent analysis is aimed not only at identifying the most common categories of administrative cases, but also at assessing the actual potential for the application of mediation procedures (Table 3).

Table 3. Assessment of the potential for the use of mediation in the main categories of administrative disputes

Category of dispute	Discretionary powers	The possibility of a legitimate compromise	The risk of undermining the public interest	Regulatory certainty	Mediation potential
Social protection	Limited	Partially available	Low	Medium	Medium
Public service	Medium	Partially available	Medium	Medium	Medium
Tax disputes	Limited	Available only in certain categories of cases	Medium	High	Low
Land disputes	Medium	Available	Medium	Medium	Medium
Migration spores	Minimal	None	High	High	Low

Source: compiled by the author based on the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2024 (2025), and the Report of courts of first instance on the consideration of cases in administrative judicial proceedings for 2025 (2026)

An assessment of the mediation potential of specific categories of disputes has shown that the scope for using mediation is determined not so much by the prevalence of the relevant category of cases as by the nature of the disputed legal relationships, the extent of the discretionary powers of the public authority, the possibility of reaching a lawful compromise, and the degree of legal certainty regarding the subject of the dispute. In particular, an average potential for mediation was identified in disputes concerning social protection, the civil service and land relations, which are characterised by the existence of a certain scope for reconciling the parties' interests without any significant risk of infringing the public interest. By contrast, tax, and migration disputes are characterised by a lower potential for the use of mediation

due to the high degree of legal certainty in the relevant legal relationships, the limited scope of the authorities' discretionary powers, and the restricted possibilities for reaching a lawful compromise. The findings indicate that the prospects for the use of mediation in administrative proceedings vary across different categories of cases and depend primarily on the nature of the disputed legal relationships and the limits of the admissibility of consensual decisions in the public law sphere. This provides a basis for further research into the barriers to the introduction of mediation and the mechanisms for its integration into Ukraine's administrative justice system.

Barriers to the spread of mediation procedures in Ukraine's administrative justice system. The results of the analysis indicate that the mechanisms for the consensual resolution of public-law disputes provided for by legislation have not become widespread in the practice of administrative justice. This highlights the need to examine the regulatory restrictions that may affect the applicability of mediation in disputes involving public authorities. An analysis of the provisions of the Code of Administrative Proceedings of Ukraine[1] and Law of Ukraine No. 1875-IX[2] shows that current legislation formally permits the use of consensual mechanisms in disputes involving public authorities; however, it simultaneously establishes a number of legal restrictions that narrow the scope of the practical application. In this context, it is worth analysing the relationship between the provisions of Article 190 of the Code of Administrative Procedure of Ukraine and Article 21 of Law of Ukraine No. 1875-IX, which defines the content of an agreement reached as a result of mediation. Both legislative acts allow for the parties to reach a mutually acceptable decision, but make its admissibility conditional upon compliance with the law and the non-infringement of the rights of other persons. In private-law disputes, this requirement is primarily of a supervisory nature, whereas in public-law relations it takes on a system-defining significance. Whilst in civil or commercial proceedings the parties may independently determine the terms of dispute resolution within the framework of the principle of party autonomy, a public authority is not entitled to exceed the limits of its competence as established by law. Consequently, the scope of potential agreements is narrowed even before the mediation procedure begins.

An additional regulatory restriction is the provision set out in paragraph one of Article 190 of the Code of Administrative Proceedings of Ukraine[3], according to which the terms of a settlement may not exceed the scope of the competent authority's powers. An analysis of this provision shows that the possibility of using mediation is, in effect, made contingent upon the nature of the administrative powers that are the subject of the dispute. In cases where a public authority exercises discretionary powers and has the right to choose between several lawful options for a decision, there remains scope for reaching agreements. This restriction is confirmed by the results of a case study of tax disputes in which the State Tax Service of Ukraine was a party. For example, in the Judgment of 24 July 2025 in case No. 160/8944/25[4] and the Judgment dated 8 April 2025 in case No. 160/28336/24[5], the subject of the court proceedings was an appeal against tax assessment notices and other decisions of the tax authorities. In all cases, the dispute concerned the review of the legality of the tax authority's decisions regarding the determination of tax liabilities, the imposition of penalties or the results of a tax audit. The specific nature of such disputes lies in the fact that the powers of the tax authority are largely determined by mandatory provisions of tax legislation. The court effectively reviews whether the contested decision complies with the requirements of the law, whilst the tax authority is not empowered to independently alter the amount of the tax liability or to agree on individual terms for its fulfilment outside the procedures established by law. Thus, the regulatory model of conciliation enshrined in the Code of Administrative Procedure of Ukraine does not create a universal framework for the application of mediation in all categories of administrative cases, but in fact limits its use to disputes relating to the exercise of discretionary powers by public authorities.

Statistical data show that the procedure for settling disputes with the participation of a judge was applied only sporadically during the period under review, despite its statutory enshrinement in the Code of Administrative Proceedings of Ukraine[6]. This situation provides grounds for viewing the problem not only as a legal one, but also as an institutional one. An analysis of the current regulatory framework reveals that administrative proceedings lack a well-developed mechanism for interaction between

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.
[2] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[3] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.
[4] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/8944/25. (2025, July). Retrieved from https://opendatabot.ua/court/129194794-4cd57e3d8fde8a8cdafc8c26ef66fea4.
[5] Judgment of the Dnipropetrovsk District Administrative Court in Case No. 160/28336/24. (2025, April). Retrieved from https://clarity-project.info/court/decision/126443848.
[6] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.

the court and mediation procedures. In particular, the Code of Administrative Proceedings of Ukraine sets out the procedure for settling disputes with the participation of a judge (Articles 184-188), but does not provide for a procedural model for referring the parties to a professional mediator or a mechanism for taking the results of mediation into account within the framework of court proceedings. At the same time, Law of Ukraine No. 1875-IX[1] establishes the general principles for conducting mediation, but does not contain specific procedures for its integration into administrative proceedings. As a result, dispute resolution involving a judge and mediation effectively function as separate legal institutions, between which there is no proper procedural link. This limits the scope for using mediation as an alternative means of resolving public law disputes, even where the relevant legislative framework is in place.

Unlike regulatory restrictions, institutional barriers are linked not to the substance of legal regulation, but to the practical organisation of the application of consensual procedures in the work of administrative courts. The analysis carried out has shown that certain preconditions for the development of mediation in the judicial sphere have been established in Ukraine. In particular, the National School of Judges of Ukraine provides training and professional development for judges on the use of mediation, and issues relating to alternative dispute resolution are systematically included in training and professional discussions[2]. At the same time, the development of mediation is supported within the framework of documents issued by the Council of Europe and the European Commission for the Efficiency of Justice (CEPEJ). In particular, Recommendation Rec(2001)9 of the Committee of Ministers to member states on alternatives to litigation between administrative authorities and private parties[3] recommends that member states expand the use of alternative methods of dispute resolution between administrative authorities and private individuals. The further development of these approaches is reflected in the Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties[4], which emphasise the need to inform parties to disputes about the possibility of using mediation, to train judges, and to establish mechanisms for cooperation between courts and mediators. In turn, the European Handbook for Mediation Lawmaking (European Commission for the Efficiency of Justice, 2019) provides for the establishment of an institutional infrastructure for mediation, including standards for the training of mediators, procedures for referring parties to mediation, and the integration of mediation mechanisms into judicial practice. Thus, European approaches to the development of mediation go beyond its legal enshrinement and envisage the creation of organisational conditions for its practical application.

At the same time, an analysis of the existing institutional mechanisms shows that the development of mediation in administrative justice is primarily focused on educational and awareness-raising initiatives. The documents examined contain no information regarding the operation of specialised mediation centres attached to administrative courts, permanent programmes for the court-referred mediation of parties, or separate structural units responsible for coordinating mediation procedures. Under these circumstances, the spread of mediation depends primarily on the initiative of individual participants in the process, which limits the scope for its systematic use in the resolution of public law disputes. The findings suggest that the institutional barrier lies not in a lack of professional training or international support for the development of mediation, but in the insufficient level of its organisational integration into the administrative justice system. Existing measures are aimed primarily at promoting mediation and raising judges' awareness; however, such measures have not yet been transformed into sustainable institutional mechanisms capable of ensuring the regular use of mediation procedures in the practice of administrative courts.

A separate group of barriers consists of the procedural features of administrative justice, which affect the possibility of the practical use of mediation during the consideration of public law disputes. An analysis of Article 3 of Law of Ukraine No. 1875-IX[5] indicates that mediation may be applied both prior to bringing a case before the court and during court proceedings. At the same time, the current administrative procedural legislation does not set out a specific procedure for the use of mediation within

[1] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[2] Program of the International Forum "Mediation and Law" for judges, judicial assistants and court staff in cooperation with the Public Organization "All-Ukrainian Association of Court Employees" June 25-28, 2025. (2025, June). Retrieved from https://nsj.gov.ua/ua/pidgotovka-pratsivnikiv-aparativ-sudiv/programi-pidgotovki-pratsivnikiv-aparativ-sudiv-2021-rik/25-28-chervnya-2025-r-programa-mijnarodnogo-forumu-mediatsiya-i-pravo-dlya-suddiv-pomichnikiv-suddiv-ta-pratsivnikiv-aparativ-sudiv-u-spivpratsi-z-gromadskou-organizatsieu-vseukrainska-asotsiatsiya-pratsivnikiv-sudiv/.
[3] Recommendation Rec(2001)9 of the Committee of Ministers to member states on alternatives to litigation between administrative authorities and private parties. (2001, September). Retrieved from https://rm.coe.int/16805e2b59.
[4] Guidelines for a better implementation of the existing Recommendation on alternatives to litigation between administrative authorities and private parties. (2007, December). Retrieved from https://rm.coe.int/1680747683.
[5] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.

the framework of judicial proceedings in administrative cases. An analysis of Articles 184-188 of the Code of Administrative Proceedings of Ukraine[1] has shown that the only specifically regulated consensual procedure in administrative proceedings remains the settlement of a dispute with the participation of a judge. Mediation, on the other hand, does not have independent procedural status. The Code of Administrative Procedure of Ukraine contains no provisions regarding the referral of the parties to a mediator, the procedural formalities for conducting mediation, or the procedure for interaction between the court and the mediator. Consequently, the use of mediation effectively depends on the initiative of the parties and takes place outside the procedural framework for the consideration of administrative cases. An analysis of Article 190 of the Code of Administrative Procedure of Ukraine also shows that the results of mediation do not have independent procedural consequences and can only be implemented through the general institution of settlement between the parties. Regardless of how agreements are reached, the court verifies the compliance with the requirements of the law and only then may it close the proceedings in the case. Thus, mediation does not constitute a separate procedural mechanism for resolving administrative disputes, but rather serves as one of the possible means of achieving a settlement, the legal consequences of which are determined by the general provisions of administrative procedural law. At the same time, in European Union countries, mediation is more closely integrated into court procedures. In particular, courts may inform the parties of the possibility of resorting to mediation, recommend its use, or refer the parties to information sessions on mediation. The recommendations of the Council of Europe and CEPEJ documents also provide for the development of mechanisms for interaction between courts and mediators, the establishment of systems for referring parties to mediation, and institutional support for mediation procedures. Compared with such approaches, Ukrainian administrative justice is characterised by a lower level of procedural integration of mediation into court proceedings. This suggests that the procedural barriers to the wider use of mediation are primarily linked to its lack of independent procedural status within administrative justice. Despite the legislative recognition of mediation, the current procedural model does not contain specific procedural mechanisms that would ensure its systematic use during the adjudication of public law disputes. The analysis carried out has established that the limited use of mediation in Ukraine's administrative justice system is due not to isolated shortcomings in legal regulation, but to a combination of interrelated factors. To summarise the findings, the identified barriers have been categorised according to the nature of the impact on the feasibility of using mediation procedures in public law disputes (Table 4).

Table 4. Classification of barriers to the spread of mediation in Ukraine's administrative justice system

Group of barriers	Identified manifestations	Impact on the use of mediation
Legal	The terms of a settlement must not contravene legislation or exceed the powers of the authority; the possibility of reaching an agreement depends on the nature of the authority's discretionary powers	The scope of administrative disputes in which the parties can reach a mutually acceptable solution is limited
Institutional	Lack of a permanent mediation infrastructure in administrative courts; lack of specialised mechanisms for referring parties to mediation; insufficient integration of mediation into the organisation of court proceedings	The use of mediation depends primarily on the initiative of the parties and individual participants in the proceedings
Procedural	The lack of independent procedural status for mediation in the Code of Administrative Procedure of Ukraine; the absence of a procedure for interaction between the court and the mediator; the implementation of mediation outcomes through the general institution of conciliation between the parties	No procedural incentives are created for the systematic use of mediation during the consideration of administrative cases

Source: compiled by the author based on the Code of Administrative Procedure of Ukraine[2], Law of Ukraine No. 1875-IX[3], Recommendation Rec(2001)9 of the Committee of Ministers to member states on alternatives to litigation between administrative authorities and private parties[4]

A summary of the research findings indicates that the greatest obstacle to the development of mediation in administrative proceedings is the combination of legal and procedural restrictions. On the one hand, the legislation permits the use of consensual dispute resolution methods, but links the application to the

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.
[2] Ibidem,2005.
[3] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[4] Recommendation Rec(2001)9 of the Committee of Ministers to member states on alternatives to litigation between administrative authorities and private parties. (2001, September). Retrieved from https://rm.coe.int/16805e2b59.

need to respect the limits of the competence of public authorities (Arifkhodzhaieva, 2024). On the other hand, the current procedural model fails to ensure the proper integration of mediation into the mechanism for the judicial consideration of administrative cases (Andrieiev, 2021). The institutional shortcomings identified further complicate the practical use of mediation procedures, as these shortcomings do not create the organisational conditions for the systematic implementation. The findings suggest that enhancing the role of mediation in administrative justice requires comprehensive changes aimed simultaneously at improving the legal framework, procedural mechanisms and the institutional infrastructure for its application.

Mechanisms for integrating mediation into Ukraine's administrative justice system. The findings of the preliminary stages of the study indicate that the limited use of mediation in Ukraine's administrative justice system is due to a combination of interrelated legal, institutional and procedural barriers. At the same time, the analysis carried out revealed the absence of statutory prohibitions on the use of consensual methods for resolving public-law disputes. Under these circumstances, the prospects for the development of mediation are linked not to the creation of new legal institutions, but to the improvement of mechanisms for its integration into the existing system of administrative justice.

An analysis of the provisions of the Code of Administrative Proceedings of Ukraine[1] and Law of Ukraine No. 1875-IX[2] has revealed a lack of consistency between these legislative acts. Although Law of Ukraine No. 1875-IX extends the possibility of using mediation to any disputes, including those involving public authorities, administrative procedural legislation does not define the role of mediation within the framework of judicial proceedings in administrative cases. Consequently, mediation remains a conflict resolution mechanism external to the administrative process. Resolving this inconsistency requires the procedural status of mediation in administrative proceedings to be enshrined in law and the procedure for utilising the outcomes of mediation during the consideration of administrative cases to be defined.

The findings presented in the first section have shown that the largest proportion of administrative disputes relates to cases in the fields of social protection, the civil service and tax law. At the same time, the analysis carried out in the second section showed that the possibility of using consensus-based procedures depends directly on the nature of the public authority's powers and the degree of legal certainty regarding the disputed legal relationships. This provides grounds for a differentiated approach to the use of mediation in administrative proceedings. The categories of disputes in which a public authority possesses a certain degree of discretionary power and may choose between several lawful options for performing its functions offer the greatest potential for the application of mediation procedures. Accordingly, further improvements to the legislation could be directed towards identifying the categories of administrative cases for which the use of mediation is most justified and compatible with the nature of public-law relations.

An analysis of institutional barriers has shown that the development of mediation in Ukraine is accompanied by the training of judges and judicial staff, as well as the implementation of relevant projects with the support of international organisations. At the same time, the findings did not confirm the existence of a well-established system of interaction between administrative courts and professional mediators. The absence of mechanisms for informing the parties about the possibilities of mediation, procedures for referral to a mediator, and organisational models for supporting mediation procedures indicates an insufficient level of institutional integration of mediation into the activities of administrative courts.

The results of the analysis of procedural barriers showed that mediation is, in fact, not integrated into the procedural model of administrative justice. Articles 184-188 of the Code of Administrative Proceedings of Ukraine[3] regulate exclusively the procedure for settling disputes with the participation of a judge, whilst mediation does not have independent procedural status. Furthermore, current legislation does not define the procedure for interaction between the court and the mediator, the procedural form for utilising the results of mediation, or the specific features governing the progress of an administrative case whilst mediation proceedings are taking place. These identified features point to the need to establish procedural mechanisms that would ensure the mediation procedure is aligned with the administrative process and create predictable legal consequences for the parties to the dispute.

Taking into account the identified legal, institutional and procedural constraints, the integration of mediation into Ukraine's administrative justice system could be carried out according to a model that combines the voluntary participation of the parties with procedural safeguards of judicial oversight. At the stage of commencing proceedings or during

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.
[2] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[3] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.

preparatory proceedings, the court must inform the parties of the possibility of using mediation and explain its legal consequences. The initiative to conduct mediation may come either from the parties to the dispute or from the court, through a proposal to consider the possibility of referring the matter to a mediator, without such a proposal being binding.

Where the parties agree to undergo mediation, the administrative court may issue an order suspending the proceedings for a specified period sufficient to allow the mediation process to take place. It is advisable to leave the choice of mediator to the parties, with the option of using public registers of mediators or lists compiled by professional associations of mediators. The court does not participate in the selection of the mediator and does not interfere in the substance of the negotiation process, maintaining a neutral procedural stance. Following the mediation, the parties may inform the court whether an agreement has been reached. If no agreement is reached, the proceedings are resumed and the case continues to be heard on its merits. If mediation concludes with an agreement being reached, the results are formalised in a written mediation agreement in accordance with Article 21 of Law of Ukraine No. 1875-IX[1]. This agreement is subsequently submitted to the court as the basis for the reconciliation of the parties in accordance with Article 190 of the Code of Administrative Proceedings of Ukraine[2]. When considering the submitted agreement, the court must verify whether its terms are consistent with the law, whether these terms exceed the competence of the public authority, infringe the rights of third parties, and comply with the requirements of the public interest. Only after such verification may the court approve the terms of the settlement and close the proceedings in the case. Thus, mediation does not replace judicial review of the legality of actions by public authorities, but acts as an additional tool for reaching lawful agreements in those categories of administrative disputes where there is scope for the exercise of discretionary powers and the achievement of a mutually acceptable solution. The findings indicate that enhancing the role of mediation in Ukraine's administrative justice system is linked to the simultaneous removal of the identified legal, institutional and procedural constraints. The statutory enshrinement of the procedural status of mediation, the development of institutional mechanisms for interaction between courts and mediators, and the refinement of the procedural model for the use of mediation procedures should be regarded as interrelated elements of a unified system. It is precisely the combination of these mechanisms that creates the conditions for transforming mediation from a formally permissible method of dispute resolution into a genuinely effective tool for resolving specific categories of public-law conflicts.

Discussion

The findings indicate that the increase in the number of administrative cases in Ukraine has not been accompanied by a wider use of consensus-based procedures. Despite the existence in the Code of Administrative Procedure of Ukraine of mechanisms for dispute resolution involving a judge and the reconciliation of the parties, instances of the application during the period 2020-2025 remained isolated. This established trend was consistent with the findings of M. Karpiuk (2023), who concluded that the existence of procedurally enshrined opportunities for reaching agreements between the parties does not guarantee the active use in administrative proceedings. The study by the aforementioned author demonstrated that the effectiveness of conciliation mechanisms depends on the willingness of administrative bodies and the parties to the dispute to use consensual methods of conflict resolution. At the same time, the findings of this study supplement the aforementioned conclusions with quantitative indicators from judicial statistics, which demonstrate the virtual absence of the use of dispute resolution procedures involving a judge in Ukraine's administrative justice system.

The study identified a gap between the legally enshrined possibilities for using consensus-based mechanisms and the actual application in judicial practice. The findings corresponded with the conclusions of A.C. Martínez & C.I.V. Rico (2020), who, using the example of disputes concerning access to public information in Catalonia, demonstrated that the formal recognition of mediation does not automatically lead to an increase in the number of cases in which it is used. The researchers found that the effectiveness of mediation is determined by the institutional conditions under which it is applied and the willingness of public authorities to participate in settlement procedures. A similar pattern is evident in the findings of this study, as the existence of consensus-based procedures provided for in the Code of Administrative Procedure of Ukraine has not led to the widespread use in administrative proceedings.

The analysis carried out showed that the potential for the use of mediation in administrative proceedings is not the same for different categories of public-law disputes. It was established that the prospects for the use of consensus-based procedures depend directly on the nature of the disputed legal relationship, the scope of the discretionary powers of the public authority, and the degree of legal

[1] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.
[2] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.

certainty regarding the subject of the dispute. The findings are consistent with those of K. Kułak-Krzysiak & P. Świtał (2023), who viewed mediation as a tool for communication between the administration and a private individual only in cases where the public authority possesses a certain degree of discretion in decision-making. The researchers concluded that the scope for reaching agreements is narrowed in disputes where the content of the decision is entirely determined by law. The established correlation between the nature of administrative powers and the potential for mediation is also confirmed by the findings of this study.

An analysis of the structure of administrative disputes revealed that more than half of the cases involve disputes in the field of social protection, whilst a smaller proportion relates to disputes concerning public service and tax law. This structure indicates a predominance of case categories in which the interaction between an individual and a public authority is of a long-term nature and does not always boil down solely to verifying the legality of an administrative act. The findings are partly consistent with the conclusions of L. De Lucia (2025), who established that mediation has the greatest potential in disputes where there remains the possibility of further interaction between the parties after the conflict has been resolved. At the same time, this study elaborates on this thesis in relation to the Ukrainian system of administrative justice and enables the identification of categories of cases that constitute the main caseload for the courts and may potentially be regarded as the most suitable for the application of mediation procedures.

The correlation identified in the study between the effectiveness of consensus-based procedures and the characteristics of the procedural model of administrative justice was also consistent with the findings of M. Wever & J.F. Ybema (2024). These authors concluded that the effectiveness of alternative procedures for resolving administrative disputes depends not only on the possibility of reaching agreements, but also on the extent to which the procedure itself was perceived by the parties as fair and effective. It was found that procedural fairness is one of the key factors influencing the parties' willingness to participate in out-of-court or consensual dispute resolution procedures. The findings suggest that the low level of use of dispute resolution procedures involving a judge in Ukraine may be linked not only to the specific features of regulatory frameworks, but also to the lack of established practice in the use of consensual mechanisms in public law relations.

The study found that the limited use of mediation in Ukraine's administrative justice system is due not to a lack of legal regulation, but to a combination of regulatory, institutional and procedural barriers. An analysis of the provisions of the Code of Administrative Proceedings of Ukraine[1] and Law of Ukraine No. 1875-IX[2] has shown that current legislation permits the use of consensual mechanisms in public law disputes; however, it simultaneously links the possibility of the application to the requirements of legality and the limits of the competence of the authority. The findings were generally consistent with those of D. Luchenko & D. Kostina (2023), who, following a comparative analysis of Ukrainian and German legislation, concluded that the potential for mediation in administrative disputes depends directly on the nature of the administrative body's powers. At the same time, the aforementioned study focused primarily on the comparative legal aspects of the regulation of mediation, whereas the results obtained here have further demonstrated the practical consequences of such regulatory restrictions through an analysis of administrative litigation statistics and the de facto lack of widespread use of consensual procedures.

The analysis also revealed that one of the barriers remains the fact that the possibility of reconciliation depends on the scope of the discretionary powers of the public authority. It was established that in disputes where the law explicitly defines the content of an administrative decision, the scope for reaching agreements is minimal, whereas in cases involving the exercise of discretion, the scope for using mediation is significantly broader. A similar conclusion was reached by D.A. Kostina (2024), who justified the use of mediation as a tool for the protection of human rights in public-law disputes, provided that a balance is maintained between private interests and the requirements of the rule of law. At the same time, in the aforementioned study, mediation is viewed primarily as a promising mechanism for humanising the administrative process, whilst the findings indicate that, even given such potential, the practical application of mediation is limited by the nature of specific administrative powers and cannot be regarded as a universal solution for all categories of public-law disputes.

The study found that the statutory enshrinement of mediation does not, in itself, ensure its widespread use in administrative proceedings. The findings demonstrate a gap between the formal existence of consensus-based procedures and the extent to which such procedures are applied in practice. A similar problem is evident in the study by S. Boyron (2025), which showed that, within the English system of administrative justice, the lack of a clear place for mediation within the structure of administrative proceedings limits its use. At the same time, the findings

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.
[2] Law of Ukraine No. 1875-IX "On Mediation". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1875-20#Text.

of this study do not make it possible to fully agree with the conclusion regarding the decisive role of conceptual uncertainty in administrative mediation. For Ukraine, procedural and institutional factors are more significant, as the existence of legally enshrined procedures is not accompanied by the creation of mechanisms for the systematic use by the courts and participants in the administrative process.

It has been established that a distinct group of barriers stems from the institutional characteristics of the functioning of administrative justice. In particular, a lack of a developed infrastructure for interaction between courts and professional mediators has been identified, as well as limited use of mechanisms to inform parties to the proceedings about the possibilities of mediation. The findings partly coincided with the conclusions of I. Horodetska (2025), who linked the prospects for the development of mediation to the improvement of organisational mechanisms for its application and the enhancement of the legal culture of the parties to disputes. At the same time, the present study has established that the problem is of a more complex nature and cannot be reduced solely to the need to promote mediation. Of decisive importance is the absence of institutional mechanisms that would ensure interaction between administrative courts and mediators at a practical level.

The findings of the study indicate that the procedural characteristics of administrative justice also influence the prospects for the wider adoption of mediation. It was established that the Code of Administrative Proceedings of Ukraine[1] does not contain specific provisions for referring parties to a mediator, does not define the procedural status of mediation, and does not regulate the procedure for taking the results of mediation into account during the consideration of an administrative case. Similar issues were identified in a study by A. Selesković (2025), which, based on data from Bosnia and Herzegovina, demonstrated that the insufficient integration of alternative dispute resolution methods into the structure of administrative proceedings limits the practical application. At the same time, the findings of this study allow this conclusion to be applied specifically to the Ukrainian administrative justice system, as it has been established that the current procedural model excludes mediation from judicial proceedings and fails to create adequate procedural incentives for its use. Thus, the findings of this study only partially coincide with the conclusions of previous researchers. Unlike studies that focused primarily on the prospects for the development of mediation or the advantages of its use in public law disputes, the findings have made it possible to comprehensively identify specific regulatory, institutional and procedural barriers that hinder its widespread adoption in Ukraine's administrative justice system. This provides grounds for viewing the problem of the under-use of mediation not as a consequence of a lack of legislative regulation, but as the result of the interplay of several groups of interrelated factors.

Conclusions

It has been established that during the period 2020-2025, Ukraine's administrative justice system operated against a backdrop of a rising number of public law disputes, as evidenced by a 63.1% increase in the number of cases and files received by courts of first instance, and a 214.8% increase in the number of pending cases at the end of the year. At the same time, the statistical data revealed a de facto lack of use of the dispute resolution procedure involving a judge, despite the existence of two procedural mechanisms for consensual dispute resolution – dispute resolution involving a judge and conciliation between the parties. This revealed a gap between the legally enshrined possibilities for using consensual mechanisms and the extent to which these mechanisms are actually implemented in administrative proceedings.

An analysis of the structure of administrative disputes showed that in 2025, the main caseload of the administrative courts consisted of cases in the field of social protection (54.8%) and the civil service (14.5%), whilst tax disputes accounted for 10.9%. The findings indicated that the potential for the use of mediation varies across different categories of administrative cases and was determined by the nature of the disputed legal relationship, the scope of the public authority's discretionary powers, and the degree of legal certainty regarding the subject of the dispute. It has been established that certain category of disputes in the fields of social protection, the civil service and land relations have the greatest potential for the use of mediation, where a certain degree of administrative discretion is permitted and there is scope for reaching a lawful compromise between the parties. By contrast, tax, and migration disputes are characterised by lower potential for mediation due to the high level of regulatory certainty and the limited discretion of public authorities.

It has been established that the limited use of mediation in Ukraine's administrative justice system was due to a combination of interrelated legal, institutional and procedural barriers. At the regulatory level, the key restriction is the established requirement that the terms of a settlement must not exceed the competence of the public authority, which limited the scope for applying mediation primarily to disputes relating to the exercise of discretionary powers. It has been demonstrated that the current model of

[1] Code of Administrative Proceedings of Ukraine. (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/2747-15?lang=en.

administrative procedure does not ensure the proper integration of mediation into the mechanism of judicial proceedings, as mediation does not possess independent procedural status, and its outcomes are implemented through the general institution of conciliation between the parties.

A limitation of the study is that the assessment of the mediation potential of specific categories of administrative disputes was carried out on the basis of an analysis of regulatory frameworks, judicial statistics and a sample of court decisions, which did not allow for the full consideration of the practice of using mediation out of court in public-law disputes. It is argued that the prospects for the development of mediation in administrative justice are linked not to the creation of new legal institutions, but to the improvement of mechanisms for integrating existing consensus-based procedures into the system of administrative justice.

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Conflict of Interest

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Медіація в адміністративному судочинстві України: потенціал, бар'єри й механізми впровадження

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■ **Анотація.** Метою дослідження було визначення теоретико-правових засад застосування медіації в адміністративному судочинстві України, виявлення бар'єрів для її поширення та обґрунтування механізмів упровадження. Методологічний дизайн дослідження ґрунтувався на поєднанні формально-юридичного, статистичного методів, контент-аналізі матеріалів і кейс-стаді судової практики методу систематизації та правового моделювання. За результатами дослідження встановлено, що чинне законодавство України містить правові передумови для застосування медіації в адміністративному судочинстві через інститути примирення сторін і врегулювання спору за участю судді. Обґрунтовано, що найвищий потенціал для використання медіації мають адміністративні спори, пов'язані з реалізацією дискреційних повноважень суб'єктів владних повноважень, зокрема у сферах соціального захисту, публічної служби й окремих категорій податкових правовідносин. З'ясовано, що можливості застосування медіації є обмеженими в спорах, де зміст управлінського рішення жорстко визначений законом або пов'язаний із захистом публічного інтересу. Виявлено, що підвищення навантаження на адміністративні суди не супроводжується поширенням практики використання консенсусних способів урегулювання спорів. Констатовано, що обмежене використання медіації в адміністративному судочинстві України зумовлене сукупністю правових, інституційних і процесуальних бар'єрів. Засвідчено відсутність належної інституційної інтеграції медіації в систему адміністративного судочинства, зокрема спеціалізованих механізмів направлення сторін до медіатора, медіаційних центрів при адміністративних судах і процедур взаємодії між судами й медіаторами. Практичне значення результатів дослідження полягає в можливості їх використання законодавцем під час удосконалення адміністративного процесуального законодавства України, органами суддівського врядування та адміністративними судами для розроблення механізмів інтеграції медіації в судову практику, а також у діяльності медіаторів і науковців для підготовки пропозицій щодо розвитку альтернативних способів урегулювання публічно-правових спорів

■ **Ключові слова:** публічно-правові спори; примирення сторін; суб'єкт владних повноважень; дискреційні повноваження; альтернативне вирішення спорів

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The legal framework for combating monopolies and unfair competition in the context of national economic security

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■ **Abstract.** The aim of the present article was to define structural and functional purpose with regard to the legal mechanism for countering monopoly and non-profit competition in the Republic of Azerbaijan in the context of the economic security of the state. The study was based on the analysis of the Constitution of the Republic of Azerbaijan, the Code on Competition, and related acts with reference to the implementation, materials of competition authorities, judicial practice, programme and strategic documents and international approaches. Constitutional-legal, formal-legal, systemic, institutional-legal, comparative-legal methods and the method of legal modelling were implemented. The analysis showed that the constitutional basis for competition protection rests on several interrelated principles. These principles encompass the state's duty to prevent monopolism and unfair competition, the guarantee of freedom of enterprise, and the right to administrative and judicial protection. The Code on Competition of the Republic of Azerbaijan establishes a codified model of competition regulation. It covers the control of anti-competitive agreements, dominant positions, significant market power, unfair competition and economic concentrations. These substantive rules are combined with procedures for investigation, evidence assessment, the imposition of sanctions and the appeal of decisions. The preventive, monitoring, sanctioning and remedial functions of this mechanism have been determined. It has been argued that anti-competitive agreements are characterised by the coordination of market participants' behaviour, whilst unfair competition consists of the unilateral acquisition of an unlawful advantage through deception, discrediting, imitation, the unlawful use of trade secrets or unfair advertising. An analysis of the competition authority's records for 2023-2024, the case concerning "Azərbaycan Dəmir Yolları" QSC and the decisions of the Constitutional Court confirmed the application of certain procedures, sanctions, injunctions and judicial review, but did not provide grounds for concluding that the new Code is generally effective. Four areas for improvement were identified: increasing the transparency of the competition authority's decisions; clarifying the criteria for significant market power and economic dependence; detailing the control of economic concentrations; and ensuring the competitive neutrality of the public sector. The findings may be utilised in regulatory, law enforcement and judicial activities, as well as in the development of competition compliance programmes

■ **Keywords:** institutional implementation; market openness; concentration control; unfair competition; economic security

■ Introduction

The right to prevent monopoly and unfair competition is relevant for states that lack internal stability. The market is more stable due to the pace of economic development, but it is also able to limit excessive

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economic concentration. Governments, ensure equal access to resources and promote a competitive environment. For the Republic of Azerbaijan, the relevance of this issue stems from the adoption of the Competition Code of the Republic of Azerbaijan[1], which sets out the legal framework for the control of anti-competitive agreements, abuse of a dominant position, significant market power, economic concentration and unfair competition. Azerbaijan's economy in the context of regional geopolitical challenges was examined by K. Ismayilov (2026). The study shows that the country's macroeconomic stability depends on the ability of legal and institutional mechanisms to support the development of the non-resource sector, reduce structural risks and maintain the manageability of economic processes. R. Aghayev (2023) analysed the feasibility of applying Azerbaijan's new Competition Code in a highly monopolised economy. The author concluded that the mere adoption of a codified act does not eliminate the problem of market concentration, as the effectiveness of competition regulation depends on the genuine independence of law enforcement, the transparency of oversight and the state's ability to limit the advantages enjoyed by economically powerful entities. V.M. Reverdin (2021) examined the abuse of a dominant position in digital markets. The publication argues that a digital platform's use of third-party data may strengthen the market power of a dominant entity and create conditions for the unfair exclusion of competitors.

The draft Digital Markets Act[2] was analysed by P. Ibáñez Colomo (2021). The researcher demonstrated that traditional competition law instruments require institutional supplementation in areas where dominance arises through control of infrastructure, network effects and access to data. M.C. Buiten (2021) examined exploitative abuses in digital markets. The study found that the intersection of competition law and data protection reinforces the importance of legal criteria such as fairness, transparency, and the prevention of the use of market power against dependent market participants. The issue of controlling economic concentrations was further developed in a study by J. Mulder & W. Sauter (2023), which focused on the new regime for assessing transactions below thresholds under European Union law. The authors concluded that formal financial thresholds do not always make it possible to identify concentrations capable of altering the market structure; therefore, competition law requires more flexible tools for assessing potential harm to competition. The objectives of European Union competition law were empirically examined by K. Stylianou & M. Iacovides (2022). The analysis demonstrated that modern competition law is not limited to the protection of price competition, as its purpose is realised through the maintenance of an open market structure, consumer protection, freedom of economic activity and the prevention of the abuse of market power. The innovative component of European competition law was systematised by T. Schrepel (2024). The author demonstrated that the legal assessment of competition is increasingly linked to dynamic market parameters, including innovation pressure, technological development and the ability of legal regulation not to hinder the bona fide development of business. A complex approach to antitrust regulation was outlined by N. Petit & T. Schrepel (2023). The study demonstrates that competition law must take into account not only individual infringements but also complex market interrelationships, in which the behaviour of a dominant entity may influence market entry, the allocation of resources, the sustainability of small players and the quality of the institutional environment. S. Mariotti (2023) examined the link between competition policy and the preservation of a favourable institutional environment for investment. The author concluded that, in the context of new protectionism, competition policy remains important for safeguarding market openness, regulatory predictability and investor confidence in legal institutions.

Taken together, the studies presented show that combating monopolies and unfair competition is increasingly viewed not as a narrow sphere of antitrust regulation, but as an element of the legal protection of market order, entrepreneurial freedom and the state's economic security. The available works analyse, in turn, the monopolisation of Azerbaijan's economy, the objectives of competition law, the abuse of a dominant position, digital markets, merger control, the institutional role of competition policy and its link to the investment environment. However, the question of how the constitutional and legal foundations of regulation, the provisions of the Competition Code of the Republic of Azerbaijan, the prohibition of anti-competitive agreements, the control of dominant positions, the countering of unfair competition, the assessment of economic concentration and the powers of the competition authority form a single legal mechanism for safeguarding the state's economic security. The assessment of this mechanism's effectiveness also remains underdeveloped in terms of its ability not only to identify

[1] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[2] Digital Markets Act. (2020, December). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A842%3AFIN.

infringements but also to prevent the emergence of entrenched monopolistic advantages, administrative barriers, discriminatory conditions for market access and unfair forms of competition.

The aim of the study was to conduct a theoretical and legal assessment of the mechanism for countering monopolies and unfair competition in the context of the state's economic security. The objectives of the study included determining the legal nature of measures to counter monopolisation as an element of ensuring the state's economic security; analysing the constitutional, legal, and legislative mechanisms for protecting competition in the Republic of Azerbaijan, in particular the legal prohibitions on anti-competitive agreements, abuse of a dominant position, unfair competition and economic concentration; to assess the effectiveness of the competition authority's powers and to propose ways of improving the legal framework for combating unfair and monopolistic practices.

Materials and Methods

The study was of a qualitative, theoretical, legal and doctrinal nature. The following methods were applied: constitutional-legal, formal-legal, systemic, institutional-legal, comparative-legal, comparative-institutional, statistical-analytical and financial-legal methods, as well as content analysis and legal modelling. The main period covered the years 2022-2025: the lower limit was defined as the start of the implementation of the Strategy for the Socio-Economic Development of the Republic of Azerbaijan for 2022-2026, and the upper limit as the first completed stage of the application of the new competition legislation.

The constitutional and formal legal analysis covered the Constitution of the Republic of Azerbaijan[1], the Competition Code of the Republic of Azerbaijan[2], Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code"[3] and Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters"[4]. On this basis, the constitutional foundations of the market economy and freedom of enterprise have been established, along with the procedure for implementing the Code, its conceptual framework, and the rules governing anti-competitive agreements, dominance, significant market power, concentrations, unfair competition, liability, and the allocation of powers. The 2022-2026 Social and Economic Development Strategy of the Republic of Azerbaijan (2022) was used as a policy framework to examine the relationship between competition law and diversification, the private sector and economic security. The criteria for a substantial restriction of competition, the distinction between horizontal and vertical agreements, and the consequences of breaching the legislation were examined.

The institutional-legal approach was applied to analyse the status, powers, and procedures of the competition authority. The Regulation of the State Agency for Antimonopoly and Consumer Market Control under the President of the Republic of Azerbaijan[5]enabled an assessment of its powers regarding market research and monitoring, inspections, requests for information, the review of concentrations, the adoption of decisions and orders, the imposition of sanctions, bringing cases before the courts, and the handling of complaints. The practical exercise of these powers was examined on the basis of the 2023 report (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024a), the announcement of 27 November 2024 (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024b), the case file concerning "Azərbaycan Dəmir Yolları" QSC (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024c) and the Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan"[6].

Systemic, statistical-analytical and financial-legal approaches were used to assess the competitive mechanism within Azerbaijan's economic environment.

[1] Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from https://president.az/en/pages/view/azerbaijan/constitution.
[2] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[3] Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code". (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[4] Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters". (2024, January). Retrieved from https://president.az/az/articles/view/63275.
[5] Regulation of the State Agency for Antimonopoly and Consumer Market Control under the President of the Republic of Azerbaijan. (2025, February). Retrieved from https://president.az/az/articles/view/68138.
[6] Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan". (2014, July). Retrieved from https://www.constcourt.gov.az/az/decision/853.

The Statistical Yearbook of Azerbaijan 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024a) and Azerbaijan in Figures 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024b) characterised the sectoral structure, entrepreneurial activity and macroeconomic background. Materials from the International Monetary Fund (2025), the World Bank (2022; 2024a) and the European Bank for Reconstruction and Development (2024) were used to analyse financial stability, systemic risks, diversification, private sector development, market reforms and the institutional environment. The impact of state-owned enterprises and corporate governance was assessed using the Organisation for Economic Co-operation and Development (2024a) Review of the Corporate Governance of Azerbaijan Investment Holding and Its State-Owned Enterprises.

The comparative legal analysis drew on the Organisation for Economic Co-operation and Development's (2024b; 2025) Competition Trends 2024-2025, materials from United Nations Conference on Trade and Development (2024) and the Report on Competition Policy 2024 (European Commission, 2025). Documents from the European Commission were used to specify the criteria for market definition and the assessment of concentrations. Section 20 of the Competition Act of Germany[1] (2023) was applied as a model for assessing relative market power and economic dependence, whilst materials from the Productivity Commission (2024) were used to analyse the competitive neutrality of state-owned enterprises and to examine complaints regarding unjustified advantages. The situation of small and medium-sized enterprises was examined using the Small and Medium-sized Enterprises Policy Index: Eastern Partner Countries 2024 (Organisation for Economic Co-operation and Development, 2024c).

The legal modelling method was applied to identify areas for improving legislation, case-handling procedures, the system of sanctions, and guarantees for appeals and the protection of market participants. The proposed solutions were assessed against the criteria of legal certainty, proportionality, institutional feasibility and alignment with economic security objectives.

Results

The legal framework for the protection of competition as an element of a state's economic security

The analysis carried out has shown that the link between the legal protection of competition and the economic security of the Republic of Azerbaijan is realised through a set of legal mechanisms provided for in the Code. The prohibition of horizontal and vertical anti-competitive agreements restricts concerted behaviour by economic operators aimed at market sharing, price fixing or creating barriers for other market participants. The control of dominant positions and significant market power makes it possible to put an end to discriminatory terms, unjustified denial of access to resources or infrastructure, and other forms of the abuse of market power. The control of economic concentrations is aimed at preventing structural changes that could result in a significant restriction of competition or a strengthening of a monopoly position. The prevention of unfair competition ensures that market participants are protected against the misuse of business reputation, the misleading of consumers and other unfair practices. The application of mandatory injunctions and financial sanctions ensures the compulsory cessation of infringements, whilst administrative and judicial appeals against the competition authority's decisions provide safeguards to ensure the legality and proportionality of its intervention. The combined effect of these instruments defines the legal framework for market access, the limitation of excessive economic power and the protection of fair business practices. This approach is consistent with the provisions of the 2022-2026 Social and Economic Development Strategy of the Republic of Azerbaijan (2022), in which private sector development, economic diversification and the strengthening of institutional resilience are identified as priority conditions for long-term economic development.

Economic security is the legal outcome of effective regulation of market behaviour, whereby the state ensures open market access, restricts monopolistic power, protects honest entrepreneurship and maintains the predictability of the competitive environment. The Statistical Yearbook of Azerbaijan 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024a) enables an assessment of the legal framework for the protection of competition, taking into account the actual structure of the economy, sectoral dynamics and entrepreneurial activity. Competition law is therefore significant for market stability, private sector development and the prevention of distortions in economic conditions. The financial and macroeconomic context allows competition protection to be viewed as one of the legal factors underpinning a state's economic security. A comprehensive analysis of international sources has shown that Azerbaijan's economic resilience depends not only on financial stability, but also on the ability of regulatory institutions to mitigate structural risks and maintain a level playing field. An

[1] Competition Act of Germany. (2023, October). Retrieved from https://www.gesetze-im-internet.de/englisch_gwb/.

assessment of the financial sector has highlighted the importance of regulatory capacity in preventing the build-up of systemic risks (International Monetary Fund, 2025). At the same time, the need for diversification, private sector development and increased productivity requires open access for enterprises to markets and resources (World Bank, 2022). Macroeconomic trends in 2024 point to the need to take account of sectoral imbalances and the dependence of economic development on the institutional quality of the market environment (World Bank, 2024a). Under such conditions, the regulation of anti-competitive agreements, abuses of dominance and economic concentrations serves a preventive function, as it limits the consolidation of market power that could hinder diversification and private actors' access to economic resources.

Market reforms and the institutional environment, as outlined in the Transition Report 2024-25: Azerbaijan (European Bank for Reconstruction and Development, 2024), further confirm the importance of legal institutions in maintaining market stability. In this context, the legal mechanism for combating monopolistic behaviour serves a dual function. On the one hand, it aims to put an end to specific infringements: monopolistic behaviour, discriminatory access to resources, unfair practices and distortions of competition. On the other hand, it serves a preventive purpose, as it creates the conditions under which economic operators can operate in a predictable, transparent and legally protected environment. The interrelationship between the legal protection of competition and the state's economic security is illustrated in Figure 1.

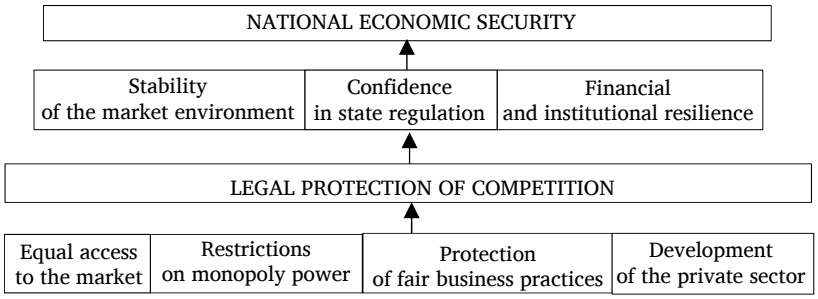


Figure 1. The relationship between legal protection of competition and the economic security of the state
Source: compiled by the author based on State Statistical Committee of the Republic of Azerbaijan (2024a), International Monetary Fund (2025), World Bank (2022; 2024a), European Bank for Reconstruction and Development (2024)

Equal access to the market, the restriction of monopoly power, the protection of fair business practices and the development of the private sector are defined in this model as the legal objectives of competition regulation. The prohibition of anti-competitive agreements, the control of abuses of a dominant position, the control of economic concentrations, the prevention of unfair competition and the imposition of sanctions form a system of legal instruments designed to achieve these objectives. The link to economic security lies in the regulatory purpose of these instruments: to limit excessive market power, ensure market access for economic operators, and establish predictable rules for state control. Meanwhile, the study did not include a statistical analysis of this link or a sufficient body of case law on the application of the Code; therefore, it does not provide grounds for asserting that market risks have actually been reduced or that economic stability has been enhanced. The finding is that the legal mechanism for the protection of competition has the normative capacity to perform a preventive function within the state's economic security system.

Constitutional principles and the regulatory framework for the protection of competition in the Republic of Azerbaijan

The constitutional basis for the protection of competition is established by the interplay of Articles 15, 59 and 60 of the Constitution of the Republic of Azerbaijan[1]. Part II of Article 15 imposes on the state the duty to create, on the basis of market relations, conditions for the development of a socially oriented economy, to guarantee freedom of enterprise, and to prevent monopolies and unfair competition. This provision is of a foundational nature, as it establishes the protection of competition as a constitutional duty of the state. Its implementation requires legislative prohibitions, a specialised competition authority, control of concentrations, the prevention of abuses of market power, and the application of liability measures. Article 59 guarantees everyone the right, either individually or jointly with others,

[1] Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from https://president.az/en/pages/view/azerbaijan/constitution.

to engage in entrepreneurial and other economic activities not prohibited by law, using the capabilities, skills, and property. In the field of competition, this guarantee encompasses the right to enter the market, to choose contracting parties and to determine one's own commercial conduct.

At the same time, freedom of enterprise does not extend to cartel agreements, abuse of a dominant position, unfair practices or other means of restricting the rights of market participants. Therefore, competition control serves as a legitimate means of reconciling freedom of enterprise with the public interest in maintaining an open market environment. Article 60 enshrines administrative and judicial protection of rights, the right to an impartial hearing within a reasonable time, the right to be heard, and the right to challenge the actions or inaction of state bodies and officials. In competition proceedings, these guarantees are given concrete form through the right of the party concerned to examine the case file, to submit evidence and objections, to receive decisions and to appeal against the acts of the competition authority. Thus, Article 15 establishes the State's public duty to protect competition, Article 59 provides a substantive guarantee of freedom of enterprise, and Article 60 sets out a procedural mechanism for protection against unjustified or disproportionate interference. The legislative introduction of the new model of competition regulation was formalised by Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code"[1]. Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters"[2] specified the division of powers regarding the implementation of the Code's provisions and its subordinate legislation. An analysis of the Competition Code of the Republic of Azerbaijan[3] has shown that the legal framework for the protection of competition comprises preventive, supervisory, sanctioning and remedial components. The preventive provisions set out the principles of competition policy, the limits of permissible market conduct, and prohibitions on anti-competitive agreements, the abuse of market power, unfair competition and concentrations capable of restricting competition. The supervisory component regulates the powers of the competition authority, market investigations, inspections, the taking of evidence and the adjudication of cases. Sanction and remedial provisions provide for financial liability, mandatory injunctions, the rectification of the consequences of infringements, appeals against decisions and compensation for damages. Thus, the Code combines substantive legal prohibitions with enforcement procedures and safeguards for the protection of market participants' rights.

The Competition Code of the Republic of Azerbaijan enshrines the general principles for ensuring, protecting and developing free and healthy competition; it defines the organisational and legal framework for state regulation of natural monopolies, the rights, and obligations of market participants, and liability for breaches of competition law. The regulatory structure of the Code is based on the interplay between general principles, rules defining its scope of application, and specific prohibitions. Article 3 of the Code enshrines the principles of conducting economic activity in conditions of free and healthy competition; the promotion, protection, and development of competition; the demonopolisation of the economy and the stimulation of competition; state regulation and control over agreements, conduct and inaction capable of restricting competition; the formation of prices based on supply and demand; taking account of consumers' interests and ensuring freedom of choice; reconciling the interests of consumers and natural monopoly operators; the inadmissibility of anti-competitive agreements, concentrations, and the abuse of a dominant or natural monopoly position; free access to the market, equal access to resources and a level playing field for all market participants.

The legal significance of these principles lies in establishing the criteria by which the behaviour of market participants, the decisions of the competition authority and the permissibility of state intervention are assessed. The principles of demonopolisation, free market entry and equal access to resources are aimed at removing barriers to new entrants. The prohibition of agreements, concentrations, and the abuse of market power creates a regulatory framework to prevent the strengthening of a monopoly position. The requirements for free pricing and the protection of consumer choice limit the possibility of artificial price-setting and the imposition of trading conditions. In accordance with Article 4.1, the Code applies to relations between economic operators, state bodies, local authorities, regulatory bodies,

[1] Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code". (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[2] Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters". (2024, January). Retrieved from https://president.az/az/articles/view/63275.
[3] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.

other entities and consumers, where such relations affect competition. The extension of the Code to public authorities is important for countering administrative distortions of competition. Article 33 prohibits the granting of unjustified advantages to individual undertakings, the creation of barriers to market entry, restrictions on the movement of goods and capital, the selective granting of concessions, subsidies, and access to resources, interference in pricing, preferential treatment in public procurement and unequal access to information. Article 34 provides for the assessment of the impact of subsidies, state aid and regulatory measures on competition, whilst Article 35 establishes the obligation of public authorities to cooperate with the competition authority and to provide it with draft legislation and other information capable of affecting market conditions.

These provisions enable competition law to be applied to distortions caused by government decisions and ensure a level playing field for market access for both public and private entities. The Code elaborates on the constitutional foundations through the principles of free and fair competition, demonopolisation, free market access, a level playing field in regulation, and the protection of consumer choice. Its scope extends to economic operators and public authorities whose decisions may affect competition. Articles 33-35 prohibit the creation of unjustified advantages, barriers to entry, selective advantages and unequal access to resources, and provide for the assessment of the impact of state aid and regulatory decisions. This approach is consistent with United Nations Conference on Trade and Development (2024) principles on countering restrictive business practices and safeguarding fair competition.

Consequently, the legal framework for the protection of competition in the Republic of Azerbaijan has a multi-tiered regulatory structure. Constitutional provisions establish the state's duty to prevent monopolies and unfair competition, and guarantee freedom of enterprise and the right to administrative and judicial protection. The Code elaborates on these foundations through the principles of competition policy, the definition of its scope, the rights, and obligations of market participants, the competence of the competition authority, substantive legal prohibitions, control procedures, liability, and appeals. The preventive function is carried out through the principles of free market access, equal access to resources, the prohibition of anti-competitive agreements and the abuse of market power, as well as prior control of economic concentrations. The supervisory function is implemented through market research and monitoring, conducting inspections, requesting information, examining cases and issuing binding orders. The sanctioning function encompasses the imposition of financial sanctions and the recovery of unlawfully obtained income. The remedial and safeguard functions relate to the cessation of infringements, the rectification of the consequences, compensation for damage, the protection of confidential information, and the possibility of administrative and judicial appeals. The interaction of these components forms a sequence of legal responses: establishing regulatory boundaries for market conduct, detecting and investigating infringements, making decisions, applying legal consequences, and protecting the rights of parties to the proceedings. Consequently, the Code establishes a regulatory framework for combating anti-competitive agreements, the abuse of a dominant position and significant market power, unfair competition, and concentrations capable of restricting competition. At the same time, the structure outlined above characterises the legal capacity of the mechanism. Its actual effectiveness depends on the soundness of the competition authority's decisions, the consistent application of established criteria, the proportionality of sanctions, and the effectiveness of administrative and judicial review.

Legal measures to counter monopolies: dominant position, market power and concentration

The legal measures to counter monopolies set out in the Competition Code of the Republic of Azerbaijan are structured around three interrelated pillars: the definition of market power, the prohibition of its abuse, and ex ante control of economic concentration. The Competition Code of the Republic of Azerbaijan[1] combines quantitative and qualitative criteria for assessing market power. Under Article 15, an entity with a market share of 50% or more is deemed to hold a dominant position. For market shares of more than 35% but less than 50%, dominance is determined by taking into account the entity's financial capacity, the state of competition, barriers to entry, other participants' access to supply and sales markets, purchasing power and network effects. Joint dominance arises if each entity holds more than 10% of the market and the combined market share of two or three participants exceeds 50%, or that of four or five participants exceeds 70%. Article 18 allows for the determination of significant market power even where market shares are below 35%, provided the entity is capable of substantially restricting competition or influencing the market. Particular consideration is given to the dependence of small and medium-sized enterprises, which are forced to enter

[1] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.

into agreements on less favourable terms and lack sufficient alternative counterparties. Articles 26-28 classify mergers, acquisitions of shares, assets or decisive control, and the creation of joint ventures as economic concentrations. Prior approval from the competition authority is required, in particular, if one of the parties already holds a dominant position or if the turnover or market share thresholds set out in the Code for the relevant market have been reached. The assessment takes into account the transaction's projected impact over a three-year period on the market structure, the potential for the creation or strengthening of a dominant position, and the restriction of competition. A concentration may be authorised if its technological or other pro-competitive benefits outweigh the restrictive effects and do not harm consumers' interests.

Market power is determined not only by an entity's market share, but also by barriers to entry, financial capacity, the dependence of counterparties, access to infrastructure and network effects. The Code prohibits the abuse of a dominant position in the form of monopolistic pricing, discriminatory terms, the imposition of additional obligations, restrictions on production, and the unjustified refusal to grant access to a network or an essential resource. Organisation for Economic Co-operation and Development (2024b) Competition Trends 2024 and Organisation for Economic Co-operation and Development (2025) Competition Trends 2025 summarise data on investigations into abuses, merger control, sanctions, and the resources of competition authorities. The Report on Competition Policy 2024 outlines EU practice regarding the control of market power and mergers (European Commission, 2025). Consequently, the application of the provisions of the Azerbaijani Code requires a proper definition of the relevant market, proof of market power and an assessment of the effects of mergers.

The Competition Code of the Republic of Azerbaijan combines structural, behavioural, procedural, sanction-based and remedial instruments to counter monopolistic practices. The structural component covers the criteria for individual and collective dominance, significant market power and economic concentration. Its purpose is to identify entities and market changes capable of creating or reinforcing economic dependence. The behavioural section consists of prohibitions on the abuse of a dominant position, monopolistic pricing, discriminatory terms and conditions, and unjustified denial of access to goods, networks or essential resources. The procedural component covers prior authorisation of concentrations, market investigations, inspections, the taking of evidence and the assessment of potential restrictions on competition. Injunctions, financial penalties, appeals, and compensation for damages fulfil the punitive, remedial and safeguard functions of this mechanism.

The application of these instruments requires a combination of quantitative thresholds with a qualitative assessment of market conditions. The determination of dominance and significant market power involves taking into account barriers to entry, access to resources and distribution channels, the financial capacity of the undertaking, the purchasing power of counterparties, network effects and the availability of alternatives. When reviewing mergers, the structure of the relevant market, the potential for the creation or strengthening of dominance, the anticipated impact of the transaction on competition, and its possible pro-competitive effects are assessed. Therefore, the use of formal market share indicators alone does not ensure a comprehensive assessment of anti-competitive risk.

The competition authority's published case law confirms the actual use of certain tools provided for in the Code. In the proceedings concerning "Azərbaycan Dəmir Yolları" QSC (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024c), discriminatory conditions for access to infrastructure and the granting of preferential treatment to certain entities were analysed, resulting in the imposition of a financial penalty and the issuance of binding orders. The 2023 report and the official statement for January-October 2024 also attest to the exercise of powers to examine complaints, investigate potential infringements and implement remedial measures (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024a; 2024b). At the same time, these materials do not constitute a sufficient body of evidence to draw conclusions regarding the overall effectiveness of law enforcement, the consistency of assessments of all mergers, or the actual impact of sanctions on the state of competition. Consequently, the regulatory and enforcement capacity of the mechanism to curb abuses of market power, monitor structural changes in the market and protect vulnerable counterparties has been established. Its actual effectiveness requires further analysis of the competition authority's decisions, case law, research on specific markets and the consequences of implementing the orders issued. Areas for improvement should relate to the methodological refinement of criteria for market definition, dominance, significant market power, the assessment of concentrations and the demonstration of anti-competitive effects.

Legal remedies against unfair competition and anti-competitive agreements

The Competition Code of the Republic of Azerbaijan distinguishes between anti-competitive agreements

and unfair competition based on the composition of the parties involved, the manner in which the infringement is committed, and the nature of its consequences. An anti-competitive agreement involves a joint expression of intent or concerted behaviour by two or more market participants. It may be of a horizontal nature between competitors or of a vertical nature between entities at different levels of production or distribution. The criterion for determining its unlawfulness is the objective or likely result of restricting competition through the fixing of prices and other trading conditions, the allocation of markets and customers, the restriction of production, the control of trade, or the exclusion of other entities from the market. To classify such a breach, it is necessary to establish the existence of an agreement or concerted action, its anti-competitive subject or effect, and its link to the behaviour of participants in the relevant market. Exceptions and rules regarding de minimis agreements are set out in Articles 13-14 of the Code. Unfair competition does not require the establishment of an agreement or coordination between several participants. In accordance with Article 1.1.15, it consists of independent actions by a business entity aimed at gaining an advantage in the relevant market contrary to legislation, business practices and the requirements of fair conduct, where such actions cause or are likely to cause harm to a competitor or the business reputation. Articles 19-25 classify such actions as aggressive behaviour towards customers, discrediting a competitor, imitating a competitor's business activities, misleading customers, the unlawful acquisition, use, or disclosure of trade secrets, and other unfair practices. Anti-competitive agreements affect market structure by coordinating the behaviour of market participants. The most dangerous are cartel agreements concerning prices, the allocation of markets and customers, restrictions on production, tender outcomes or the entry of new participants. Other horizontal and vertical restrictions require an assessment of the actual or potential impact on competition. Unfair competition is of a different nature: it is not necessarily linked to market power, but it undermines the integrity of business conduct, distorts consumer choice and harms the position of bona fide competitors. Therefore, combating both types of infringements is aimed at protecting the market structure, the rights of market participants and confidence in the competitive environment. The importance of this area is heightened in circumstances where the quality of the business environment depends on regulatory certainty, market access and operational efficiency. "Business Ready 2024" (World Bank, 2024b) considers market competition to be one of the parameters for assessing the business environment, confirming the link between legal protection of competition and the conditions for conducting business. For small and medium-sized enterprises, this link is of particular importance, as such enterprises are more vulnerable to discriminatory access to resources, misleading advertising, product imitation, dependence on large counterparties and restrictive agreements. The Small and Medium-sized Enterprises Policy Index: Eastern Partner Countries 2024 (Organisation for Economic Co-operation and Development, 2024c) provides grounds for taking the role of small and medium-sized enterprises into account when assessing the business environment and institutional resilience. To distinguish between anti-competitive agreements and unfair competition, the results of the analysis are summarised in Table 1.

Table 1. Forms of anti-competitive behaviour and unfair competition

Group of infringements	Legal basis	Forms of infringement and classification criteria	Legal consequences
Horizontal cartel agreements	Competition Code: Articles 1.1.20, 11.1.1-11.1.5, 11.1.8-11.1.10	Agreements or concerted practices between competitors concerning prices and other trading conditions, production volumes, the allocation of markets, customers, territories, and sources of raw materials, participation in procurement and tenders, or the boycott or exclusion of competitors from the market. The key feature is the deliberate coordination of competitors' behaviour	The agreement is prohibited and is void from the moment of its conclusion; the competition authority may issue an order to cease the infringement and impose a financial penalty of up to 10% of total turnover
Other horizontal agreements and concerted practices	Competition Code: Article 11.1, 11.2-11.5, 13-14	Contractual or agreed restrictions between competitors, which are not always cartels but which result in or may result in a restriction of competition. The subject of the agreement, its duration, market shares, changes in turnover, the number of participants and other market effects are assessed	The legal consequences depend on proving the restrictive effect and the possibility of applying exemptions or the rules on de minimis agreements
Anti-competitive vertical agreements	Competition Code: Article 12-14	Agreements between entities at different levels of production or distribution concerning minimum resale prices, territories and customer groups, reciprocal supply, exclusive distribution and non-competition obligations. Account is taken of the exemptions provided for in the Code and the actual impact on access to distribution channels	Prohibited terms are void; a mandatory injunction and a financial penalty of up to 5% of total turnover may be imposed for an established infringement

Table 1. Continued

Group of infringements	Legal basis	Forms of infringement and classification criteria	Legal consequences
Aggressive behaviour towards customers	Competition Code: Article 19.1.1 and 20	The use of threats, coercion, or other unlawful means of influence that restrict a customer's freedom of choice and induce the customer to make a decision different from that which would be made under normal market conditions	Cessation of the unlawful conduct, rectification of its consequences and the imposition of a financial penalty
Discrediting a competitor	Competition Code: Article 19.1.2, 21	Dissemination of false or distorted information regarding a competitor's business reputation, financial position, production capacity, goods, raw materials, technology, quality or safety of a competitor's products, as well as unfounded calls for a boycott	Order to cease the dissemination of false information, a financial penalty and the possibility of judicial compensation for the damage caused
Imitation of a competitor's business activities	Competition Code: Article 19.1.3, 22	Copying the appearance of a product or its packaging, direct reproduction of products in breach of intellectual property rights, unlawful use of a company name, trademark, domain name, website design or geographical indication	Cease and desist order, rectification of the consequences and a financial penalty of up to 10% of total turnover
Misleading customers	Competition Code: Article 19.1.4, 23	Use of false or misleading information regarding the origin, method of production, quality, weight, price, standards and other characteristics of goods; unlawful advertising practices and misleading comparisons with a competitor's products	Cease and desist from the misleading practice, rectification of its consequences, a financial penalty and the possibility of compensation for damages
Unlawful use of trade secrets	Competition Code: Article 19.1.5, 24	Unlawful acquisition, use, or disclosure of a competitor's production, technological, managerial, financial or other confidential information, capable of causing harm to the competitor or impairing its competitive position	An order to cease the use or disclosure of information, a financial penalty and the possibility of compensation for damages
Other forms of unfair competition	Competition Code: Article 19.1.6 and 25	Unfair, misleading or deceptive advertising; restrictions on parallel imports; unlawful interference in a competitor's business relations; influencing a competitor's employees or business decisions by unlawful means; organising such actions to be carried out by other persons	Ceasing the infringement, remedying its consequences and a financial penalty of up to 5%, and for repeated or prolonged infringements – up to 10% of total turnover

Source: compiled by the author based on World Bank (2024b), Organisation for Economic Co-operation and Development (2024c)

The Code distinguishes between anti-competitive agreements and unfair competition on the basis of the manner in which such conduct is carried out, the subject of the evidence and the direct object of legal protection. Cartel agreements involve the deliberate coordination of competitors' behaviour with regard to prices, production volumes, market allocation, customers, or the results of tenders. The danger posed by such agreements lies in the elimination of independent market behaviour. Other horizontal and vertical restrictions require a further assessment of the actual or potential impact on competition, market shares, access to markets, the duration of the commitments and the applicability of the exceptions provided for in the Code. Unfair competition does not require the establishment of coordination between several entities. The decisive factor in its classification is the unlawful method of gaining a market advantage: discrediting, imitation, misleading customers, unlawful use of trade secrets, aggressive influence or interference in a competitor's activities. In this case, the subject of the evidence covers the nature of the specific action, its conflict with legislation and business practices, as well as the existence or potential for causing harm to a competitor, a customer or business reputation. The legal consequences also vary according to the severity of the infringement. Horizontal anti-competitive agreements may result in a fine of up to 10% of total turnover; vertical agreements and most forms of unfair competition – up to 5%; and imitation of a competitor's activities, as well as repeated or persistent unfair competition – up to 10%. At the same time, the provisions cited above characterise a normative model of response. Without a broader body of decisions by the competition authority and case law, these findings do not provide grounds for asserting that competition has actually been restored or that the sanctions have a genuine preventive effect.

Institutional implementation of competition law and published results of state oversight

The practical implementation of competition law is determined by the sequence of enforcement procedures: from the detection of an infringement, the conduct of an investigation and the gathering of evidence, to the adoption of a decision, the issuance of a binding order, the imposition of sanctions and the enforcement of administrative or judicial oversight. The Competition Code of the Republic of Azerbaijan[1] establishes the institutional and procedural framework for the detection,

[1] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.

investigation, and cessation of infringements. At its core is the competition authority, whose decisions are binding on the relevant market participants. To examine cases and determine appropriate measures, it establishes a competition commission. The competition authority exercises state control and ensures the enforcement of decisions, whilst the commission examines cases and provides a legal assessment of the conduct in question. State oversight is exercised through investigations, market monitoring and inspections. Articles 42-44 set out the grounds for these, Articles 48-49 specify the procedure for conducting the relevant measures and recording the results, and Article 56 covers the request for documents and information. Where there is a risk of significant or irreparable harm to competition, interim measures may be applied, and certain infringements may be remedied voluntarily before the conclusion of proceedings (Articles 42-44, 48-49, 56, 59-60). The examination of cases by the Competition Commission is governed by Articles 61-65. The parties have the right to examine the case file, submit evidence, explanations, applications, and objections. Articles 64-65 define the subject and means of proof, whilst Article 58 sets out the allocation of the burden of proof between the applicant, the competition authority and the party invoking an exception provided for in the Code (Articles 58, 61-65). Following the examination, the commission adopts a decision in accordance with Articles 66 and 70-71. On this basis, the competition authority issues a binding order to cease the infringement, remedy its consequences and sets a deadline for compliance. Article 73 provides for monitoring compliance with the order and recourse to the courts to enforce the restoration of the previous state of affairs, the declaration of agreements as void, the compulsory conclusion of contracts, or the division of an entity in the event of an unlawful concentration (Articles 66, 70-73). Liability is governed by Articles 76-81, which provide for financial sanctions, the consideration of mitigating and aggravating circumstances, and the recovery of unlawfully obtained income. Procedural safeguards are enshrined in Articles 7, 62, 83 and 84: entities may obtain copies of documents, challenge decisions, orders, actions, or omissions of the competition authority, and seek judicial compensation for damages. Consequently, the Code establishes a coherent cycle of law enforcement: detection of an infringement → investigation and inspection → presentation of evidence → examination of the case → decision and order → sanctions → appeal → remedy of the consequences and compensation for damages.

The institutional role of the competition authority encompasses supervisory, regulatory and sanctioning/remedial powers. The supervisory function involves monitoring compliance with competition law, analysing product markets, determining dominant positions, identifying cartel agreements, reviewing mergers and supervising the activities of natural monopolies. Its function is to identify anti-competitive risks and record infringements. The regulatory function encompasses participation in the formulation of public policy, the drafting of regulatory acts, the approval of mergers and the determination of methods for regulating natural monopolies. It is aimed at establishing conditions designed to prevent the restriction of competition before an infringement arises. The sanctions and remedial unit is responsible for hearing cases, issuing binding orders, imposing financial sanctions, bringing proceedings before the courts and taking measures to restore the market to its previous state. The Agency's official website reflects the broader scope of its activities, which cover antitrust control, natural and state monopolies, unfair competition, advertising, consumer protection, public procurement and quality infrastructure. The combination of these areas makes it possible to regulate both the behaviour of market participants in competitive markets and related sectors where unequal operating conditions may arise. The competition authority's actual exercise of its statutory powers is confirmed by the published reports on its activities for 2023-2024. At the same time, this information reflects the number of complaints examined, cases concluded and measures applied, but does not allow for a full assessment of the impact of enforcement on the structure of the relevant markets. Figure 2 presents the published quantitative indicators of the implementation of competition legislation in the Republic of Azerbaijan for 2023 and January-October 2024.

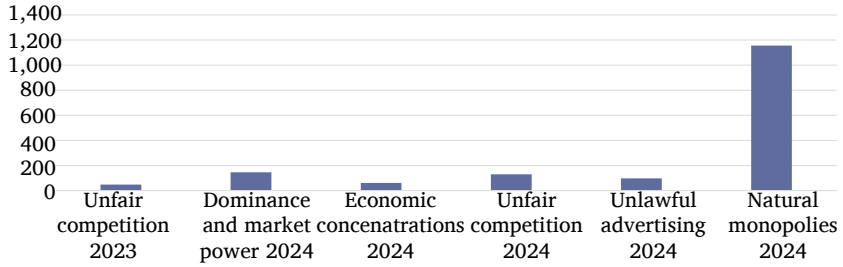


Figure 1. Published indicators of the implementation of competition law in the Republic of Azerbaijan in 2023-2024

Source: compiled by the author based on data from the State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan (2024a; 2024b; 2024c)

Between January and October 2024, the largest number of complaints were dealt with in the area of natural monopolies – 1,156. Of these, 292 complaints were upheld, whilst clarifications and recommendations were provided in respect of 550. In the area of market dominance and significant market power, 146 complaints were considered, of which 87 were upheld, whilst 130 complaints were considered in relation to unfair competition. In the area of unlawful advertising, 98 complaints were examined and 58 upheld, whilst in the area of economic concentrations, 61 complaints were examined, of which 33 were upheld. Consequently, the bulk of the competition authority's work centred on the regulation of natural monopolies and the examination of complaints relating to the market power of economic operators. In the area of unfair competition, 48 cases were concluded in 2023; financial sanctions totalling up to 650,000 manats were imposed on 24 entities, whilst 26 entities voluntarily rectified the infringements. Between January and October 2024, 4 new cases were initiated, and 9 cases were concluded following 130 complaints, of which 5 had been initiated earlier. Sanctions totalling 189,700 manats were imposed on 5 entities and binding orders were issued, whilst 23 entities voluntarily rectified the infringements. A direct comparison of these figures requires caution, as the figures cover different time periods and different stages of enforcement – complaints, the opening of cases and the conclusion of proceedings. In 2023-2024, the competition authority applied procedures for examining complaints and cases, financial sanctions, mandatory injunctions and the mechanism for the voluntary rectification of infringements. In the case concerning "Azərbaycan Dəmir Yolları" QSC, distinct sequential stages of response can be identified: market investigation, establishment of the infringement, imposition of a sanction and issuance of binding injunctions. At the same time, the published materials do not contain systematic data on the enforcement of decisions, the collection of fines, repeat infringements, the outcomes of appeals, or actual changes in competitive conditions. Therefore, whilst confirming the authority's enforcement activity, the available evidence does not provide sufficient grounds for assessing the overall effectiveness of competition control. Furthermore, the case concerning "Azərbaycan Dəmir Yolları" QSC (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024c) was concluded before the 2023 Competition Code came into force; and therefore, reflects the institutional practice of the competition authority rather than the effectiveness of the new Code's application. Judicial review constitutes a separate component of the institutional mechanism. The Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan"[1] concerned the enforcement of a financial penalty and a penalty charge imposed for a breach of the legislation on unfair competition. It confirms the existence of a judicial mechanism for reviewing the legal consequences of antitrust control. However, due to the time that has elapsed since the decision was made and the lack of a body of the latest judicial precedents, it does not reflect the practice of applying the 2023 Code and does not allow for an assessment of the consistency of judicial review.

Competition control also covers the activities of the public sector. Markets may be distorted not only by private monopolistic practices, but also by the opaque involvement of state-owned enterprises, unequal access to resources, administrative advantages or weak corporate governance. The Organisation for Economic Co-operation and Development (2024a) review of the corporate governance of Azerbaijan Investment Holding and its state-owned enterprises provides grounds for taking into account the impact of state-owned enterprises and corporate governance on the competitive environment. For a legal model of competition protection, this means that effective oversight must extend not only to the behaviour of private entities but also to those market conditions in which state-owned or state-affiliated entities may gain advantages. The institutional model for the implementation of competition law is presented in Table 2.

Table 2. Institutional model for the implementation of competition law in the Republic of Azerbaijan

Regulatory framework	Competition Code of the Republic of Azerbaijan	Prohibitions, rights, procedures
Institutional level	Competition authority	Control, regulation, supervision
Case handling	Competition Commission	Assessment of evidence and infringements
Evidence phase	Inspections and investigations	Fact-finding, market analysis
Legal consequences	Decisions, orders, and sanctions	Ceasing infringements
Guarantees	Appeals	Review of the legality of decisions
Consequences provided for by law	Cessation of the infringement, rectification of its consequences, and the possibility of compensation for damages	Protection and the possibility of restoring infringed rights

Source: compiled by the author based on Organisation for Economic Co-operation and Development (2024a)

[1] Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan". (2014, July). Retrieved from https://www.constcourt.gov.az/az/decision/853.

The data published for 2023-2024 confirm the use of certain elements of this model, in particular the consideration of complaints and cases, the imposition of financial sanctions, the issuance of orders and the voluntary rectification of infringements. At the same time, the lack of systematic data on the enforcement of decisions, the imposition of sanctions, appeals, and the annulment of acts, repeat infringements and changes in the state of competition makes it impossible to assess the overall effectiveness of state control. Consequently, the materials examined confirm the existence and partial practical application of the institutional model, but do not prove the actual restoration of a competitive environment.

Areas for improving the legal framework for combating monopolies and unfair competition

The strategic context reinforces the importance of such changes. The 2022-2026 Social and Economic Development Strategy of the Republic of Azerbaijan (2022) focuses state policy on economic diversification, private sector development and enhancing institutional resilience. Azerbaijan in Figures 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024b) provides an insight into the economic and business environment in which competition law operates. Therefore, improvements to the legal framework should be aimed at refining the criteria for defining the relevant product and geographic markets, calculating market shares, and establishing individual and collective dominance, significant market power and economic dependence of counterparties. Further clarification is also required regarding indicators of a substantial restriction of competition, the rules for assessing horizontal and vertical agreements, barriers to entry, access to essential resources, network effects and the consequences of economic concentrations. Procedural certainty should encompass standards of proof, the procedure for economic analysis, the reasoning behind decisions, the determination of the level of sanctions and the monitoring of compliance with orders. This will ensure the uniform application of the rules and the predictability of state oversight.

International sources enable the identification of comparative indicators of the quality of law enforcement. Organisation for Economic Co-operation and Development (2024b) Competition Trends 2024 and Organisation for Economic Co-operation and Development (2025) Competition Trends 2025 are statistical and analytical reports compiled on the basis of data from competition authorities within the Organisation for Economic Co-operation and Development CompStats database. The reports compare the human and financial resources of the authorities, the number of cartel investigations and cases of abuse of a dominant position, decisions adopted, sanctions imposed, notified concentrations, prohibited transactions and agreements on corrective measures. The 2024 report analyses trends in merger control separately, whilst the 2025 report examines the dynamics of enforcement and the resource allocation of competition authorities. These materials do not directly confirm the effectiveness of competition control in Azerbaijan, but the materials provide comparative benchmarks for its assessment: the intensity of investigations, the soundness of decisions, the imposition of sanctions, the use of corrective measures and the adequacy of institutional resources.

International materials have been used to establish criteria for assessing Azerbaijan's competition control mechanism. The United Nations Conference on Trade and Development (2024) approach requires the existence of legal means to counter restrictive business practices, the institutional capacity of the competition authority, international cooperation and consideration of economic development objectives. The European Commission's (2025) approach specifies requirements for law enforcement through the publication of decisions, the procedural reviewability of the authority's actions, economic analysis of market power, methodological assessment of mergers, the application of proportionate sanctions and remedial measures, as well as the development of competition compliance. On this basis, the mechanism of the Republic of Azerbaijan was assessed against the following criteria: the institutional independence and adequacy of the competition authority's powers; the transparency and reasoned nature of decisions; the clarity of investigation and evidence-gathering procedures; the quality of the definition of the relevant market, market shares, dominance, and barriers to entry; the existence of a methodology for assessing the actual and potential effects of mergers; the proportionality of sanctions and monitoring of compliance with remedies; the availability of administrative and judicial remedies; and the use by undertakings of internal compliance programmes. A comparison based on these criteria makes it possible to distinguish between the formal existence of legal instruments and the procedural capacity to ensure consistent enforcement.

The analysis carried out has made it possible to identify four problems within the legal mechanism for protecting competition, which are documented and require regulatory or methodological resolution. The first issue relates to the limited transparency of enforcement outcomes. Official documents for 2023-2024 contain figures on the number of cases and complaints examined, the amounts of sanctions imposed, and information on the voluntary rectification of infringements. At the same time, the analysed materials do not provide systematic data on the grounds for decisions, compliance with orders,

the actual imposition of sanctions, appeals, and the annulment of acts. The risk model is as follows: aggregated reporting → lack of access to legal criteria → inconsistent understanding of requirements by market participants → regulatory uncertainty.

The area for improvement lies in the creation of an open register of non-confidential decisions, the publication of legal positions, methodologies for market definition and sanctions, as well as annual data on the enforcement and appeals against decisions. In the European Union, this risk is mitigated through the publication of public versions of decisions, access to information on the progress of cases, and the application of the Notice on the Definition of the Relevant Market. The expected benefit for economic security is an increase in the predictability of state regulation and the creation of a foundation for competition compliance (European Commission, 2024; 2025). The second issue concerns the application of the category of significant market power. The Code provides for the possibility of regulating the behaviour of an entity that has not reached the formal threshold of dominance but holds an economic advantage over dependent counterparties. However, the case law examined does not set out a specific methodology for assessing such dependence. Risk model: lack of clear criteria for dependence → failure to identify bargaining inequality → imposition of terms on small and medium-sized enterprises → reduction in the number of independent market participants. It would be advisable to include among the criteria the availability of sufficient alternatives, the costs of switching to another counterparty, the share of the main buyer or supplier in the enterprise's turnover, the duration of the contractual relationship, access to networks, data and distribution channels, as well as the balance of bargaining power between the parties. In Germany, Section 20 of the Act against Restraints of Competition extends control to relative market power where a counterparty lacks sufficient and acceptable alternatives and there is a significant imbalance between the parties.

The provision also covers dependence on digital intermediaries and access to data. The intended effect is to reduce the risk of economic crowding-out of small enterprises without the need to prove classic dominance[1]. The third issue concerns the lack of transparency in the practice of merger control. Between January and October 2024, the competition authority examined 61 applications concerning concentrations and approved 33 applications; however, the published notice does not specify the types of transactions, the definition of the relevant markets, the identified competition risks, the conditions of approval or the remedial measures applied. Risk model: assessment based primarily on formal thresholds → insufficient identification of structural risk → increased market power following the completion of the transaction → rising barriers to entry and increased dependence of counterparties. Areas for improvement should cover methodologies for assessing horizontal and non-horizontal concentrations, potential competition, innovation effects, access to resources, network effects and the position of consumers. It is also advisable to establish procedures for the application of structural and behavioural commitments and for the subsequent monitoring of the implementation. In the European Union, the assessment of concentrations is based on separate guidelines concerning horizontal and non-horizontal transactions, the definition of the relevant market and permissible remedial measures. The procedure provides for simplified review, in-depth investigation, conditional approval or prohibition of the transaction. The expected outcome is to prevent a lasting increase in market power until structural changes in the market are completed (Guidelines on the…, 2004; Guidelines on the…, 2008).

The fourth issue relates to the competitive neutrality of the public sector. The Organisation for Economic Co-operation and Development (2024a) has identified a significant presence of Azerbaijani state-owned enterprises in the energy, infrastructure, utilities and competitive sectors, and has drawn attention to the need to separate the state's functions as owner, regulator, and market participant. Separate mention was made of the use of preferential financing by certain state-owned enterprises. Risk model: advantages associated with state ownership → lower cost of financing or priority access to resources → crowding out of private competitors → structural dependence of the market on state entities. The proposed improvements include the introduction of an assessment of the competitive neutrality of state support, disclosure of preferential financing, compensation payments for advantages received, the separation of ownership and regulatory functions, and a special procedure for handling complaints from private competitors. In Australia, there is a separate mechanism for handling complaints regarding breaches of competitive neutrality by state-owned enterprises, which is administered by a specialised unit of the Productivity Commission (2024). The expected outcome is a reduction in administrative advantages and the levelling of the playing field between state-owned and private entities. Consequently, improvements to the legal framework should focus on the transparency of decisions, the systematic determination of economic dependence, enhanced scrutiny of mergers, and the competitive neutrality of the public sector. The

[1] Competition Act of Germany. (2023, October). Retrieved from https://www.gesetze-im-internet.de/englisch_gwb/.

proposed risk models do not prove that negative consequences will automatically arise, but these models identify a sequence of conditions under which regulatory uncertainty may pose a threat to market openness. International experience shows that such risks are mitigated through public methodologies, well-reasoned decisions, specific rules for assessing market power, corrective measures and independent complaint-handling mechanisms.

Consequently, four areas for improving the legal framework for competition protection have been identified: enhancing the transparency of the competition authority's decisions; providing methodological clarification of significant market power and economic dependence; refining the assessment of economic concentrations; and ensuring the competitive neutrality of the public sector. The proposed measures are aimed at reducing regulatory uncertainty, preventing the strengthening of market power and limiting administrative advantages. The expected impact on economic security lies in increasing the predictability of state control and preserving economic operators' access to markets and resources.

Discussion

The findings are consistent with international studies in which competition policy is regarded as a factor influencing regulatory quality, trust in state institutions and the stability of the market environment. The study found that legal protection of competition in the Republic of Azerbaijan influences market openness, equal access to resources for economic operators, the predictability of state control and the prevention of excessive concentration of economic power. A similar line of reasoning was presented in the study by S. Mariotti & R. Marzano (2021), in which competition policy, regulatory quality and trust in institutions were identified as factors influencing the inflow of foreign direct investment into host countries. The findings were consistent with this approach in recognising competition policy as a component of a state's institutional quality, but shifted the emphasis from investment attractiveness to economic security. The issues of risk and uncertainty in the antitrust sphere were further explored by J.A. Clougherty & N. Zhang (2021), who demonstrated how foreign investors react to instability in antitrust enforcement. These findings were directly consistent with the results of this article, in which the transparency of the competition authority's decisions, the clarity of dominance criteria and the predictability of enforcement were identified as conditions for the effective protection of competition. The link between competition policy and economic security was also linked to studies in which the public interest was considered through the prism of the risk of legal uncertainty. In a paper by K. Lai (2021) on the ambiguity of policy regarding foreign direct investment and national security, it was shown that security arguments can create scope for indefinite state intervention. A similar problem was identified in the context of the Republic of Azerbaijan: economic security requires not an expansion of administrative discretion, but clear criteria for assessing market power, concentrations, discriminatory access to resources and procedural control. In a study by R. Brutger & A. Pond (2025), support for antitrust policy was linked to international economic relations and perceptions of companies' competitive positions. This approach is consistent with the findings of the present study, as the fight against monopolisation in the Republic of Azerbaijan was revealed not only as a domestic legal instrument but also as a condition for maintaining confidence in the market environment. The interaction between antitrust policy and related public-law instruments was examined by J. Lee & A. Pond (2025), who considered the link between antitrust policy and corporate taxation. In the present study, this relationship manifested itself through the link between competition regulation and economic security, the institutional implementation of the Code, and the state's ability to control market distortions.

The findings regarding the regulatory structure of the Republic of Azerbaijan's Competition Code were compared with studies devoted to the development of protection against unfair competition. In the work by M. Senftleben (2024), protection against unfair competition in the European Union was examined through the transition from various national approaches to harmonised rules concerning search engine rankings, influencers, and greenwashing. The findings were consistent with this approach insofar as unfair competition cannot be limited to traditional forms of disparagement or imitation, as modern markets give rise to new informational and advertising methods for gaining an unfair advantage. The protection of business reputation through the instruments of trademark law was explored by G. Lepik (2021), who demonstrated the role of trademark law in countering unfair practices. The research findings identified a similar problem in relation to the imitation of products, packaging, brands, domains and digital interfaces, which requires a clear legal distinction between legitimate imitation and the unlawful exploitation of a competitor's reputation. In the work by S. Scheuerer (2021), artificial intelligence was identified as an underestimated element of the regulatory landscape governing unfair competition. This conclusion is consistent with the findings of this article, in which misleading advertising, misleading customers and the imitation of business reputation were identified as practices requiring more precise assessment criteria. In a study by E.M. de Almeida Leite & M.A. Ramos Leite (2025), focusing on platform liability, freedom of speech and

market fairness, commercial defamation was examined as an element of digital competition. These findings were consistent with the results obtained, where the discrediting of a competitor and misleading information were identified as forms of unfair conduct that harm not only the individual entity but also trust in the market environment.

The distinction between anti-competitive agreements and unfair competition in the findings was consistent with research on online business and the digital economy. In a comparative study by ASMAH (2022), competition law in online business was examined using case studies from the United Kingdom and Indonesia, focusing on the regulation of market access, vertical restraints and the behaviour of digital entities. A similar approach was adopted in this article, where anti-competitive horizontal and vertical agreements were distinguished from unfair practices on the basis of the legal nature, the threat posed to the market, and the expected outcome of legal intervention. In the study by Y.S. Choi & P. Porananond (2023), the competition law of the Association of Southeast Asian Nations member states was examined through the lens of the need for harmonisation in the digital economy. This approach aligns with findings regarding the institutional implementation of competition law in the Republic of Azerbaijan, as the effectiveness of the legal mechanism depends not only on the substance of substantive prohibitions but also on the consistency of the procedure: the Code, the competition authority, the competition commission, investigations, decisions, sanctions, appeals, and the restoration of a competitive environment. The legal remedies against monopolistic behaviour, identified in the findings through dominant position, significant market power and economic concentration, were consistent with contemporary research on the abuse of market power; in the work by A. Pandey & V. Sharma (2025), effective responses to the abuse of dominance in digital markets were linked to platform-specific characteristics, network effects and the interaction between competition and sector-specific regulation. The findings were consistent with this approach in that the effectiveness of measures to counter monopolistic behaviour cannot be based solely on an entity's formal market share. In V. Ruelle's (2022) paper, digital merger control was examined through the adaptation of harm theories to horizontal, vertical, conglomerate, and ecosystem effects. This conclusion was directly consistent with the author's proposal to refine the assessment of concentrations by examining the impact on market structure, potential competition, innovation, prices, access to resources and the position of consumers.

The evidentiary aspect of abuse of dominance also confirmed the need for more precise enforcement. In a paper by E. Deutscher (2023), devoted to causation and counterfactual analysis in cases of abuse of dominance, it was shown that establishing an infringement requires proving a link between the entity's behaviour and competitive harm. A similar problem was identified in this study: market share thresholds are not sufficient for a comprehensive assessment of dominance, significant market power or the anti-competitive effect of concentration. In the study by M. Kadar & L. Manigrassi (2022), the market power of online platforms was examined through the lens of platform structure and network effects. The findings were consistent with this approach through the concept of significant market power, which allows for the consideration of economic dependence even when a firm's formal market share does not fully reflect its actual influence. In the Article by A. D'Amico (2024), the interplay between competition law and privacy was illustrated using the example of Meta Platforms. This approach was also of particular relevance to the present study, as the development of digital distribution channels and information resources may broaden the criteria for assessing market power. The issue of the boundaries of good-faith conduct was linked to works analysing the distinction between fierce but lawful competition and infringement. In D. Alma's (2022) study, "fairness" and "competition on the merits" were examined as complex categories in the application of Article 102 of the Treaty on the Functioning of the European Union. These provisions were consistent with findings that emphasised the need to distinguish between anti-competitive agreements, unfair conduct and normal commercial competition. A critical approach to the expansion of antitrust was presented by E. Loozen (2024), who analysed "green antitrust" and cautioned against expanding antitrust objectives without a sufficient evidence base. The findings were consistent with this position, as the proposed areas for improvement for the Republic of Azerbaijan concerned not a formal expansion of prohibitions, but rather a clarification of the criteria for dominance, concentrations, significant market power and unfair conduct. Studies in which market power was analysed through the lens of access to data, resources, and infrastructure were of particular significance for the discussion of the findings. In a paper by C. Atik (2023) on the digital agricultural sector, the potential of the "refusal to deal" doctrine to resolve data access issues was demonstrated. This approach aligns with the findings presented here, where an unjustified refusal to grant access to a network, infrastructure or essential resource was identified as a form of abuse of market power. In a study by S.M. Colino (2024), the boundaries of "green antitrust" were re-examined through the lens of the environmental impact of competition law. The approaches outlined in this work concur that competition law must respond to new societal

and market challenges, whilst maintaining evidential clarity and legal certainty.

A synthesis of international approaches has shown that the findings presented are consistent with current trends in competition law scholarship, whilst retaining the national legal focus. In much of the international literature, competition policy is examined through the prism of investment attractiveness, digital platforms, online advertising, "green antitrust" or the platform economy. A comparison with international studies has confirmed that the continued effectiveness of this model depends on the level of detail in the criteria, the transparency of the competition authority's decisions, the development of competition compliance, the protection of small and medium-sized enterprises, and the ability to respond to new forms of market power.

Conclusions

The findings have made it possible to form a comprehensive understanding of the legal framework for combating monopolies and unfair competition in the context of the state's economic security. Legal protection of competition influences market openness, equal access to resources for economic operators, the stability of the business environment, confidence in state regulation, and the state's ability to prevent excessive concentration of economic power.

The constitutional and institutional levels of legal protection for competition have been established separately. Article 15 of the Constitution of the Republic of Azerbaijan enshrines the state's obligation to prevent monopolies and unfair competition; Article 59 guarantees freedom of enterprise; and Article 60 provides for administrative and judicial protection for market participants. Law No. 1051-VIQ of 8 December 2023 and Decree of the President of the Republic of Azerbaijan No. 2451 of 23 January 2024 formalised the introduction of the Code and the allocation of powers for its implementation. Documents published by the competition authority for 2023-2024, the case concerning "Azərbaycan Dəmir Yolları" QSC, and the Decision of the Constitutional Court of 15 July 2014 confirm the practical application of specific procedures, sanctions, injunctions and judicial review. At the same time, the lack of systematic data on the enforcement of decisions, the imposition of sanctions, repeat infringements and the outcomes of appeals does not provide grounds for asserting the overall effectiveness of the new legal mechanism.

It has been confirmed that the legal means of combating monopolistic practices cover dominant positions, joint dominance, significant market power, abuse of a dominant position, discriminatory terms, denial of access to resources, excessively high and low prices, and economic concentration. The significance lies in curbing the accumulation of market power and protecting economic operators from dependence on stronger market participants. It has been separately established those anti-competitive agreements and unfair competition have different legal natures. Anti-competitive agreements are aimed at coordinating the behaviour of market participants, whereas unfair competition involves the unlawful acquisition of an advantage through deception, disparagement, imitation, the unlawful use of trade secrets or unfair advertising. The institutional implementation of competition law encompasses regulatory framework, the activities of the competition authority and the competition commission, market investigations and analyses, the taking of evidence, decision-making, the issuance of orders, the imposition of sanctions, and administrative or judicial appeals against such sanctions. The legally prescribed consequences of this mechanism include the cessation of the infringement, the rectification of its effects, and the possibility of compensation for damages. The practical effectiveness of this model depends on the transparency of decisions, the quality of market analysis, the evidential soundness of conclusions, and the ability to control distortions of competition in the private and public sectors.

The limitations of this study stem from its theoretical and legal nature and the use of statistical and international analytical materials as supplementary background. Further research should focus on analysing the practical application of the Code, the decisions of the competition authority, judicial appeals, merger control and the impact of competition law enforcement on specific sectors of the economy of the Republic of Azerbaijan.

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Conflict of Interest

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Правові засади боротьби з монополіями та недобросовісною конкуренцією в контексті національної економічної безпеки

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■ **Анотація.** Метою статті було визначення структурного та функціонального призначення правового механізму протидії монополіям і недобросовісній конкуренції в Азербайджанській Республіці в контексті економічної безпеки держави. Дослідження ґрунтувалося на аналізі Конституції Азербайджанської Республіки, Кодексу про конкуренцію та пов'язаних з ними законодавчих актів, а також матеріалів органів з питань конкуренції, судової практики, програмних і стратегічних документів, міжнародних підходів. Було застосовано конституційно-правовий, формально-правовий, системний, інституційно-правовий, порівняльно-правовий методи й метод правового моделювання. Аналіз засвідчив, що конституційна основа захисту конкуренції ґрунтується на кількох взаємопов'язаних принципах, які охоплюють обов'язок держави запобігати монополізму й недобросовісній конкуренції, гарантію свободи підприємництва та право на адміністративний і судовий захист. Кодекс про конкуренцію Азербайджанської Республіки встановлює кодифіковану модель регулювання конкуренції. Він охоплює контроль за антиконкурентними угодами, домінувальними позиціями, значною ринковою владою, недобросовісною конкуренцією та економічними концентраціями. Ці матеріально-правові норми поєднуються з процедурами проведення розслідувань, оцінки доказів, застосування санкцій та оскарження рішень. Визначено превентивні, контрольні, санкційні та виправні функції цього механізму. Встановлено, що антиконкурентні угоди вирізняються координацією поведінки учасників ринку, натомість недобросовісна конкуренція полягає в односторонньому отриманні незаконної переваги шляхом обману, дискредитації, імітації, незаконного використання комерційних таємниць або недобросовісної реклами. Аналіз матеріалів антимонопольного органу за 2023–2024 роки, справи щодо акціонерного товариства «Azərbaycan Dəmir Yolları» та рішень Конституційного суду підтвердив застосування певних процедур, санкцій, заборонних судових наказів і судового перегляду, однак не надав підстав для висновку про загальну ефективність нового Кодексу. Було визначено чотири напрями для вдосконалення: підвищення прозорості рішень антимонопольного органу; уточнення критеріїв значної ринкової влади й економічної залежності; деталізація контролю за економічними концентраціями; забезпечення конкурентної нейтральності державного сектору. Отримані висновки можуть бути використані в регуляторній, правоохоронній та судовій діяльності, а також під час розроблення програм дотримання конкурентного законодавства

■ **Ключові слова:** інституційна реалізація; відкритість ринку; контроль за концентраціями; недобросовісна конкуренція; економічна безпека

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Critical thinking and vulnerability to fraud

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■ **Abstract.** Digitalisation, the proliferation of online interaction and generative artificial intelligence are creating new opportunities for fraud, thereby increasing the importance of critical thinking, the ability to assess the reliability of information and the capacity to resist manipulation. The aim of this study was to investigate the influence of critical thinking on an individual's vulnerability to fraud through a systematic analysis of contemporary academic literature and a comparison of the findings with the factual circumstances established in the judgements of Ukrainian courts. The research was conducted using methods of analysis, synthesis, content analysis, comparative analysis and generalisation. The results of the analysis of academic sources indicated that overconfidence, cognitive biases, low levels of digital literacy, an insufficient ability to critically evaluate information, and the characteristics of the digital information environment are key factors in vulnerability to fraud. Emotional influence can exacerbate such vulnerability through fear, trust, the expectation of benefit or a sense of urgency. The use of artificial intelligence makes it more difficult to recognise manipulation, thereby reducing the ability to critically evaluate manipulative content. It has been established that individual mechanisms of influence can be applied in combination within a single fraudulent scheme, combining cognitive, social, emotional and digital factors of vulnerability. In addition, Ukrainian court judgements were analysed, the descriptive sections of which contain the factual circumstances established by the court regarding the use of psychological, communicative and digital mechanisms of influence on victims. A comparison of these circumstances with the results of scientific research demonstrated a high degree of consistency between the theoretically described vulnerability factors and actual fraud mechanisms, including recent cases involving the use of generative artificial intelligence. The findings can be applied in the development of fraud prevention measures and are aimed at fostering critical thinking, digital literacy and enhancing the resilience of potential victims to manipulative influences

■ **Keywords:** cognitive biases; social engineering; digital literacy; generative artificial intelligence; disinformation; victimisation

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Introduction

The concept of critical thinking, based on the examination of evidence, assumptions and the logic of reasoning, has been known since the time of Ancient Greece. At the same time, as noted by J.Y.F. Lau (2024), the first recorded use of the term "critical thinking" itself dates only to the nineteenth century. The meaning of the concept evolved over time, while the subsequent development of the philosophy of education and efforts to reform curricula contributed to greater awareness and recognition of the importance of critical thinking. In examining the development of the concept of critical thinking, A.-V. Pietarinen & S. Shi (2026) refer to the ideas of John Dewey, who laid the foundations for understanding it as reasonable, reflective thinking aimed at making decisions about what to believe and what to do. This approach remained widely accepted until the late 1980s, when the American Philosophical Association initiated an expert consensus process to reconcile different approaches to understanding critical thinking. This stage was important in the transition from individual conceptual approaches to a comprehensive understanding of critical thinking that encompasses not only relevant cognitive skills but also individuals' dispositions to apply them.

As B. Golden (2025) points out, the definition formulated by Peter Facione has gained broad recognition in the literature, according to which critical thinking is "...purposeful, self-regulatory judgement that results in interpretation, analysis, evaluation, and inference, as well as explanation of the evidential, conceptual, methodological, criteriological, or contextual considerations upon which that judgement is based". Thus, critical thinking encompasses not only cognitive skills, such as analysis, evaluation and drawing conclusions, but also stable psychological dispositions, including open-mindedness, prudence, intellectual honesty regarding one's own biases and a willingness to reconsider previously formed conclusions. The combination of these skills and dispositions makes it possible not only to evaluate new information but also to critically reassess one's own judgements when they are inconsistent with new evidence. This ability is particularly important in situations where new information conflicts with an individual's existing beliefs. Thus, according to A.-V. Pietarinen & S. Shi (2026), a fundamental component of critical thinking and resilience to deceptive information is the ability to revise previously formed beliefs in response to new evidence.

Revisiting one's own beliefs, in turn, requires the ability to assess the evidential basis of the information on which these beliefs are formed. This is precisely why critical thinking is important not only for forming judgements, but also for distinguishing between different types of information based on the degree to which it is substantiated. As P. Gil Ruiz (2024) notes, critical thinking helps to distinguish between evidence-based information and unsubstantiated claims, including fake news and disinformation. This ability takes on particular significance in the digital information environment, where people are constantly confronted with vast amounts of information of varying quality and reliability.

At the same time, an individual's ability to critically evaluate information operates within an environment in which disinformation itself does not remain static, but adapts to new ways of creating, disseminating and consuming content. Thus, the problem of recognising disinformation must be considered not only in terms of human characteristics, but also taking into account the properties of the modern information environment. According to N.L. Bragazzi & S. Garbarino (2024), disinformation is an evolutionary paradox: despite its harmful impact on society, it persists and evolves, thriving in the information-saturated environment of the digital age. Its resilience and adaptability make it difficult to identify misleading content and, consequently, place greater demands on an individual's ability to critically evaluate the information they receive. Expanding on this idea, N.L. Bragazzi & S. Garbarino (2024) argue that the persistence of disinformation can be explained by several factors, including its role in strengthening social cohesion, its perceived short-term benefits, and its use as a tool for strategic deception. These factors create conditions under which misleading information can persist and be reproduced even despite its negative consequences for individuals and society as a whole. At the same time, the persistence of disinformation depends not only on the causes of its emergence and spread, but also on the methods used to construct misleading information content. As noted by N.L. Bragazzi & S. Garbarino (2024), such methods include extrapolation, interpolation, distortion, selective presentation of facts and fabrication, all of which contribute to the creation and dissemination of disinformation. Their use makes it possible to combine credible elements with distorted or fabricated claims, which potentially makes it more difficult for the recipient to recognise disinformation.

According to T.J. Hubeny *et al.* (2026), people with a high vulnerability to nonsense and those with a high level of conspiracy-minded thinking are particularly prone to assessing disinformation as true – primarily because they are less able to distinguish between true and false information. This suggests that vulnerability to disinformation may be determined not only by a person's ability to analyse information, but also by the extent to which the information received aligns with or contradicts their prior beliefs.

In this context, cognitive biases take on particular significance, as they can influence the assessment of information's credibility even in the presence of well-developed analytical abilities. Thus, the ability to think analytically does not necessarily ensure an unbiased assessment of information if its interpretation depends on a person's pre-existing position. In particular, according to T.J. Hubeny *et al.* (2026), vulnerability to disinformation is better explained by a bias in favour of one's own position than by the level of analytical thinking as a component of critical thinking. In view of this, the aim of the study was to determine the role of critical thinking and cognitive biases in shaping a person's vulnerability to fraud.

Materials and Methods

The study was conducted using a comprehensive approach that combined an analysis of the current scientific literature with an examination of the factual circumstances of fraud as established in the judgements of Ukrainian courts. This approach was chosen in order to compare the factors of vulnerability to fraud and the mechanisms of deceptive influence described theoretically in the scientific literature with their manifestations in real-life cases that have been assessed by the courts. The theoretical basis of the study was formed by academic works devoted to critical thinking and the factors contributing to human vulnerability to misleading information and fraud. The key works for the study were those by N. Veerasamy *et al.* (2024), S. Bonicalzi *et al.* (2023) and R.G. Alexander *et al.* (2022).

Academic sources were selected on the basis of their relevance to the subject of the study and their ability to elucidate the mechanisms that may influence a person's vulnerability to misleading information and fraudulent influence. The search for scientific literature was carried out in the Scopus, Web of Science and Google Scholar databases. The search utilised the following keywords and combinations thereof: "critical thinking", "fraud", "fraud susceptibility", "misinformation", "disinformation", "social engineering", "cognitive biases", "digital literacy" and "artificial intelligence". The analysis primarily included academic publications from 2022 to 2026, as well as selected earlier works that were important for elucidating the theoretical foundations of the issue under investigation.

The empirical basis of the study consisted of judgements handed down by Ukrainian courts, namely: Case No. 755/23443/25[1], Case No. 216/6605/24[2], Case No. 461/9140/23[3] and Case No. 345/6096/23[4], Case No. 450/2601/25[5], Case No. 203/6260/23[6] published in the Unified State Register of Court Decisions (n.d.), were also analysed. The selection of court decisions was purposeful. The analysis included judgements whose factual circumstances contained a sufficiently detailed description of the method used to deceive the victims, the nature of communication between the parties, the exploitation of trust, the emotional or situational context, personalisation, digital technologies or other mechanisms relevant to the aim of the study. The aim of this selection was not to form a representative statistical sample of fraud judgements, but to obtain sufficiently information-rich cases for a qualitative comparison with the mechanisms identified through the analysis of the academic literature.

When working with the court decisions, only the circumstances reflected in the published texts of the judgements were used. Court decisions were regarded as a source of factual data on the methods used to carry out specific fraudulent schemes, rather than as a source of psychological diagnosis of the victims. Thus, the victims' psychological characteristics, motives, cognitive state or level of critical thinking were not established by the researcher in the absence of relevant factual data. The interpretation of court materials involved comparing the circumstances established by the court with the mechanisms previously described in the academic literature. The study employed methods of analysis, synthesis, content analysis, comparative analysis and generalisation.

The method of analysis was used to identify the key components of the problem under investigation from academic sources and to determine the factors associated with vulnerability to fraudulent influence. In particular, the following were analysed separately: cognitive mechanisms and biases, prior beliefs, characteristics of memory and analytical processing of information, emotional and social factors, personalisation of messages, trust, digital

[1] Judgement of the Dnipro District Court of Kyiv in Case No. 755/23443/25. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132712305.
[2] Judgement of the Central City District Court of Kryvyi Rih, Dnipropetrovsk Region in Case No. 216/6605/24. (2025, January). Retrieved from https://reyestr.court.gov.ua/Review/124736478.
[3] Judgement of the Galician District Court of Lviv in Case No. 461/9140/23. (2025, May). Retrieved from https://reyestr.court.gov.ua/Review/127390188.
[4] Judgement of the Kalush City District Court of Ivano-Frankivsk Region in Case No. 345/6096/23. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132316632.
[5] Judgement of the Pustomyty District Court of Lviv Region in Case No. 450/2601/25. (2025, July). Retrieved from https://reyestr.court.gov.ua/Review/129077915.
[6] Judgement of the Kirov District Court of Dnipropetrovsk in Case No. 203/6260/23. (2025, April). Retrieved from https://reyestr.court.gov.ua/Review/126496304.

and AI literacy, as well as the technological capabilities of modern tools for creating and disseminating misleading content. During the analysis of case law, the method was applied to distinguish between the individual components and sequential stages of fraudulent interaction: the development of a cover story, the establishment or exploitation of trust, the creation of signs of credibility, the personalisation of communication, the inducement of the victim to take a specific action, the use of digital tools, and the occurrence of financial consequences.

The synthesis method was used to combine the findings from analyses of various strands of the academic literature into a holistic understanding of vulnerability to fraud. Its application made it possible to consider cognitive, emotional, social, behavioural and digital factors not as isolated characteristics, but as potentially interrelated components of fraudulent influence. During the analysis of case law, this synthesis enabled the reconstruction of a comprehensive mechanism of fraudulent interaction from individual actions and circumstances established by the court, and made it possible to identify instances where several mechanisms of influence were combined sequentially or simultaneously.

The content analysis method was applied to the content of academic publications and selected court decisions. During the analysis of the academic literature, provisions were identified that characterised critical thinking, cognitive mechanisms for evaluating information, individual vulnerability factors, characteristics of deceptive messages, social engineering, personalisation and technological means of influence. During the content analysis of court judgements, attention was focused on the facts established by the court that characterised the method of deception, the prior relationship between the fraudster and the victim, the nature of the false narrative, the exploitation of trust, the emotional or situational context, personalisation, authority, digital technologies, means of digital identification and the sequence of actions taken by those involved in the fraud scheme.

A comparative analysis was employed during the stage of comparing the two sets of materials. The mechanisms of vulnerability and deceptive influence, identified through the analysis of the academic literature, were compared with the factual circumstances established in the selected Ukrainian court judgements. This made it possible to determine which theoretically described mechanisms are reflected in the practical cases studied, as well as to trace differences in how they are combined. In this context, the correspondence between a theoretically described mechanism and the factual circumstances of a specific case was regarded as analytical consistency rather than as evidence of a cause-and-effect relationship. The method of generalisation was applied at the final stage to systematise the results of the theoretical and practical analysis, identify common characteristics of the mechanisms studied, and formulate conclusions regarding their potential significance for vulnerability to fraud.

The legal framework for the study was constituted by the Criminal Code of Ukraine[1] and Law of Ukraine No. 3262-IV[2]. Criminal Code of Ukraine[3] was used to define the legal context of the phenomenon under investigation: in accordance with Article 190 of the Criminal Code of Ukraine, fraud involves the misappropriation of another person's property or the acquisition of a right to property through deception or abuse of trust. Law of Ukraine No. 3262-IV[4] was used as the legal basis for accessing court materials, as it sets out the procedure for accessing court decisions and for maintaining the Unified State Register of Court Decisions (n.d.).

Results and Discussion

Theoretical foundations of the influence of critical thinking and cognitive mechanisms on vulnerability to fraud

As noted by D. Paddhariya *et al.* (2025), advanced threats such as ransomware, phishing, identity theft and large-scale cyber-attacks pose serious risks to governments, industries and individuals worldwide. The proliferation of such threats indicates that the development of the digital environment is accompanied not only by increased access to information and online services, but also by the emergence of new ways of misleading users and causing them harm. At the same time, digital threats are not limited to purely technical interference with systems or data theft, as a significant proportion of the risks are linked to the influence of information on the user. This is precisely why the information environment in which people receive, evaluate and disseminate content is of particular importance.

S. Bonicalzi *et al.* (2023) noted that online resources, and social media in particular, are associated with the spread of disinformation, fake news and unsubstantiated theories, as they can easily evade the checks to which traditional media are usually subject and provide a stream of content that is misleading or

[1] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[2] Law of Ukraine No. 3262-IV "On Access to Judicial Decisions". (2005, December). Retrieved from https://zakon.rada.gov.ua/laws/main/en/3262-15?lang=en#Text.
[3] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[4] Law of Ukraine No. 3262-IV "On Access to Judicial Decisions". (2005, December). Retrieved from https://zakon.rada.gov.ua/laws/main/en/3262-15?lang=en#Text.

entirely false. At the same time, it is precisely the digital environment that provides users with significant opportunities to verify the information they receive by cross-referencing different sources, searching for primary sources and using fact-checking tools. The existence of such opportunities, however, does not in itself mean that users systematically apply them when evaluating the content they receive. Moreover, the relationship between social media use and the ability to recognise false content is not clear-cut. D. Pehlivanoglu *et al.* (2026) found that time spent on social media was negatively correlated with belief in fake news and positively correlated with the ability to detect deepfake videos. These results suggest that active use of social media in itself does not necessarily increase vulnerability to false information, and the nature of this relationship may depend on the type of content and how users evaluate it.

Thus, the key issue is not only the availability of tools for verifying information, but also an individual's willingness and ability to apply them in a specific situation. As noted by R.G. Alexander *et al.* (2022), fact-checking methods have the potential to help counter disinformation; however, much like audiences at magic shows, social media users may prove unable to carry out in-depth verification of the content they encounter. At the same time, even directly warning a user that information is unreliable remains of limited effectiveness. Warning labels and fact-checking notifications do not always prevent users from believing or spreading disinformation (Alexander *et al.*, 2022). Thus, the problem extends beyond the mere identification of unreliable content, as user interaction with it may contribute to its further dissemination. As N. Veerasamy *et al.* (2024) point out, by sharing unverified information, people may unwittingly contribute to the spread of fake news. However, the consequences of accepting inaccurate information are not limited to the formation of false beliefs or the subsequent dissemination of such content. Misleading information can be deliberately used to influence an individual's behaviour and induce them to take actions that benefit an offender.

Various phishing scams may contain disinformation designed to trick users into disclosing their personal data (Veerasamy *et al.*, 2024). Researchers have found that email users are more vulnerable to phishing attacks when the messages they receive correspond to a specific context and target their individual vulnerabilities (Ackerley *et al.*, 2022). This highlights the particular importance of personalising a misleading message for its persuasiveness and effectiveness. One possible explanation for this vulnerability may lie in the way the brain processes familiar and easily comprehensible information. The ease with which information is processed and its consistency with familiar reality may reduce scepticism and increase the perceived credibility of misleading content (Hameleers *et al.*, 2024). Thus, the effectiveness of misleading influence may depend not only on the content of the message, but also on the ability to adapt it to the individual characteristics, context and vulnerabilities of a specific user. Advances in artificial intelligence technologies significantly expand the possibilities for such personalisation, whilst simultaneously increasing the scale and speed of the creation and dissemination of misleading content. The use of artificial intelligence is fundamentally changing the possibilities for personalising disinformation, as it enables the analysis of vast amounts of user data, the adaptation of messages to users' characteristics, and the scaling up of such content creation. At the same time, the development of artificial intelligence enhances the ability of technological systems to mimic human emotions and behaviour, creating new opportunities for deceptive influence, which must be taken into account when assessing vulnerability to technology-facilitated fraud (Pietarinen & Shi, 2026).

At the same time, the impact of artificial intelligence on the development of critical thinking and creativity remains insufficiently understood (Gil Ruiz, 2024). This takes on particular significance in a context where AI algorithms are capable of analysing vast amounts of user data to identify their individual biases and preferences, enabling the creation of micro-targeted fake news that users are more likely to believe or share (Veerasamy *et al.*, 2024). It is important to note that whilst humans are also capable of creating similar misleading content, the scale and cost-effectiveness afforded by AI language models when generating such messages or explanations warrant particular attention (Danry *et al.*, 2025). Thus, the potential impact of AI is determined not only by its ability to create convincing content, but also by its capacity to generate and adapt it on a scale unattainable through traditional interpersonal communication. This shifts the focus from the mere fact of creating a misleading message to the nature of human interaction with AI systems and the user's ability to critically evaluate the information received from them. Such interaction takes on particular significance in the context of the increasingly widespread use of AI systems as sources of information, recommendations and feedback. The convenience and speed of receiving a response can influence the extent to which a user will actively verify its accuracy using other sources. Users often value feedback generated by artificial intelligence for its speed and convenience, whilst acknowledging that it may be less reliable than feedback from a human expert (Lupton & Bailey-Charteris, 2026).

Thus, a user's awareness of the potential unreliability of information received from AI does not necessarily preclude its use in decision-making. This

issue takes on particular significance when the system not only provides information but also shapes the user's perception of their own capabilities, competence or autonomy. Misleading representations by artificial agents can lead individuals to overestimate their capabilities and inappropriately delegate important decisions, thereby increasing their vulnerability to erroneous judgement (Lupetti & Van Mechelen, 2022). At the same time, the influence of algorithmic systems on users' judgements is not limited to direct interaction with artificial agents. It can occur indirectly – through the selection, ranking and personalised presentation of the information users encounter. In this context, recommendation systems are of particular significance, as they influence not only the availability of specific content but also the information environment within which users form their own judgements. Recommendations generated by such systems may undermine users' knowledge acquisition and the development of critical thinking (Bonicalzi *et al.*, 2023). Such an influence does not necessarily imply a conscious intention on the part of the system to change the user's beliefs or behaviour. It may arise as a consequence of the very mechanism of information selection, which determines which content the user will see and which will remain outside their information environment.

Traditional recommendation systems differ from persuasive technologies in that they primarily predict users' preferences rather than deliberately attempting to change them. However, the absence of a direct aim to persuade does not mean there is no influence on the user's subsequent judgements and choices. The systematic selection and ranking of content can gradually shape the information environment within which a user evaluates available alternatives and makes decisions. One of the key assumptions underpinning recommendation systems is that if different users have demonstrated a certain decision-making pattern in the past, they are likely to have similar tastes or needs in the future. Thus, users' past behaviour serves as the basis for predicting their future information needs and choices. At the same time, such a mechanism may reinforce existing behavioural patterns rather than broadening the range of information and alternatives available to the user. This can result in a tendency whereby recommendation systems increasingly promote items that are already popular, whilst less popular ones, despite their potential interest, remain overlooked (Bonicalzi *et al.*, 2023). The result is that users may interact more frequently with information that aligns with their established patterns of choice, whilst alternative viewpoints and less obvious options receive less exposure. In the context of critical thinking, this is of particular significance, as a thorough evaluation of information requires the ability to compare different viewpoints, evidence and alternatives.

Thus, the potential problem with recommendation systems lies not only in the accuracy of predicting a user's preferences, but also in the long-term consequences of the algorithmic shaping of their information environment. Although recommendation systems offer significant short-term benefits, their long-term ethical impact remains uncertain due to their substantial influence on user behaviour and data collection (Gil Ruiz, 2024). At the same time, the impact of the digital environment and technological systems does not affect all users in the same way, as the perception and evaluation of information also depend on an individual's personal characteristics. Thus, vulnerability to misleading information and fraud should be viewed as the result of the interaction between external conditions and cognitive, personal and behavioural factors.

This approach is consistent with a broader understanding of the determinants of human behaviour. As noted by V. Balakrishnan *et al.* (2025), human behaviour is shaped by the interaction of personality factors, environmental influences and behavioural capabilities. Thus, the same misleading content or technological mechanism of influence may pose different levels of risk to different users, depending on their individual characteristics and their ability to critically evaluate the information received. One of the factors associated with such differences is age; however, its influence is not linear and may manifest itself differently at various stages of life. Adolescents may overestimate their ability to assess the reliability of information, whilst failing to recognise conflicts of interest or sponsored content, although the ability to distinguish the veracity of media improves from early adolescence to middle age, partly due to the development of analytical thinking (Lemaire *et al.*, 2025). Thus, at a younger age, vulnerability may be linked not only to underdeveloped information evaluation skills, but also to an overestimation of one's own ability to recognise misleading content. However, the improvement of these abilities with age does not imply their continued, uninterrupted growth throughout life.

Experiments involving simulated tasks with phishing emails, carried out with healthy older adults, have shown that the ability to identify phishing emails declines with age and deteriorates even further in individuals with a genetic predisposition to Alzheimer's disease (Zemla, 2025). These results suggest that the nature of vulnerability may change in older age, when age-related changes in cognitive processes may become increasingly significant alongside the characteristics of the digital environment. A similar pattern can be observed not only in experimental tasks involving phishing detection, but also in the actual behaviour of users on social media. According to M. Lemaire *et al.* (2025), older adults actually share

seven times more fake news via social media than middle-aged adults. At the same time, age differences alone do not explain the mechanisms through which a person perceives false information as credible or subsequently bases their judgements on it. To understand individual vulnerability, it is necessary to take into account the cognitive processes that determine how information attracts attention, is evaluated, is related to prior beliefs, and is stored in memory.

Classical theories of reasoning explain belief in fake news primarily as a result of insufficient engagement of cognitive resources, such as inattention or a lack of analytical scrutiny (Faragó *et al.*, 2023). Under this approach, vulnerability to disinformation is linked to insufficient cognitive scrutiny of the message received: information may be accepted without proper analysis of its content, evidence base or the reliability of the source. However, insufficient analytical processing is only one possible explanation, as the evaluation of information also depends on a person's pre-existing beliefs and motivation. Accordingly, motivated reasoning and prior beliefs can amplify the impact of disinformation on judgements and beliefs (Hameleers *et al.,* 2024). Thus, a person may be vulnerable to misleading information not only due to a lack of analytical thinking, but also due to a tendency to evaluate new information through the prism of existing beliefs. This shifts the focus from the moment of initial exposure to disinformation to how the information received is integrated into a person's belief system and retained in their memory. The way people interpret and remember events can lead to lasting changes in their understanding of those events (Alexander *et al.*, 2022). Thus, the consequences of misleading influence may persist even after direct contact with the information, if its distorted interpretation becomes entrenched in memory. At the same time, memory should not be viewed as a mere reproduction of past experience, as a person may reconstruct their own prior judgements and choices.

A telling example in this context is the phenomenon of "choice blindness": people may not only mistakenly recall manipulated choices as their own, but also actively defend choices they did not in fact make (although they believe they did) (Alexander *et al.*, 2022). This phenomenon demonstrates that erroneous judgements may not be limited to the moment of decision-making, but may subsequently become integrated into a person's own explanation of their previous behaviour. Thus, the question becomes not only why misleading information is initially perceived as credible, but also why the beliefs formed under its influence may prove resistant to subsequent correction. One explanation for this initial vulnerability is offered by the theory of default truth, according to which people tend to perceive statements as credible and true unless deception has been actively detected (Hameleers *et al.,* 2024). Thus, critical scrutiny of a statement is not necessarily an automatic reaction to receiving new information. However, even the subsequent discovery that a message is false does not guarantee the complete elimination of its influence on established beliefs.

False beliefs can persist even after disinformation has been retracted, refuted or exposed (Alexander *et al.*, 2022). This means that the refutation of disinformation may occur after its content has already been processed, memorised and, to some extent, integrated into a person's belief system. Furthermore, the persistence of such an influence may be reinforced by repeated exposure to the same information. Repeated exposure to disinformation increases belief in it. This phenomenon, known as the "illusory truth effect", means that as the frequency of exposure to a particular piece of false information increases, so does the likelihood of it being perceived as true (Danry *et al.*, 2025). Thus, the credibility of information can be assessed not only on the basis of its evidential value or factual accuracy, but also under the influence of the characteristics of its cognitive processing. This provides grounds for moving from individual mechanisms of disinformation perception to the broader issue of systematic cognitive biases.

People regularly engage in complex mental reasoning, but are also susceptible to a surprisingly large number of systematic cognitive biases (Zemla, 2025). Importantly, such vulnerability is not necessarily a consequence solely of insufficient knowledge or low confidence in one's own judgements. Under certain conditions, it is precisely high confidence in one's own knowledge that can hinder critical re-evaluation of the information received. For example, a high level of self-assessed knowledge can increase vulnerability to false information when it is accompanied by a misleading explanation (Danry *et al.*, 2025). At the same time, the evaluation of information and decision-making are influenced not only by individual cognitive characteristics but also by the social environment. The behaviour of others can serve as an additional guide to the accuracy of information or the appropriateness of a particular decision. The belief that the actions of the majority reflect more accurate information or better decisions may prompt a person to mimic the behaviour of others and disregard their own judgements; this is further facilitated by social pressure and the desire for social approval (Tabak *et al.*, 2025). Thus, cognitive vulnerability may arise from a combination of individual mechanisms for evaluating information and social cues that influence perceptions of its reliability. This makes a critical approach essential not only towards external sources of information, but also towards one's own judgements and beliefs.

Awareness of potential sources of information bias emphasises the need to remain sceptical even regarding one's own beliefs and perceptions (Torres *et al.*, 2022). In this context, critical thinking involves not merely distrusting information, but a willingness to consciously examine the basis of one's own conclusions, weigh up alternative explanations and revise judgements in the presence of sufficient evidence. It is precisely the depth of analysis of information that can therefore act as one of the mechanisms to counteract its uncritical acceptance. When people are motivated to think deeply about the soundness of a message's arguments, they are more likely to critically evaluate the information they receive (Hameleers *et al.*, 2024). At the same time, the capacity for critical evaluation does not mean that a person's judgements are formed independently of the conditions under which the information is received. The decision-making process can be influenced by both individual cognitive mechanisms and the context and characteristics of the message itself.

It is therefore advisable to consider vulnerability to misleading influence not only in terms of a person's characteristics, but also in terms of the features of the information environment in which they make decisions. Decades of empirical research show that the autonomous "self" is far more susceptible to external influences than is commonly believed, and that human decision-making is, by its very nature, context-dependent (Bonicalzi *et al.*, 2023). Thus, the same person may evaluate information differently depending on how it is presented and the context in which they encounter it. In this sense, the characteristics of a message become an important component of the mechanism of misleading influence.

When evaluating news, people often rely more on content-related cues than on cues regarding the source's credibility (Faragó *et al.*, 2023). This creates conditions under which the form and content of a message can influence its perceived credibility even without proper verification of the information's origin. One characteristic that can facilitate such processing is familiarity with the situation or with individual elements of the message. Familiar features can speed up decision-making, whilst unfamiliar situations require more careful consideration, risk analysis and additional precautions (Fuentes Gómez Calcerrada & Valero Berzosa, 2023). Thus, the use of familiar elements may reduce the subjective need for in-depth analysis of a message, whilst unfamiliarity, conversely, is likely to attract additional attention. However, familiarity is only one factor influencing the nature of information processing: its emotional tone is no less important.

Appealing to emotions is a common feature of misleading information and must be critically assessed when evaluating the reliability of information sources (Veerasamy *et al.*, 2024). An emotionally charged message can shift attention away from an analytical assessment of its content towards an immediate emotional reaction to it. Under such circumstances, the feelings evoked by the message may themselves become the guiding principle for further judgement and decision-making. Emotional messages can trigger the affect heuristic, which often leads people to make decisions based on what they feel rather than what they think (Ackerley *et al.*, 2022). At the same time, emotional influence is just one of the mechanisms through which a message's characteristics can affect its evaluation. Perceptions of credibility may also depend on the extent to which the form and manner of presentation of misleading content correspond to the features that users are accustomed to associating with authentic information. The perceived credibility of misleading content depends on how closely it resembles authentic information (Hameleers *et al.,* 2024). Thus, even elements of a message which, in themselves, do not contain evidence to support a particular claim may influence the assessment of its truthfulness if they create the impression of a familiar or credible information format. Visual elements take on particular significance in this context, as they can be perceived as indirect confirmation of the message, even when they do not actually serve an evidential function.

For example, stock photographs, which are regularly used in both traditional media and fake news content and are semantically linked to the headline but contain no evidence to support the claim, increase the perception of that claim as true (Newman & Schwarz, 2024). However, the influence of the form in which information is presented is not limited to its visual characteristics. Even the choice of words and terms used to describe the same or similar content can alter the nature of its perception and evaluation by the user. Studies on the impact of terminology have shown that the choice of terminology significantly influences people's perceptions and reactions to content generated by artificial intelligence, with different terms leading to varying levels of accuracy in identification and emotional response across different cultural contexts (Danry *et al.*, 2025). Thus, vulnerability to misleading and deceptive influence is not determined in isolation by the characteristics of the individual or the message itself, but rather by their interaction within a specific informational and technological context. The combination of cognitive biases, prior beliefs and the way information is processed, together with personalisation, emotional appeal, familiarity and the manner in which a message is presented, can create conditions under which a person's ability to critically evaluate information and make informed decisions is diminished.

Practical manifestations of fraudulent influence mechanisms in Ukrainian case law

To confirm the relevance of the findings from the review of the academic literature, Ukrainian court judgements in criminal proceedings concerning fraud were analysed. In the majority of court cases, there is no detailed description of how the criminal acts were committed; therefore, judgements that provide substantial information in their descriptive sections regarding the methods used to deceive victims, psychological manipulation techniques, the specific features of the digital environment and other circumstances are extremely valuable for research and allow theoretical propositions to be compared with the actual facts established during court hearings.

A telling example of the practical use of modern technologies to enhance fraudulent influence is Case No. 755/23443/25[1], heard by the Dnipro District Court of Kyiv. The court found that the defendant, taking advantage of the difficult living conditions faced by citizens due to the hostilities, had created social media pages through which he offered services on behalf of a person purportedly endowed with specialised knowledge and supernatural abilities. To create a deceptive persona, he used a photograph of a well-known television personality and artificial intelligence to produce video content, and subsequently used AI-generated text messages during personal communications with potential victims. Individuals who were unaware of the capabilities of such technologies perceived the created persona as genuine and transferred funds for the alleged performance of rituals, the resolution of personal, financial and other problems, or the opportunity for a personal consultation.

The circumstances of this case demonstrate a combination of several of the mechanisms of fraudulent influence discussed above. Firstly, the fraudulent communication was directed at individuals who were in difficult life circumstances and were seeking ways to resolve problems that were significant to them; in other words, it took into account the context of the victims' potential vulnerability. Secondly, the use of a recognisable image and AI-generated audiovisual material helped to create a misleading representation of the individual and may have increased the perceived authenticity of the messages. Thirdly, shifting the communication from a social network to one-to-one contact made it possible to tailor further influence to the specific problems and expectations of the individual. Finally, the victims' lack of awareness regarding the capabilities of artificial intelligence was one of the factors which, according to the circumstances established by the court, contributed to the perception of the artificially created image as real. Thus, this case illustrates how the technological capabilities of artificial intelligence can be combined with personalised communication and the exploitation of an individual's situational vulnerability to build trust in deceptive content and subsequently induce the individual to transfer funds.

Of particular significance in this case for the study of fraudulent influence mechanisms is the established sequence of interrelated actions: the creation of deceptive content using AI and the impersonation of a real person; the building of trust in the fabricated persona; the exploitation of citizens' situational vulnerability in a wartime context; the transition of communication to private correspondence and its subsequent personalisation in line with the specific problems faced by the victims; and, ultimately, the creation of conditions for obtaining funds from them. Thus, the separate mechanisms of influence did not operate in isolation, but rather reinforced one another sequentially, transforming the initial contact with deceptive content into a personalised fraudulent interaction. A key finding for the purposes of this study is the court's finding that the victims lacked sufficient knowledge of the capabilities of artificial intelligence and, as a result, were convinced that they were interacting with a real person. This provides grounds for considering insufficient digital and AI literacy as one of the factors of vulnerability which, combined with personalisation, trust in the created persona and situational vulnerability, may have contributed to the success of the fraudulent influence. Thus, an analysis of this case demonstrates the practical importance not only of the ability to critically assess the content of a received message, but also of the ability to recognise the technological methods used to create it and present it in a manipulative manner.

Another mechanism of fraudulent influence can be observed in Case No. 216/6605/24[2], heard by the Central City District Court of Kryvyi Rih, Dnipropetrovsk Region, on 27 January 2025. Unlike the previous example, the fraudulent interaction in this case was not based on the creation of a technologically constructed deceptive persona, but on a pre-existing, long-standing relationship of trust between the defendant and the victim. The defendant was also acquainted with her husband – a serviceman in the Armed Forces of Ukraine, who went missing in action in August 2023. Exploiting this circumstance and the victim's trust, the defendant told her false

[1] Judgement of the Dnipro District Court of Kyiv in Case No. 755/23443/25. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132712305.

[2] Judgement of the Central City District Court of Kryvyi Rih, Dnipropetrovsk Region in Case No. 216/6605/24. (2025, January). Retrieved from https://reyestr.court.gov.ua/Review/124736478.

information to the effect that her husband was allegedly alive and being held captive by the Russians, and that his contacts amongst influential officials in the Security Service of Ukraine could, for a monetary reward, arrange an extraordinary exchange and the soldier's return home.

The circumstances of this case demonstrate a combination of pre-existing interpersonal trust with an extremely strong emotional and situational context. The uncertainty regarding the fate of a loved one created a situation in which the false information directly corresponded to the victim's most significant expectations and offered the possibility of the outcome she desired. Under such circumstances, the fraudulent narrative was not abstract but personalised to the victim's specific life circumstances and was underpinned by trust in a person with whom she had been acquainted for a long time. The fraudulent interaction was not limited to a single message or payment. According to the facts established by the court, the deception was sustained over several months: the victim was provided with new fabricated information, the story about the possibility of her husband's return was maintained, and she was encouraged to continue transferring funds. To maintain the credibility of the scheme, the defendant also posed as an alleged Security Service of Ukraine officer and attempted to prevent the victim from contacting the law enforcement authorities. As a result of these fraudulent actions, the victim suffered financial loss on an exceptionally large scale.

This duration is of fundamental importance for understanding the mechanism of fraudulent influence. Each subsequent stage of interaction took place against a backdrop of established trust, prior emotional involvement and payments already made by the victim, which made it possible to sustain and adapt the fraudulent narrative over a prolonged period. At the same time, references to allegedly influential officials lent the communications additional air of authority and created the impression for the victim that the proposed method of bringing her husband back was genuine. Thus, Case No. 216/6605/24[1] illustrates a fraud mechanism in which the effectiveness of the deception can be ensured by the interplay of several factors: pre-existing trust, acute emotional and situational vulnerability, the personalisation of false information, the use of the authority of supposedly competent individuals, and the sustained maintenance of the fraudulent narrative. The extent of the damage caused and the multi-stage nature of the interaction further demonstrate that critical evaluation of information is important not only during the initial contact with a potentially misleading message, but also at subsequent stages, when prior trust and decisions already made may influence the assessment of new demands made by the fraudster.

Equally telling is the judgement in Case No. 461/9140/23[2], heard by the Galician District Court of Lviv on 16 May 2025, where almost all social engineering techniques were employed simultaneously, not through telephone harassment or psychological pressure, but by creating a completely plausible alternative reality. This "reality" consisted of the defendant offering flats at reduced prices and explaining this as "… the provision of … services to developers in the form of crane hire and the developers' lack of funds to pay him … By selling the flats, PERSON_15 planned to recoup the cost of the services he had provided to the developers". The defendant presented himself as an employee of the "MATTIS" estate agency, held meetings at the agency's office, enlisted agency staff to process the transactions, drew up contracts and, in general, operated as a regular estate agent. Thus, the victims did not recognise the fraudster. The victims saw a standard estate agency office. At the same time, the effect of legitimisation was extremely strong: there was an office, furniture, staff, contracts, advertising, a company stamp and documents. Everything looked entirely legitimate. Nor did the price raise any concerns – buyers were shown the market price and offered a discount. People were offered the chance to buy at a lower price because it involved a special payment arrangement. They were led to believe that such an opportunity would never arise again, so they needed to hurry to conclude the deal. This created a sense of "scarcity", which "pushed" the victims towards making the wrong decisions. Unlike the case involving the fake Security Service of Ukraine (offering to help bring back a soldier), in this instance there is no fear, panic or pressure. Here, other emotions of the victims come into play, namely greed, joy, the expectation of gain and the sense of a unique opportunity. People were taken in because each individual detail appeared entirely normal. This is precisely the most dangerous form of social engineering, where critical thinking is disabled not only by negative emotions but also by the excessive plausibility of the information.

Another mechanism of fraudulent influence can be seen in Case No. № 345/6096/23[3], heard by the Kalush City and District Court of Ivano-Frankivsk

[1] Judgement of the Central City District Court of Kryvyi Rih, Dnipropetrovsk Region in Case No. 216/6605/24. (2025, January). Retrieved from https://reyestr.court.gov.ua/Review/124736478.
[2] Judgement of the Galician District Court of Lviv in Case No. 461/9140/23. (2025, May). Retrieved from https://reyestr.court.gov.ua/Review/127390188.
[3] Judgement of the Kalush City District Court of Ivano-Frankivsk Region in Case No. 345/6096/23. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132316632.

Region on 4 December 2025. Unlike the previous examples, the deception in this case was not based on technological impersonation or the exploitation of the victims' extreme life circumstances. An important role was played by pre-existing interpersonal and business relationships, the defendant's reputation as an entrepreneur, and a plausible narrative, within this context, concerning the raising of funds for business development. Her actual entrepreneurial activity and social status, including her position as the head of a charitable foundation, may have served as additional indicators of reliability. According to the circumstances established by the court, the defendant received funds from the victims allegedly to finance business activities, issued debt acknowledgements and explained the need for the funds by reference to specific business transactions. One of the victims, who had met the defendant through their involvement in trade, initially gave her USD 5,000 and subsequently a further USD 2,000, after which the amounts gradually increased and ultimately reached USD 124,200. When the victim demanded repayment, the defendant attributed the delays to various circumstances and continued to maintain the narrative that the financial difficulties were temporary.

The gradual nature of this interaction is illustrative for analysing the mechanisms of fraudulent influence. A significant amount of funds was not transferred all at once: the victim's financial involvement increased as the relationship developed, within the framework of which each subsequent transaction took place following previous experience of interacting with the defendant. This created a fundamentally different context for risk assessment than that involved in receiving a one-off offer from an unknown individual. The plausibility of the narrative itself was also important. Explanations concerning the need for funds to purchase goods, develop an existing business and address temporary difficulties were consistent with the victims' existing perception of the defendant as an entrepreneur. Debt acknowledgements and specific explanations concerning the use of the funds may have provided additional external indicators of an ordinary civil-law relationship. Thus, the deceptive information was embedded within a context that was familiar and plausible to the victims, which is consistent with the significance of familiarity and context in the assessment of information credibility discussed above.

Particular attention should be paid to the way the cover story was maintained after the funds had been transferred. Rather than a single false statement, the victims were provided with subsequent explanations as to why the refund was delayed, which made it possible to maintain the plausibility of the initial version of events over a long period of time. Thus, this case demonstrates that fraudulent influence may be based not on a single particularly convincing message, but on a sequence of interrelated messages and actions that reinforce an already established trust. Case No. 345/6096/23[1] thus illustrates a combination of prior trust, social and professional reputation, a plausible context, a gradual increase in financial involvement, and the sustained maintenance of a fraudulent narrative. This example is significant for the critical evaluation of information in that potential risk may arise not only in interactions with an unknown or obviously suspicious source, but also in relationships where prior experience, familiarity and outward signs of reliability reduce the subjective need to double-check the information received.

A distinct mechanism of deceptive influence can be observed in Case No. 450/2601/25[2], heard by the Pustomyty District Court of Lviv Region on 25 July 2025. Unlike the previous examples, the fraudulent scheme in this case was aimed not only at directly misleading an individual, but also involved the use of legal and procedural mechanisms to create the appearance of legal grounds for acquiring property. According to the facts established by the court, the participants in the scheme used forged contracts for the sale and purchase of property rights, front buyers and baseless legal claims, with the aim of obtaining court judgments which could subsequently be used for the state registration of ownership rights to the properties and their subsequent disposal.

A particularly illustrative feature of this case is the multi-stage nature of the creation of a deceptive picture of the legal circumstances. Individual elements of the scheme – the contract, the identity of the buyer, the statement of claim, the evidence and the property claims made – were incorporated into a single, coherent narrative of events. As a result, the false information was presented not as an isolated assertion, but as a set of interrelated elements capable of creating the outward appearance of the plausibility of the claimed right. The practical impact of this structure is confirmed by the fact that, based on the statement of claim and the forged contract, the Pustomyty District Court opened proceedings in a civil case concerning the recognition of property rights to the flat. Accordingly, the use of formally drawn-up documents and statutory procedural steps became part of the mechanism by which the

[1] Judgement of the Kalush City District Court of Ivano-Frankivsk Region in Case No. 345/6096/23. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132316632.
[2] Judgement of the Pustomyty District Court of Lviv Region in Case No. 450/2601/25. (2025, July). Retrieved from https://reyestr.court.gov.ua/Review/129077915.

participants in the scheme sought to give the false information a legally significant form.

This case is significant for the study of mechanisms of deceptive influence in that it demonstrates the importance not only of the content of an individual statement, but also of the consistency between different sources and forms of presenting information. If several elements mutually corroborate the same version of events, their combination can create a stronger impression of credibility than a single false statement. The formal plausibility of a document or the use of an official procedure does not, however, guarantee the reliability of the information on which it is based. Thus, Case No. 450/2601/25[1] broadens the understanding of deceptive influence beyond the scope of traditional interpersonal manipulation. It demonstrates the possibility of constructing a multi-layered deceptive scheme in which forged documents, coordinated procedural actions and official procedures are used in sequence to create the appearance of legitimacy and credibility. In the context of critically evaluating information, this highlights the need to verify not only the internal consistency of a message or document, but also the authenticity of the underlying facts and evidence on which the entire subsequent information construct is based.

Another form of multi-stage fraudulent manipulation can be seen in Case No. 203/6260/23[2], heard by the Kirov District Court of Dnipropetrovsk on 8 April 2025. According to the facts established by the court, the defendant exploited the victims' trust and used various false pretexts to gain access to their mobile devices, SIM cards, bank cards and financial services. In one instance, he convinced an acquaintance that he could facilitate his transfer to the "Azov" regiment, citing alleged connections, and subsequently, under the pretext of making a necessary phone call for this purpose, obtained the victim's mobile phone. Having gained access to the device and knowing the password to the banking app, the defendant transferred funds to his own account.

In other episodes, a similar principle was used, although the subsequent actions were more technologically complex. Under the pretext of needing to use his own online banking, the defendant obtained the victim's mobile phone and then secretly took possession of the SIM card associated with the financial telephone number, as well as the bank card. Using the access credentials and one-off authentication passwords obtained, he gained unauthorised access to personal accounts within financial information systems, drew up loan agreements in the victim's name and subsequently took possession of the funds received. This case is illustrative for studying the mechanisms of fraudulent influence, in that social interaction and technological actions formed a sequential mechanism. The primary aim of the false narrative was not necessarily to obtain money directly from the victim, but to prompt them to take action that would open up further opportunities for the fraudster: to hand over their phone, allow the device to be used, or otherwise grant access to digital identification credentials. Thus, the deceptive message served as the initial stage, following which the psychological manipulation was complemented by the use of the physical and digital access obtained.

Of particular significance in this case is the context in which the victim assessed the specific request. Handing over a mobile phone to an acquaintance to make a call or to temporarily use online banking could, in itself, have been perceived as a routine everyday action, whilst its true purpose remained concealed. Thus, a potentially dangerous action was presented in a familiar and plausible context, which is consistent with the significance of context and familiar cues when assessing information and risk, as discussed in the theoretical section. At the same time, the case demonstrates that the consequences of an initial error in assessing a situation can extend far beyond direct contact with the fraudster. Obtaining a SIM card containing a financial identification number and other means of access made it possible to use the victim's digital identity in automated financial systems, including for authentication and taking out loans without their knowledge. Thus, in the contemporary digital environment, critical evaluation should concern not only the credibility of the message received but also the potential consequences of the action that the message induces the recipient to take.

Thus, Case No. 203/6260/23[3] demonstrates the interplay of the social and technological components of fraud: the exploitation of trust and a plausible cover story provided initial access to the victims' devices, whilst the subsequent use of SIM cards, bank details and authentication methods enabled this access to be converted into financial loss. This example shows that resilience to modern fraud requires not only the ability to recognise false information, but also digital literacy and the critical evaluation of requests for access to devices, accounts and means of digital identification. The results of a synthesis of empirical examples from case law are presented in Table 1.

[1] Judgement of the Pustomyty District Court of Lviv Region in Case No. 450/2601/25. (2025, July). Retrieved from https://reyestr.court.gov.ua/Review/129077915.
[2] Judgement of the Kirov District Court of Dnipropetrovsk in Case No. 203/6260/23. (2025, April). Retrieved from https://reyestr.court.gov.ua/Review/126496304.
[3] Ibidem,2025.

Table 1. Summary of fraud vulnerability mechanisms confirmed by an analysis of judicial practice

Court case	Brief description	Vulnerability mechanism
Dnipro District Court of Kyiv	AI-based fraud	AI, digital literacy, personalisation
Central City District Court of Kryvyi Rih	Fraud under the pretext of freeing a prisoner of war	Emotional vulnerability
Galician District Court of Lviv	MATTIS apartment sales fraud	Scarcity effect, legitimisation
Kalush City-District Court of Ivano-Frankivsk Region	Fraud under the pretext of business development	Sunk cost effect, trust
Pustomyty District Court of Lviv Region	Fictitious contracts and judicial legitimisation	Documentary legitimisation
Kirov District Court of Dnipropetrovsk	SIM swapping and theft of digital identity	Digital identity

Source: compiled by the authors based on Case No. 755/23443/25[1], Case No. 216/6605/24[2], Case No. 461/9140/23[3], Case No. 345/6096/23[4], Case No. 450/2601/25[5], Case No. 203/6260/23[6]

An analysis of the legal framework shows that, in accordance with the Criminal Code of Ukraine (2001)[7] the key methods of committing fraud are deception and abuse of trust, which directly links fraud to mechanisms that influence the victim's perceptions and decision-making. At the same time, Law of Ukraine No. 3262-IV[8] provides the regulatory framework for open access to court decisions, enabling the practical manifestations of such mechanisms to be examined using court case files. This allows for a comparison between theoretical concepts of vulnerability to fraud and the actual methods of deception documented in case law.

The results of the study indicate a correlation between the factors of vulnerability to fraud described in contemporary academic literature and the actual circumstances established in the judgements of Ukrainian courts. An analysis of case law has shown that the fraudulent schemes examined combine various mechanisms of influence, including social engineering, personalised communication, emotional manipulation and the use of digital technologies. This provides grounds for considering critical thinking in conjunction with digital, information, financial and AI literacy as important components of resilience to fraudulent influence. This interrelationship becomes particularly significant in the context of the development of generative artificial intelligence, which expands the possibilities for creating, personalising and scaling deceptive content.

Conclusions

The present study has limitations related to the targeted selection of court judgements, the incomplete reflection of the victims' psychological characteristics in these judgements, and the impossibility, based on the materials used, of assessing the statistical prevalence of individual mechanisms or establishing cause-and-effect relationships. The results obtained should be interpreted as a comparison of theoretically described vulnerability factors with their possible manifestations in the actual circumstances of fraud established by the courts of Ukraine. The analysis carried out has demonstrated the complex nature of vulnerability to fraudulent influence. The cognitive component is linked to the characteristics of analytical information processing, prior beliefs, memory and cognitive biases, which may complicate the recognition of deception and the revision of already formed judgements. The emotional component takes on particular significance when the content of a message relates to a person's significant fears, expectations or life circumstances, thereby influencing how the information is assessed.

The importance of personalised communication has also been established, as it allows a fraudulent narrative to be tailored to the specific context, needs and expectations of a potential victim. In the context of digitalisation, digital and AI literacy take on added importance, as technological tools expand the possibilities for creating plausible deceptive content,

[1] Judgement of the Dnipro District Court of Kyiv in Case No. 755/23443/25. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132712305.
[2] Judgement of the Central City District Court of Kryvyi Rih, Dnipropetrovsk Region in Case No. 216/6605/24. (2025, January). Retrieved from https://reyestr.court.gov.ua/Review/124736478.
[3] Judgement of the Galician District Court of Lviv in Case No. 461/9140/23. (2025, May). Retrieved from https://reyestr.court.gov.ua/Review/127390188.
[4] Judgement of the Kalush City District Court of Ivano-Frankivsk Region in Case No. 345/6096/23. (2025, December). Retrieved from https://reyestr.court.gov.ua/Review/132316632.
[5] Judgement of the Pustomyty District Court of Lviv Region in Case No. 450/2601/25. (2025, July). Retrieved from https://reyestr.court.gov.ua/Review/129077915.
[6] Judgement of the Kirov District Court of Dnipropetrovsk in Case No. 203/6260/23. (2025, April). Retrieved from https://reyestr.court.gov.ua/Review/126496304.
[7] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14.
[8] Law of Ukraine No. 3262-IV "On Access to Judicial Decisions". (2005, December). Retrieved from https://zakon.rada.gov.ua/laws/main/en/3262-15?lang=en#Text.

impersonating individuals and utilising digital identification methods. A comparison of theoretical principles with judicial practice has highlighted the particular importance of combining mechanisms whereby trust, situational or emotional vulnerability, personalisation, a plausible context and technological tools can successively amplify the impact of fraud. This highlights the need for a comprehensive approach to fraud prevention, combining the development of critical thinking with digital, information, financial and AI literacy. A promising direction for further research is the development and empirical testing of models of individual vulnerability to fraud, as well as the investigation of how social engineering mechanisms are being transformed under the influence of generative AI.

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Критичне мислення та вразливість до шахрайства

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■ **Анотація.** Цифровізація, поширення онлайн-взаємодії та генеративного штучного інтелекту створюють нові можливості для шахрайства, підвищуючи значення критичного мислення, оцінки достовірності інформації та здатності протидіяти маніпуляціям. Метою роботи було дослідження впливу критичного мислення на вразливість особи до шахрайства шляхом системного аналізу сучасної наукової літератури та зіставлення отриманих результатів із фактичними обставинами, встановленими у вироках судів України. Дослідження виконано із застосуванням методів аналізу, синтезу, контент-аналізу, порівняльного аналізу й узагальнення. Результати аналізу наукових джерел засвідчили, що надмірна впевненість, когнітивні упередження, низький рівень цифрової грамотності, недостатня здатність критично оцінювати інформацію та особливості цифрового інформаційного середовища є ключовими чинниками вразливості до шахрайства. Емоційний вплив здатний посилювати таку вразливість через страх, довіру, очікування вигоди або відчуття терміновості. Застосування штучного інтелекту ускладнює розпізнавання маніпуляції, а отже, знижується здатність критично оцінювати маніпулятивний контент. Визначено, що окремі механізми впливу можуть застосовувати комбіновано в межах однієї шахрайської схеми, поєднуючи когнітивні, соціальні, емоційні та цифрові чинники вразливості. Додатково проаналізовано судові вироки України, описова частина яких містить встановлені судом фактичні обставини застосування психологічних, комунікативних і цифрових механізмів впливу на потерпілих. Порівняння цих обставин із результатами наукових досліджень продемонструвало високий рівень узгодженості між теоретично описаними чинниками вразливості та реальними механізмами шахрайства, зокрема щодо сучасних випадків використання генеративного штучного інтелекту. Отримані результати можуть бути застосовані для розроблення заходів профілактики шахрайства та спрямовані на розвиток критичного мислення, цифрової грамотності й підвищення стійкості потенційних жертв до маніпулятивних впливів

■ **Ключові слова:** когнітивні упередження; соціальна інженерія; цифрова грамотність; генеративний штучний інтелект; дезінформація; віктимізація

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Interaction of the National Police with other subjects of countering illegal arms trafficking committed by organised groups and criminal organisations

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■ **Abstract.** The relevance of the study is conditioned by the serious threat of illegal arms trafficking carried out by organised groups and criminal organisations to public and national security under martial law and the need for coordinated interdepartmental and international counteraction to this phenomenon. The purpose of the study was to analyse the specifics of interaction between the National Police of Ukraine and other subjects of the fight against illegal arms trafficking and identify ways to improve the effectiveness of such cooperation. The methodological basis was system, formal legal, generalising, logical and analytical, and system and structural methods. The study determined the place of the National Police of Ukraine in the system of subjects of preventing illegal arms trafficking and characterised the main forms of cooperation with other bodies. It was established that information exchange, coordination of joint events, analytical activities, and international cooperation are of key importance. Problems related to insufficient coordination, imperfect information support, certain gaps in legal regulation, and resource restrictions were identified. The results of the study showed that countering illegal arms trafficking requires not only effective activities of the National Police, but also a properly organised system of interaction with other competent authorities. An important factor in improving the effectiveness of such cooperation was the creation of a coordinated mechanism for information exchange, rapid response, and coordination of actions between all participants in the counteraction. The generalisation of certain international practices indicates the expediency of further development of international partnership, in particular through joint operations, information exchange, and cooperation with law enforcement agencies of other countries. The practical significance of the results lies in the possibility of using them to improve legislation, organise interaction between law enforcement agencies, and increase the effectiveness of preventing illegal arms trafficking

■ **Keywords**: interdepartmental interaction; coordination of activities; law enforcement; information and analytical support; criminal proceedings; martial law; public security

■ Introduction

Illegal arms trafficking poses a serious threat to public and national security. Under martial law, the risks of illegal storage, transportation and use of firearms increase significantly, and the firearms themselves can fall into organised criminal groups. This contributes to the commission of serious crimes, worsens the criminal situation, and increases organised crime. The fight against illegal arms trafficking requires joint actions of various state bodies. The main role in this activity is played by the National Police of Ukraine, which detects, stops and investigates such offences. Effective prevention of organised forms of crime is

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possible only through close cooperation between the police and the Security Service of Ukraine (SSU), the State Border Guard Service of Ukraine (SBGS), the State Customs Service of Ukraine (SCS), prosecution authorities, the State Bureau of Investigation (SBI), the National Guard of Ukraine, and the Armed Forces of Ukraine (AFU). Despite the existence of a legislative framework, in practice there are still problems of coordinating work, exchanging information, allocating powers, and holding joint events. Therefore, it is important to further improve interaction between all subjects of countering illegal arms trafficking and search for effective mechanisms to prevent this threat considering challenges and international experience. The problem of combating illegal arms trafficking remains one of the most relevant areas of contemporary criminal law and criminological research, especially in the context of martial law and the activation of organised criminal groups.

S.V. Albul & I.P. Katerynchuk (2025) investigated the analysis of the scale of illegal arms trafficking in Ukraine under martial law, and the assessment of trends in the growth of such offences based on official statistics. The main focus was on the importance of effective interaction and coordination of law enforcement agencies, and the role of the Coordination Centre in improving the effectiveness of countering illegal arms trafficking. The monograph by M.H. Shcherbakovskyi & D.V. Andreyev (2021) comprehensively investigated the problems of countering illegal arms trafficking in Ukraine, revealed its legal, scientific, organisational and tactical aspects. In addition, the concepts of "firearms" and "illegal arms trafficking" have been clarified, a methodology for investigating relevant criminal offences has been formed, features of forensic characteristics, planning of investigation and conducting investigative (search) actions have been identified. L.M. Dorofeieva (2024) considered that Ukraine still lacks a clear legislative definition of the system of law enforcement agencies and proper legal regulation of their interaction, which makes it difficult to coordinate activities in countering smuggling and leads to duplication of powers. This is substantiated by the need to differentiate the competence of law enforcement and customs authorities, expand the law enforcement powers of the Customs Service, and make appropriate changes to the legislation to improve the effectiveness of the fight against smuggling.

Research by R.O. Yemelianov & S.V. Tatarenko (2025) was dedicated to defining the features, forms, and principles of such interaction in the process of solving and investigating crimes committed by organised groups, and the role of operational units, investigators, and prosecutors in ensuring effective documentation of criminal activities. O. Zinchuk (2026) noted that illegal arms trafficking under martial law has become one of the key threats to public security, as the activation of organised criminal groups and their use of the latest sales channels make it difficult to control the movement of firearms. The study focused on determining the role of the criminal police in countering illegal arms trafficking, in particular, through the improvement of operational search measures, interdepartmental, and international cooperation. According to I.I. Ishchenko (2023), the interaction of the National Police with other subjects of preventive activity is regulated by administrative and legal norms, coordinated and purposeful joint activities aimed at preventing offences and ensuring law and order. The study revealed the essence, types, and forms of such interaction, in particular, its classification by the number of subjects, directions, level, legal regime, and scope of application. V.V. Kovalev (2023), in turn, noted that the method of committing a criminal offence is a key element of the forensic characterisation of illegal handling of firearms, since it contains important information about the actions of the offender, traces left, and contributes to determining the course of investigation. The study revealed the main methods of illegal acquisition, storage, carrying, transfer, sale, manufacture and repair of firearms, and the specifics of their preparation and concealment, which is important for building investigative versions and effective pre-trial investigation.

V.V. Frankiv & M.O. Gelemei (2025) noted that effective counteraction to illegal trafficking of firearms related to the activities of organised groups and criminal organisations requires a comprehensive combination of organisational, legal, operational, and international mechanisms for interaction between law enforcement agencies. Improving the effectiveness of the National Police's activities is possible through the improvement of legislation, the introduction of modern technologies, the development of international cooperation, and the strengthening of preventive measures. Research by T.O. Markiv (2026) was devoted to the analysis of legal regulation of information and analytical support for the activities of the State Bureau of Investigation bodies in the field of countering organised crime and identifying the problems of the current regulatory framework. Special attention was paid to identifying the shortcomings of legal regulation, in particular, the lack of a unified approach to the organisation of information and analytical activities, the lack of regulation of interdepartmental information exchange, and the need to improve the legal mechanisms for using analytical materials in criminal proceedings. In turn, research by A.P. Mistiuk (2024) addressed the issue of combating illegal arms trafficking by organised groups and criminal organisations characterised by a high level of organisation, armament, secrecy, and the use of advanced concealment methods. Special attention

was paid to the role of the National Police of Ukraine in cooperation with other law enforcement agencies, improving information exchange, and applying analytical and operational search measures to effectively counter such crimes.

The foreign experience of using innovative technologies in countering illegal arms trafficking is also important. In particular, J. Cani *et al.* (2024) proved the feasibility of using artificial intelligence systems to analyse data from the darknet, social networks, cryptocurrency transactions, postal items, and international information databases. The proposed approach demonstrated that the integration of digital technologies into the activities of law enforcement agencies contributes to more effective detection, analysis, and suppression of illicit trafficking in firearms. The purpose of the study was to determine the role and place of interdepartmental interaction in the mechanism of countering illegal arms trafficking carried out by organised groups and criminal organisations, and to identify factors that affect its effectiveness.

■ Materials and Methods

The materials of the study were the provisions of laws and regulations of Ukraine and international documents that define the legal basis for countering illegal arms trafficking and regulate the powers of subjects of interaction with the National Police of Ukraine. As part of the study, the Constitution of Ukraine[1], Criminal Code of Ukraine[2], and the Criminal Procedure Code of Ukraine[3] were analysed. Law of Ukraine No. 580-VIII[4], Law of Ukraine No. 2229-XII[5] and Law of Ukraine No. 661-IV[6] were also considered. Customs Code of Ukraine[7], Law of Ukraine No. 1697-VII[8], Law of Ukraine No. 794-VIII[9] were analysed. In addition, the regulatory framework of the study included Law of Ukraine No. 876-VII[10], Law of Ukraine No. 1934-XII[11].

During the analysis of the aforementioned regulatory acts, provisions were examined that determine: the legal status and competence of the National Police of Ukraine and other actors within the security and law enforcement sector; the procedure for interaction between law enforcement agencies; powers to detect, document, and investigate criminal offences related to the illicit trafficking of arms; the specific features of procedural supervision and coordination of pre-trial investigation bodies; legal mechanisms for controlling the movement of arms across the state border; and international standards for combating the illicit trafficking of firearms. Part 1 of Article 263 of the Criminal Code of Ukraine[12] concerning liability for the unlawful handling of arms was examined separately, as were the provisions of the Criminal Procedure Code of Ukraine concerning the organisation of pre-trial investigations and procedural supervision, and the provisions of special laws defining the powers of the SSU, SBGS, SCS, prosecution service, SBI, National Guard, and AFU in the field of combating illegal arms trafficking. International documents such as Regulation (EU) of the European Parliament and of the Council No. 258/2012[13]were also used, defining the legal mechanisms for controlling the international movement of firearms, their parts and ammunition, and the provisions of international practices of cooperation between law enforcement agencies within the framework of Europol and Interpol's activities to counteract illegal arms trafficking.

The methodological basis of the study was general scientific and special legal methods. To determine the theoretical foundations of the problem, a dialectical method was used, which allowed us to consider the illegal circulation of firearms as a complex socio-legal phenomenon that changes under the influence of martial law, organised crime and new

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[3] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[4] Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19#Text.
[5] Law of Ukraine No. 2229-XII "On the Security Service of Ukraine". (1992, March). Retrieved from https://zakon.rada.gov.ua/laws/show/2229-12#Text.
[6] Law of Ukraine No. 661-IV "On the State Border Guard Service of Ukraine". (2003, April). Retrieved from https://zakon.rada.gov.ua/laws/show/661-15#Text.
[7] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/4495-17#Text
[8] Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18#Text.
[9] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19#Text.
[10] Law of Ukraine No. 876-VII "On the National Guard of Ukraine". (2014, March). Retrieved from https://zakon.rada.gov.ua/laws/show/876-18#Text.
[11] Law of Ukraine No. 1934-XII "On the Armed Forces of Ukraine". (1991, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1934-12#Text.
[12] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[13] Regulation (EU) of the European Parliament and of the Council No. 258/2012 "On the Implementation of Article 10 of the United Nations Protocol Against the Illegal Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention Against Transnational Organised Crime (the UN Firearms Protocol), and on the Establishment of Export Authorisations and Measures Concerning the Import and Transit of Firearms, Their Parts and Components, and Ammunition Therefor". (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/984_005-12/ed20120314#n61.

methods of illegal supply of firearms. The formal legal method was used to analyse the legal regulation of the activities of the National Police of Ukraine and other bodies in the field of countering illegal arms trafficking. It allowed investigating the main laws and regulations defining the powers of these bodies and the procedure for their interaction. This method also helped to identify the shortcomings of the legislation and the problems of dividing competence between the subjects of combating illegal arms trafficking.

The system and structural method was used to analyse the subjects of countering illegal arms trafficking and determine the role of the National Police of Ukraine in this system. It allowed considering law enforcement, military, and regulatory bodies as a single system, determining their powers and areas of interaction. The main ones are information exchange, coordination of joint activities, operational work, analytics, and international cooperation. The method was applied in studying the activities of the National Police, SSU, SBGS, SCS, prosecution service, SBI, National Guard, and AFU. The generalisation was used to systematise certain international practices of countering illegal arms trafficking, in particular, regarding information exchange, joint events, and international cooperation of law enforcement agencies. Its application allowed identifying separate approaches that can be considered in the further improvement of interdepartmental cooperation in Ukraine. At the final stage of the study, using the logical and analytical method, the results were summarised and the main problems in the interaction of subjects of countering illegal arms trafficking were identified.

Results and Discussion

The concept of illegal arms trafficking in legal science is considered as a set of illegal actions related to the manufacture, acquisition, storage, carrying, transportation, shipment, transfer, sale, repair, processing, movement across the state border, and other operations with firearms, ammunition, explosives, or explosive devices carried out in violation of the requirements of the legislation. It is one of the most dangerous forms of criminal activity, as it creates conditions for the commission of violent crimes, terrorist acts, activities of organised criminal groups, and other encroachments on public safety. Illegal arms trafficking covers a set of illegal actions that, depending on the degree of public danger, may violate both administrative and criminal prohibitions. There are two main types: the first includes acts that entail administrative responsibility and are related to violation of the established rules for the circulation of firearms; the second covers socially dangerous actions provided for by criminal legislation, for which criminal liability occurs (Andreyev, 2017). Thus, illegal arms trafficking is a complex phenomenon, the structure of which consists of administrative offences and criminal offences, which together form a single system of illegal arms trafficking.

Regulation (EU) of the European Parliament and of the Council No. 258/2012[1], Illicit Trafficking in firearms is understood as the import, export, sale, delivery, movement or transfer of firearms, their components, principal components, and ammunition between member states of the European Union and third countries in violation of established legal requirements. Such trafficking is considered illegal in cases where there is no appropriate permission from the competent authority to carry out these operations, and in the absence of the marking of firearms provided for by law, which helps to properly identify and control their movement. Thus, in the international legal sense, illegal arms trafficking covers any operations on their cross-border movement that are carried out outside the established system of state control, licensing procedures, and requirements for marking firearms and ammunition.

Discussions continue on the content of the concepts of "illegal handling of firearms" and "without a legal permit", which are used in Part 1 of Article 263 of the Criminal Code of Ukraine[2]. The basis for such discussions is that the disposition of this norm is of a blank nature, that is, to find out its content, it is necessary to refer to other laws and regulations. The legal literature expresses the position that the lack of a legislative definition of these concepts complicates their unambiguous interpretation and practical application. Such a legislative structure does not fully meet the requirements of legal certainty and quality of criminal law, since it does not provide a clear understanding of the features of a criminally punishable act (Benitskyi, 2024).

The National Police of Ukraine is the main body that directly counteracts illegal arms trafficking. It identifies, stops, and investigates criminal offences related to the illegal manufacture, acquisition, storage, transportation, sale, and use of firearms. Criminal police units, investigative and operational services identify individuals and groups engaged in illegal arms trafficking, withdraw them from circulation, and carry out preventive measures to prevent such

[1] Regulation (EU) of the European Parliament and of the Council No. 258/2012 "On the Implementation of Article 10 of the United Nations Protocol Against the Illegal Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, Supplementing the United Nations Convention Against Transnational Organised Crime (the UN Firearms Protocol), and on the Establishment of Export Authorisations and Measures Concerning the Import and Transit of Firearms, their Parts and Components, and Ammunition Therefor". (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/984_005-12/ed20120314#n61.
[2] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text

offences. The police also monitor the legal circulation of firearms through the Unified Register of Firearms, which ensures their accounting and monitoring. Special attention is paid to identifying channels for the supply of firearms, in particular, those related to the activities of organised criminal groups and international criminal networks. It plays a leading role in ensuring public safety and combating illegal arms trafficking in Ukraine. Creation of an electronic cabinet is one of the opportunities provided for in the Unified Register of Firearms. As a result, citizens of Ukraine will be able to apply for the necessary services remotely, without personally contacting the National Police units, by submitting documents through the Unified Window (n.d.) or directly in the store that sells firearms.

The leading role of the National Police of Ukraine is exercised in close cooperation with other actors within the security and law enforcement sector. The effectiveness of detecting, suppressing, and investigating crimes related to illegal arms trafficking largely depends on the level of coordination between law enforcement, military, and regulatory authorities. The main actors interacting with the National Police include the Ministry of Internal Affairs of Ukraine (MIA), SSU, SBGS, SCS, the Office of the Prosecutor General (OPG), SBI, the National Guard of Ukraine, and the AFU. Each of these bodies has its own powers and performs specific tasks, but their joint activities are aimed at achieving a single goal – preventing illegal arms trafficking, blocking its supply channels, identifying organised criminal groups, and ensuring an appropriate level of public and state security. In this regard, it is advisable to analyse in detail the role and features of interaction between each of these entities and the National Police of Ukraine in the field under study: the MIA is a key subject in countering illegal arms trafficking. It provides general coordination of the activities of law enforcement agencies, in particular the National Police, the National Guard, and the State Border Guard Service, which jointly identify, prevent, and stop firearm-related crimes. The activities of the Ministry of Internal Affairs are based on the norms of the current legislation of Ukraine, in particular, the Constitution of Ukraine[1], Law of Ukraine No. 580-VIII[2], and the Criminal Code of Ukraine[3]. Within the limits of its powers, the Ministry forms the main areas of state policy, organises interaction between law enforcement agencies, and monitors compliance with the rules of arms trafficking. The main activities of the Ministry of Internal Affairs of Ukraine to counteract illegal arms trafficking cover a set of interrelated measures, which are systematised and shown in Figure 1.

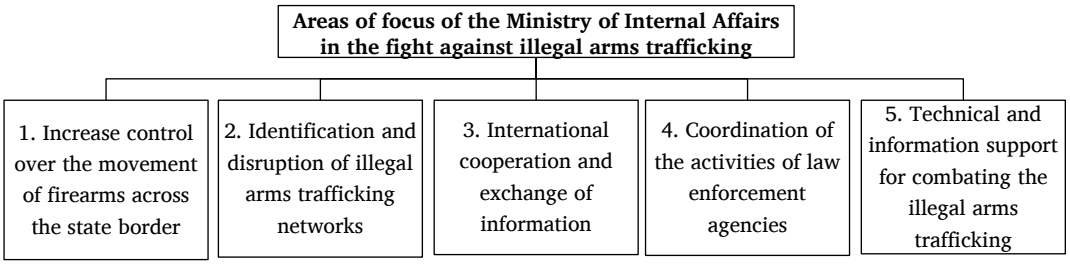


Figure 1. Main activities of the Ministry of Internal Affairs to counteract illegal arms trafficking
Source: developed by the author based on A. Tkach (2025), Ministry of Internal Affairs of Ukraine (2025), Ministry of Internal Affairs of Ukraine (2026)

The practical implementation of these areas allows the Ministry of Internal Affairs to increase the effectiveness of responding to threats related to illegal arms trafficking, and ensure more coordinated work of all involved structures. The SSU acts as one of the key actors in preventing illegal arms trafficking, especially in cases where such offences are associated with organised criminal groups or structures that pose a threat to state security. Within its competence, the SSU identifies channels for illegal supply of firearms, identifies persons involved in their sale or use, and documents their illegal activities. Its activities in this area are based on the provisions of the Constitution of Ukraine[4], Law of Ukraine No. 2229-XII[5], and the Criminal Code of Ukraine[6].

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19#Text.
[3] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[4] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[5] Law of Ukraine No. 2229-XII "On the Security Service of Ukraine". (1992, March). Retrieved from https://zakon.rada.gov.ua/laws/show/2229-12#Text.
[6] Criminal Code of Ukraine. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.

The main areas of work of the SSU include: legal support: activities based on the Constitution of Ukraine and relevant legislation; detection of threats: establishing channels for illegal supply of firearms and persons involved; interdepartmental interaction: cooperation with the National Police and other law enforcement agencies, exchange of operational information; operational activities: participation in investigations, special operations, and detentions of participants in illegal arms trafficking; counterintelligence direction: combating the use of firearms by foreign special services, terrorist and other threatening structures, blocking the channels of its movement across the border; operational and preventive work: application of secret measures, surveillance, collection of evidence, and prevention of crimes.

The SBGS is a body that prevents illegal arms trafficking, primarily in terms of their unauthorised movement across the state border. Its main tasks are to protect the border and control the movement of firearms, ammunition, and explosives. Under martial law, this activity becomes particularly important, since firearms directly threaten national security and public order. The activity of the state border service is based on the Law of Ukraine No. 661-IV[1]. Effective prevention requires close cooperation between the SBGS and the National Police, which is carried out based on the legislation of Ukraine and includes various forms of cooperation. For clarity, the main areas of their interaction in the field of preventing illegal arms trafficking are shown in Figure 2.

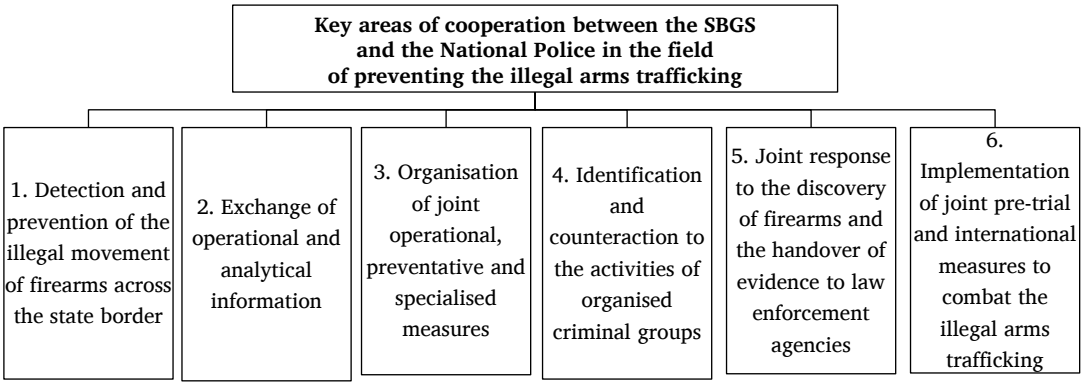


Figure 2. Main areas of interaction of the SBGS of Ukraine with the National Police and other law enforcement agencies
Source: developed by the author based on the Law of Ukraine No. 661-IV[2], K.H. Nabilska (2025)

One of the key forms of cooperation is information exchange on individuals, transportation routes, and possible smuggling channels, which makes allows identifying threats and preventing crimes in a timely manner. Joint analytical work aimed at assessing risks and identifying organised criminal groups also plays an important role. As part of operational cooperation, border guards, and police officers conduct joint activities to identify firearms supply channels, document illegal activities and collect evidence. In case of receiving operational information, special operations are organised to check vehicles and cargo, detain offenders, and seize illegal firearms. Preventive measures include joint patrolling of border areas, increased control at checkpoints, and constant monitoring of the situation, which generally reduces the risks of illegal arms trafficking and complicates the activities of criminal groups.

The SBGS plays a key role in the fight against illegal arms trafficking, because it controls the movement of goods across the state border. Its main task is to identify and prevent the import or export of firearms, ammunition, and their components. It is the customs authorities that are often the first to record attempts to smuggle firearms that can be organised by criminal groups. The activity of the Customs Service is based on the Constitution of Ukraine[3] and Customs Code of Ukraine[4]. Within the limits of its competence, it provides interaction with the National Police and other law enforcement agencies, transferring information about detected offences to them for further investigation. International cooperation with the customs authorities of other states is important. In order to summarise the main areas of cooperation between the Customs Service and the National Police in countering illegal arms trafficking, they are systematised and presented in Figure 3.

[1] Law of Ukraine No. 661-IV "On the State Border Guard Service of Ukraine". (2003, April). Retrieved from https://zakon.rada.gov.ua/laws/show/661-15#Text.
[2] Ibidem, 2003.
[3] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[4] Customs Code of Ukraine. (2012, March). Retrieved from https://zakon.rada.gov.ua/laws/show/4495-17#Text.

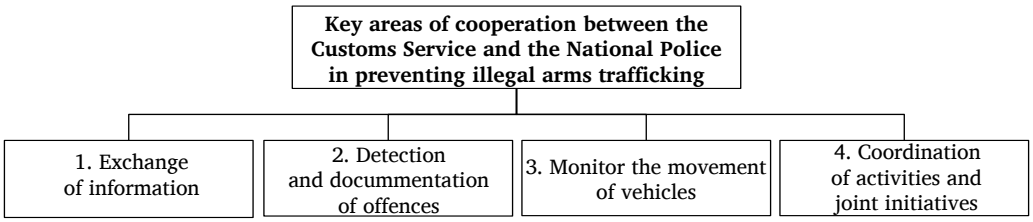


Figure 3. Main areas of interaction between the Customs Service and the National Police
Source: developed by the author based on O.O. Krytenko & V.H. Kovalov (2025)

To increase the effectiveness of preventing illegal arms trafficking, the Customs Service and the police use risk analysis, innovative information systems and databases, which allows identifying suspicious traffic and connections between participants in criminal schemes. In general, the effectiveness of these activities largely depends on constant interagency and international interaction. The Office of the Prosecutor General of Ukraine is the central prosecution authority that ensures compliance with the rule of law in the investigation of crimes. Its special role is shown in cases committed by organised groups, as it coordinates the activities of law enforcement agencies and monitors the progress of pre-trial investigations. The Prosecutor General's activity is based on the Constitution of Ukraine [1], the Law of Ukraine No. 1697-VII[2], and the Criminal Procedure Code of Ukraine[3]. Within the limits of their powers, prosecutors: carry out procedural management of pre-trial investigations; control the legality of investigators' actions; coordinate key procedural decisions; support the state prosecution in court.

In the field of countering illegal arms trafficking, prosecutors work closely with the National Police. They oversee the legality of investigative actions, approve notices of suspicion, and ensure the rights of participants in criminal proceedings are respected, thereby enhancing the effectiveness of criminal investigations, particularly those involving organised criminal groups. An important area is the coordination of law enforcement activities, which is implemented through: holding joint meetings; creating working groups; coordinating joint action plans. After the pre-trial investigation is completed, prosecutors present the charges in court, prove the guilt of those involved in illegal handling of firearms, and ensure the proper use of evidence. The Prosecutor General also cooperates with international law enforcement organisations, in particular with Interpol, which facilitates the search for suspects, obtaining evidence from abroad, and preventing international channels of illegal supply of firearms through the exchange of information, the creation of joint investigative teams, and the use of advanced electronic systems.

The State Bureau of Investigation is a law enforcement agency that investigates serious crimes committed by law enforcement officers, military personnel, officials, and other employees. In the field of countering illegal arms trafficking, the State Bureau of Investigation focuses primarily on cases related to corruption, abuse of office, and the activities of organised criminal groups, including those that may be related to state structures. The Bureau's activities are based on the Law of Ukraine No. 794-VIII[4]. Interaction between the State Bureau of Investigation and the National Police is carried out in accordance with the legislation of Ukraine and is aimed at improving the effectiveness of detecting and investigating crimes related to illegal arms trafficking. Considering the provisions of the current legislation, the main areas of interaction between the State Bureau of Investigation and the National Police in detecting and investigating crimes related to illegal arms trafficking are summarised in Figure 4. The creation of joint investigation teams, workshops, exchange of analytical materials, and coordination of investigations are also important forms of interaction. This helps to quickly identify channels of unauthorised supply of firearms and effectively stop their activities. A separate area of cooperation is preventive work, which is aimed at preventing firearms from entering illegal circulation. In this context, the following activities are carried out: analysis of the causes of firearms leakage from storage facilities; identification of gaps in the control system; development of proposals for improving legislation. The National Police of Ukraine also cooperates with the National Guard of Ukraine and the AFU in the field of preventing illegal arms trafficking organised by criminal groups. Such cooperation

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18#Text.
[3] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17#Text.
[4] Law of Ukraine No. 794-VIII "On the State Bureau of Investigation". (2015, November). Retrieved from https://zakon.rada.gov.ua/laws/show/794-19#Text.

is based on the Constitution of Ukraine[1] and the Law of Ukraine No. 580-VIII[2], Law of Ukraine No. 876-VII[3], and Law of Ukraine No. 1934-XII[4], which determine the powers of each body and the mechanisms of their interaction. The analysis of the powers and practical activities of the relevant entities allows systematising the main areas of their participation in countering illegal arms trafficking, which is shown in Table 1.

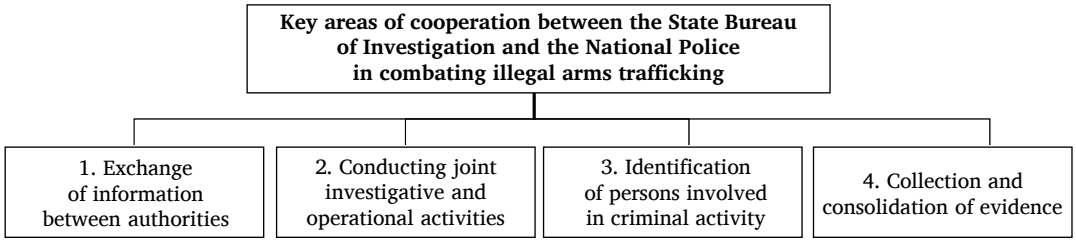


Figure 4. Forms of cooperation between the State Bureau of Investigation and the National Police in the field of countering illegal arms trafficking
Source: developed by the author based on A.M. Babenko *et al.* (2023)

Table 1. Areas of participation of bodies in countering illegal arms trafficking

Organisation	Key areas of participation
National Guard of Ukraine (NGU)	▪ participation in special operations to detain armed criminals; ▪ patrolling territories and blocking areas; ▪ forceful support for law enforcement activities; ▪ exchange of information on illicit trafficking, possession, and movement of firearms
Joint activities of the National Police and NGU	▪ planning and coordinating operations through headquarters; ▪ coordination of tactical actions for rapid response; ▪ increased interaction under martial law due to increased risks of illegal arms trafficking
Armed Forces of Ukraine	▪ detection of firearms supply channels; ▪ countering sabotage groups; ▪ ensuring security in dangerous regions, especially under martial law

Source: developed by the author based on the Law of Ukraine No. 876-VII5, Order of the Ministry of Internal Affairs of Ukraine No.773[6], Law of Ukraine No. 389-VIII[7]

The system of combating illegal arms trafficking in Ukraine is complex and includes many bodies, in particular, the National Police, the SSU, the SBGS, and the Prosecutor's Office. Its effectiveness depends on how well these bodies coordinate their actions, but in practice such interaction often works with difficulties (Babenko *et al.*, 2023). First of all, there is poor coordination between departments: sometimes bodies duplicate work or, conversely, do not cover individual areas. Because of this, important information is lost, and the investigation of crimes committed by organised groups slows down and becomes more complex. Another problem is the imperfect exchange of information. Although there are formal mechanisms, data is not always transmitted quickly, and the systems of different organs are poorly connected to each other. This is especially difficult in cases where criminals act covertly and have international connections. The legislative and organisational regulation of interaction remains insufficiently clear. It is not always evident who exactly is responsible for what during joint operations. This can cause delays or disputes between bodies (Buhaichuk, 2024). Problems also arise from the lack of unified leadership, insufficient planning, and inconsistent actions of various services during joint operations. In

[1] Constitution of Ukraine. (1996, June). Retrieved from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text.
[2] Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19#Text.
[3] Law of Ukraine No. 876-VII "On the National Guard of Ukraine". (2014, March). Retrieved from https://zakon.rada.gov.ua/laws/show/876-18#Text.
[4] Law of Ukraine No. 1934-XII "On the Armed Forces of Ukraine". (1991, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1934-12#Text.
[5] Law of Ukraine No. 876-VII "On the National Guard of Ukraine". (2014, March). Retrieved from https://zakon.rada.gov.ua/laws/show/876-18#Text.
[6] Order of the Ministry of Internal Affairs of Ukraine No. 773 "On Approval of the Procedure for Organizing Interaction Between the National Guard of Ukraine and the National Police of Ukraine During Ensuring (Protecting) Public Safety and Order". (2016, August). Retrieved from https://zakon.rada.gov.ua/laws/show/z1223-16.
[7] Law of Ukraine No. 389-VIII "On the Legal Regime of Martial Law". (2015, May). Retrieved from https://zakon.rada.gov.ua/laws/show/389-19#Text.

addition, individual units do not have sufficient technical support, analytical capabilities, and an adequate level of training of employees, which negatively affects the effectiveness of investigating complex schemes of illegal arms trafficking, especially those of an international nature.

The analysis showed that the effectiveness of countering illegal arms trafficking depends on the coordination of actions of the National Police and other actors in the security sector. The main challenges remain lack of coordination, untimely exchange of information, unclear distribution of tasks and responsibilities, insufficient joint planning, and uneven resource provision. This makes it difficult to identify, document, and investigate the activities of organised criminal groups, especially with the use of digital channels and international connections. The results of the study identified areas for improving interdepartmental interaction: clearer definition of powers, and procedures for joint actions, integration of information systems, and ensuring rapid data exchange. It is also important to increase the use of digital technologies, analytical platforms, and shared databases to identify links between participants in criminal schemes, routes of movement of firearms, and new channels of their illegal supply.

Foreign experience shows that the most effective way to prevent illegal arms trafficking is when different services work together and exchange information. In the EU countries, Europol plays an important role in this, helping the police investigate crimes, find criminal groups and coordinate their elimination. In Europe, joint police operations are often carried out in several countries at once. During such operations, the services exchange information in real time and together block the channels of arms smuggling across borders. This helps to quickly expose criminal networks operating in multiple states (Europol, 2020). An important role is also played by Interpol (n.d.), that maintains international databases on stolen or illegal firearms and helps to track their movement between countries. This allows quickly finding firearms and linking crimes committed in different countries. In addition, countries actively cooperate constantly, and not just during individual operations. They create joint communication channels, exchange experience, and conduct training for police officers. This makes the work more coordinated and increases the effectiveness of gun control. In the case of Benjamin James Kans, it was established that he sold firearms to foreign buyers via the darknet, using Bitcoin to pay for and conceal financial transactions. After his arrest, he began to cooperate with the investigation and provided information about his clients. This helped law enforcement officers to detain 15 people and seize 27 illegal firearms, grenades, and improvised explosive devices. Kans subsequently pleaded guilty to illegal international arms trafficking and money laundering. The court sentenced him to four years in prison, two years of probation and a fine of USD 3,000. The charge of illegal possession of a machine gun was dropped due to his cooperation with the investigation under a plea agreement (United Nations Office on Drugs and Crime, 2016).

Successful counteraction to illegal arms trafficking largely depends on the well-coordinated interaction of law enforcement agencies and the prosecutor's office. An example is a joint special operation of the SSU, the State Bureau of Investigation, and the National Police, which eliminated four channels of illegal sale of captured firearms, ammunition, and explosives in the Kyiv, Kharkiv, Dnipropetrovsk, and Donetsk oblasts. During the operation, 11 individuals involved in criminal activity were apprehended, including a military service member, a former chemistry student, an IT specialist, and two law enforcement officers. Law enforcement officers seized more than 45 kg of explosives, 15 Kalashnikov assault rifles, two grenade launchers, RGD-5 and F-1 hand grenades, and nearly 10,000 rounds of various calibres. In addition, an underground laboratory for the manufacture of improvised explosives in Kharkiv was liquidated and the operation of the scheme for selling explosives via the darknet was stopped. Procedural supervision was carried out by the Central District Prosecutor's Office of the City of Dnipro, the Kyiv Regional Prosecutor's Office, and the Kharkiv and Donetsk Specialised Prosecutor's Offices in the field of defence (My Kyiv Region, 2026). This case demonstrates that cooperation between law enforcement agencies and the prosecution service helps to more rapidly detect, document, and suppress the activities of criminal groups engaged in illicit arms trafficking, thereby contributing to the strengthening of state security.

A.M. Kulish & A.I. Shvets (2026) noted that the subject of control over the circulation of firearms under martial law is a system of public relations, which covers not only compliance with the requirements for the manufacture, storage, purchase, transportation, accounting, and use of firearms, but also the activities of authorised bodies aimed at ensuring the legality, integrity, and trust of society. Contemporary state control should be based not only on formal performance indicators, but also on a service approach, transparency, accountability of government bodies, and their ability to adapt to security challenges. According to I.V. Olishevskyi (2026), effective counteraction to illegal arms trafficking carried out by organised groups and criminal organisations is impossible in modern conditions without moving from a narrowly departmental approach to a comprehensive

model of interaction between the National Police and other subjects of the security and defence sector. Only through an established interagency exchange of information, coordination of operational activities, clear delineation of powers, and integration of common resources is it possible to identify and stop the channels of illegal arms trafficking controlled by organised criminal groups in a timely manner. In turn, V.T. Petryk (2026) suggested that this aspect requires considering this phenomenon not as a set of individual crimes, but as an integral multi-stage process involving the receipt, movement, sale, manufacture, and concealment of firearms. Improving the effectiveness of the activities of the National Police and other subjects of counteraction is possible through the use of a comprehensive operational and search characteristic of illegal arms trafficking, which allows determining the roles of participants in criminal schemes, methods of their activities, and ensuring proper coordination of joint measures to identify and stop such offences.

V.P. Ustymchuk (2026) considered that effective counteraction to illegal arms trafficking carried out by organised groups and criminal organisations is possible only if the National Police systematically interacts with other law enforcement agencies, which is based on clear legal regulation, consistency of procedural actions, and proper information exchange. The effectiveness of such interaction is determined not by the number of joint events, but by the quality of their organisation, timely use of analytical resources, coordination of interdepartmental actions, and ensuring proper documentation of criminal activities to obtain acceptable and sufficient evidence. S. Holovkin (2026) noted that under martial law, illegal arms trafficking organised by criminal groups has taken on new forms due to the active use of digital technologies, cryptocurrencies, and extensive supply channels, which significantly increases threats to national security. Effective investigation of such crimes requires a comprehensive application of secret investigative actions, collection of digital evidence, conducting specialised examinations, and close interdepartmental cooperation.

■ Conclusions

The problem of illegal arms trafficking, especially in the activities of organised criminal groups and criminal organisations, requires an integrated approach and consolidation of efforts by all actors in the security and law enforcement sector. The analysis of the powers and practices of the relevant bodies has shown that the effectiveness of preventing such offences is determined not only by the effectiveness of individual departments, but primarily by the level of their interaction. The National Police of Ukraine serves as the central link in the system for combating illegal arms trafficking; however, achieving proper results is possible only through effective cooperation with security, border, and customs control authorities, the prosecution service, the SBI, the National Guard, and the Armed Forces of Ukraine. Such interaction is particularly important in the context of martial law and the growing risks of the proliferation of illegal firearms. It was established that the main deterrent factors remain insufficient coordination between the subjects of counteraction, imperfect information exchange, certain gaps in legal regulation, and uneven level of resource provision. Elimination of these shortcomings is a necessary prerequisite for improving the effectiveness of law enforcement activities. The effectiveness of interaction between the National Police and other subjects of countering illegal arms trafficking largely depends on the functioning of a unified system of information exchange and operational coordination between all involved bodies. The use of innovative digital technologies, analytical platforms, and shared databases has contributed to the timely identification of channels for illegal arms shipments, documenting the activities of organised criminal groups, and improving the effectiveness of special operations. The generalisation of certain international practices allowed noting the expediency of developing interstate cooperation, in particular, through interaction with international law enforcement organisations, conducting joint operations, and exchanging operational information. The results obtained helped to identify the refinement of the regulatory framework for interagency cooperation, clarification of the division of powers among the actors involved in countering illicit trafficking, and the gradual strengthening of their staffing, technical, and organisational support as promising areas for further improvement. Promising areas are the analysis of interaction systems for the development of a single information space, the creation of permanent interdepartmental analytical, and coordination mechanisms, the active use of digital technologies, and the expansion of international cooperation. The implementation of these measures will help to increase the state's ability to identify, document, and suppress the activities of organised criminal groups involved in illegal arms trafficking.

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■ Conflict of Interest

None.

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Взаємодія Національної поліції з іншими суб'єктами протидії незаконному обігу зброї, що вчиняють організовані групи та злочинні організації

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■ **Анотація.** Актуальність дослідження зумовлена серйозною загрозою незаконного обігу зброї, здійснюваного організованими групами та злочинними організаціями, для громадської й національної безпеки в умовах воєнного стану та необхідністю скоординованої міжвідомчої та міжнародної протидії цьому явищу. Метою дослідження був аналіз особливостей взаємодії Національної поліції України з іншими суб'єктами боротьби з незаконним обігом зброї та визначення шляхів підвищення ефективності такої співпраці. Методологічну основу становили системний, формально-юридичний, узагальнювальний, логіко-аналітичний і системно-структурний методи. Дослідження надало можливість визначити місце Національної поліції України в системі суб'єктів перешкоджання незаконному обігу зброї та схарактеризувати основні форми співпраці з іншими органами. Встановлено, що ключове значення мають інформаційний обмін, координація спільних заходів, аналітична діяльність і міжнародне співробітництво. Виявлено проблеми, пов'язані з недостатньою координацією, недосконалістю інформаційного забезпечення, окремими прогалинами правового регулювання та ресурсними обмеженнями. Результати дослідження засвідчили, що протидія незаконному обігу зброї потребує не лише ефективної діяльності Національної поліції, а й належно організованої системи взаємодії з іншими компетентними органами. Важливим чинником підвищення результативності такої співпраці стало створення узгодженого механізму обміну інформацією, оперативного реагування та координації дій між усіма учасниками протидії. Узагальнення окремих міжнародних практик свідчить про доцільність подальшого розвитку міжнародного партнерства, зокрема через спільні операції, обмін інформацією та співпрацю з правоохоронними структурами інших країн. Практична значущість результатів полягає в можливості їх використання для вдосконалення законодавства, організації взаємодії правоохоронних органів і підвищення ефективності перешкоджання незаконному обігу зброї

■ **Ключові слова:** міжвідомча взаємодія; координація діяльності; правоохоронна діяльність; інформаційно-аналітичне забезпечення; кримінальне провадження; воєнний стан; громадська безпека

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