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DOI <https://doi.org/10.32849/2663-5313/2023.5.17>**Yaroslav Fedorchuk,**

Postgraduate Student at the Department of Law Enforcement and Anti-Corruption Activities, PJSC “HEI ‘Interregional Academy of Personnel Management’”, 2, Frometivska Street, Kyiv, Ukraine, postal code 03039, [yaroslav\\_fedorchuk@ukr.net](mailto:yaroslav_fedorchuk@ukr.net)

**ORCID:** [orcid.org/0000-0002-4699-6133](https://orcid.org/0000-0002-4699-6133)

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## ALL-SOCIAL MEASURES TO PREVENT CRIMINAL OFFENCES COMMITTED IN THE DEFENCE INDUSTRY OF UKRAINE

**Abstract. Purpose.** The purpose of the article is to formulate all-social measures to prevent criminal offences committed in the defence industry of Ukraine. **Results.** The article formulates, with due regard for the strategic goals of national security and specific features of the functioning of the military-industrial complex of Ukraine, promising general social measures for the prevention of criminal offences, which requires a different regulatory approach through recognition of the problem of criminal offences at the level of a destructive phenomenon among the current and predictable factors affecting its development, especially under martial law; formulation and implementation of algorithmic strategic tasks of criminological policy under martial law at the operational, tactical and strategic levels. It is established that the main areas of development of personnel policy in the defence industry of Ukraine are: the personnel management system (implementation of a unified personnel policy, making rational management decisions on determining the needs for personnel resources in the defence industry); personnel training (application of modern HR management approaches at all stages of professional development, from selection and training to dismissal); social and humanitarian support for personnel. The author emphasises that the effective fight against corruption in the defence industry of Ukraine, in addition to political will, requires legislative (a set of legal provisions regulating the mechanisms of corruption prevention, as well as liability for corruption offences) and executive support (formation of an effective system of criminal justice bodies, proper coordination of the formation and implementation of anti-corruption policy, implementation of preventive measures to prevent corruption and overcome it). Considering these circumstances, it is proposed to introduce a number of amendments and additions to the current legislation. **Conclusions.** The author concludes that an important task in the field of law-making is to create a new paradigm of legislation aimed at improving the functioning of the defence industry, and to form and develop criminological policy in this field.

**Key words:** defence industry, strategy, law, criminal offence, programme, concept, prevention.

### 1. Introduction

The Joint Stock Company “Ukrainian Defence Industry” was established on the basis of the State Concern “Ukroboronprom”, the latter’s activities were terminated as a result of reorganisation (2023). Moreover, in accordance with Part 1 of Article 12 of the Law of Ukraine “On National Security of Ukraine”, the defence industry is part of the security and defence sector of Ukraine, whose main task is to provide the security and defence forces with new and modernised weapons, military and special equipment (Law of Ukraine “On National Security of Ukraine”, 2018).

Nowadays, the terrorism of Ukraine’s historical enemy leads to a constant increase in

the military needs of the state, which the domestic defence industry, due to the fact that the phenomenon of criminal reality has emerged, is not able to properly meet. Along with the purely corruption-related factors that intensified after the revival of the defence industry (2014–2015), the situation was further complicated by a surge in misappropriation, embezzlement or seizure of property through abuse of office, collaboration, espionage and other subversive and reconnaissance activities in 2022–2023, both in Ukraine and at defence industry facilities.

The task of criminologists is to provide the political system and society in general with an effective strategy for influencing crime, a strategy that would allow for the most effi-

cient allocation of resources in countering such negative social manifestations. The goal is, first of all, to prevent mass violations of criminal law by influencing the processes of determination and causation of crime, and in case of violation, to apply coercive measures to the perpetrators in order to ensure their abandonment of criminal behaviour (Iepryntsev, 2023, p. 210).

## 2. General approaches to defining crime prevention and features of crime prevention

At present, the prevention of criminal offences is a range of very different in nature and objectives, but organically interrelated social measures, given that the Constitution of Ukraine entrusts the state with the task of ensuring the security of society, proper law and order, guaranteed protection of the rights and interests of citizens, state organisations and institutions, public formations, and all private structures (Constitution of Ukraine, 1996).

Obviously, the problem of crime prevention occupies a special place in the establishment of a legal state, which cannot be created without ensuring proactive efforts in this direction and achieving a slowdown in the growth of crime based on the priorities identified, gradual increase in efforts, improvement of legislation, organisation of means and methods of prevention, detection and investigation of criminal offences (Holovkin, 2011, p. 293).

O.M. Dzhuzha, P.P. Mykhailenko and O. H. Kulyk define crime prevention as a special type of social management designed to ensure the safety of protected values and consists in the development and implementation of special measures to identify and eliminate the determinants of crime, as well as to exert a preventive influence on persons prone to unlawful behaviour (Dzhuzha, Mykhailenko, Kulyk, 2011, p. 140).

Prevention of criminal offences in the defence industry undoubtedly has a complex and specific structure, which covers measures of various nature and content. The diverse nature of the relevant measures necessitates their classification, which, in turn, allows for the correct selection of methods, techniques, methods, means specific to each level, as well as the identification of entities responsible for their implementation.

I. H. Bohatyrov (2018) and A. M. Babenko (2014) propose to define general social prevention as a social reaction of the state and society to crime, the preventive potential of which involves counteracting negative phenomena and processes that contribute to crime and stimulate law-abiding behaviour of the country's population. General social prevention includes a set of political, socio-economic, cultural and educational measures.

According to V.V. Holina, the main goal of this preventive trend is to overcome or limit criminogenically dangerous contradictions in society, gradually eradicate negative phenomena created by political, economic, ideological and other factors of criminal potential in society (economic and political crises, property stratification of the population, unemployment, delayed wages, decline in morality, prostitution, drug addiction, alcoholism, homelessness, etc.) (Holina, 2011, p. 19). Based on these scientific approaches, V. V. Vasylevych reasonably concluded that general social crime prevention is a positive effect of a well-thought-out social policy, which is implemented not only and not so much for the purpose of direct crime prevention, but is aimed primarily at solving the general economic and social tasks of the state (Dzhuzha, Vasylevych, Hida, 2011, p. 20).

Therefore, V.P. Khomenko also argues that general social prevention is associated with virtually all socio-economic transformations in our country at the present stage of development. Reform of the economic mechanism, formation of market relations as the basis for an efficient economy, ensuring social and legal protection are prerequisites for the elimination, limitation, neutralisation of criminogenic factors that serve as the basis for committing criminal offences (Khomenko, 2017). We should also agree with O.M. Lytvynov on the understanding of general social (state) measures as a set of socio-economic, legal, ideological, organisational, managerial, cultural and educational measures aimed at further development and improvement of social relations and elimination or neutralisation of the determinants of crime (Lytvynov, 2008, p. 114).

The objectively existing feature of security is its direct dependence on the totality of risks and criminogenic threats that cause danger (Nikitin, 2009, p. 153). A.O. Kaliaiev accurately emphasises that public policy on defence industry development should be based on the priority of creating a modern regulatory framework that could fully regulate its development. In addition, the need for a set of reforms within its management system is determined by the fact that the current level of strategic management is insufficient, and there is a need for a more rational combination of market mechanisms and state regulation. This implies the use of economic methods and the application of legal and administrative mechanisms. In addition, restructuring within the defence industry should also address certain needs of national security and defence, the existing economic situation of defence enterprises and organisations and the main conditions that facilitate their functioning, as well as the economic capabilities of the state (Kaliaiev, 2007, p. 173).

### 3. Legal and regulatory framework for the prevention of criminal offences committed in the defence industry of Ukraine

V. Moiseenko argues that the main efforts of the legislator should be focused on creating appropriate “rules” under which economic dividends from legal economic activity will exceed the benefits of going “underground”. In other words, the emphasis in state regulation of economic relations should shift from repressive influence on violators of economic legislation to preventive influence (Moiseenko, 2021).

It should be reminded that on 23 March 2000, the Law of Ukraine “On state forecasting and development of economic and social development programmes of Ukraine” (2000) was adopted. The Law established a general procedure for the development, approval and implementation of forecasting and programme documents for economic and social development, as well as the rights and responsibilities of participants in state forecasting. However, this law did not directly regulate the development, approval and implementation of state targeted crime prevention programmes. Therefore, the third programme, entitled “Comprehensive Crime Prevention Programme for 2001–2005”, was approved by a Presidential Decree. However, on 18 March 2004, the Law of Ukraine “On State Targeted Programmes” (2004) was adopted, which sets out the basic principles for the development, approval and implementation of state targeted programmes.

In accordance with the provisions of this Law, the fourth in a row, but structurally and substantively different from the previous ones, Comprehensive Programme for the Prevention of Offences for 2007–2009 was developed and approved, which provided for unclear “cascading” control over the implementation of this programme. Later, the Concept of the State Programme for the Prevention of Offences for the period up to 2015 was approved. Comparing the concepts of the previous Comprehensive Programmes for the Prevention of Offences (for example, for 2007–2009 and 2011–2015) it is evident that their policy prescriptions are very similar and sometimes repeat each other. And this is no accident, as the problems remain unresolved.

The current challenges and threats faced by society and the defence industry highlight the need to strengthen measures to prevent and combat corruption, coordinated and systematic anti-corruption activities in all areas, and consistent implementation of the principle of integrity for employees of all structures. O. Shostko emphasises that prevention measures should be a priority, but given the new challenges associated with establishing the facts

of multi-billion-dollar embezzlement of the state budget, the priority is to implement the principle of inevitability of punishment for all persons guilty of corruption offences and return their illegally obtained income to the Ukrainian state (Shostko, 2014, p. 71). In this context, we should focus on the adoption of the Law of Ukraine on regulating lobbying activities as part of the de-oligarchisation action plan, which should meet European standards and be the result of an open and inclusive discussion with a wide range of stakeholders (including civil society organisations).

In the context of the fact that building integrity, upholding the rule of law and good governance are essential elements for the effective prevention and detection of corruption, we recommend further consideration of the proposals for amendments to:

*The Law of Ukraine “On Prevention of Corruption”* in relation to:

- Supplementing the Law with a new Article 19-1, which specifies the public authorities where integrity codes should be implemented, their main provisions, grounds, procedure and consequences of conducting an integrity audit, etc;

- Supplementing the content of the Law with a new Article 53-10 “Monetary Incentives for Whistleblowers”, as follows: “A whistleblower who has reported a corruption offence and whose information has been confirmed in the course of the inspection is entitled to a monetary incentive”;

*The Law of Ukraine “On Defence Procurement”* in terms of:

- Reducing the level of corruption risks and promoting the elimination of the potential corruption in defence procurement, namely, *supplementing Article 22, part 1, para. 2 as follows: “After the conclusion of a defence procurement contract, the state customer shall, within a period not exceeding three days, send information to the authorised body for combating corruption and other criminal offences”;*

*The Criminal Code of Ukraine* with regard to:

- Supplementing Article 191, part 2, with the words “for oneself or another individual or legal entity”, in order to bring the law and court practice under Articles 191 and 364 of the Criminal Code of Ukraine in line with Articles 17 and 19 of the UN Convention against Corruption, and to stop qualifying the misappropriation of another's property in favour of third parties as abuse of office;

*To the Cabinet of Ministers of Ukraine:*

- Develop and implement a single unified system for collecting, summarising and visualising statistical information on the results of the activities of specially authorised preven-

tion agencies and other state bodies in detecting, investigating and reviewing cases (proceedings) initiated on the basis of criminal offences in the defence industry;

– Consider the option of using polygraphs in the defence industry, with the following areas of use being provided for:

1) testing persons during internal investigations into corruption or corruption-related offences;

2) when deciding on the appointment of certain categories of employees (managers, deputy managers);

3) in the course of consideration of applications/reports on corruption or corruption-related offences;

– Instruct the relevant state authorities to collect and compile information on the land used by the defence industry, ensure the inventory of such land plots, especially those whose registration procedure is still incomplete and whose information is not entered in the State Land Cadastre;

*The National Agency for the Prevention of Corruption:*

– Develop and implement a procedure for monitoring compliance by persons who have ceased activities related to the performance of state and local government functions with the restrictions on employment and business transactions with private law entities or individual entrepreneurs during the year;

– Determine criteria for improving the mechanism for internal control and prevention of corruption in law enforcement bodies and the prosecutor's office;

– Develop and approve unified criteria and standards of integrity for vetting employees of all law enforcement bodies and prosecutor's offices, as well as for their ongoing monitoring;

– Continue measures to monitor the implementation of the State Anti-Corruption Programme for 2023–2025 with the involvement of relevant civil society institutions, in particular through a special interactive information system that will allow anyone to monitor and coordinate the implementation of this Programme online.

Therefore, the degree of guarantee of criminological security in the defence industry is determined, first, by the effectiveness of legislation, and second, by the quality of its implementation. It should be emphasised once again that prevention of such criminal offences is one of the tasks of public policy on strengthening the country's defence capability, and therefore raising the level of prevention is a national priority.

Considering the strategic goals of national security and the specific features of the defence

industry, the following are prioritised as general social measures:

– A project to create enterprises, institutions and organisations engaged in the production of combat aircraft (helicopters), air/ballistic missile and aerospace defence systems, high-precision hypersonic aircraft, as well as radio components and microelectronics;

– Modernisation of premises, upgrading of technologies, creation of appropriate achievements of the fifth and sixth technological modes, ensuring compliance of the line of systems, subsystems of weapons and military equipment produced by enterprises and achieving a superior share of the domestic order portfolio over the foreign one;

– Restoration of the defence industry enterprises that were lost as a result of hostilities, which produced weapons, military and special equipment and/or participated in cooperative relations with other enterprises;

– Improvement of the parameters of economic activity of defence enterprises (research, production, labour productivity, personnel, etc.);

– Organisation of defence industry activities in accordance with the principles defined in ISO standards, which are the most adapted mechanisms for managing material production in market conditions in terms of quality;

– Planning, control of and support for business activities using global practices, including continuous operational improvement technologies, product life cycle information support systems, lean manufacturing and others;

– Improving vocational training, recruitment and provision of skilled labour.

To sum up, we consider it appropriate to improve *the Strategy for the Development of the Defence-Industrial Complex of Ukraine* (Decree of the President of Ukraine On the decision of the National Security and Defence Council of Ukraine dated June 18, 2021 “On the Strategy for the Development of the Defence-Industrial Complex of Ukraine”, 2021) by enshrining: a) recognition of the problem of criminal offences at the level of a destructive phenomenon among the current and projected factors affecting the development of the defence industry; b) tasks of criminological policy; c) step-by-step algorithms for performing the tasks at three classification levels:

I. *Operational:*

– Adopt *the Concept of the State Programme for Combating Crime in the Defence and Industrial Complex* and implement it at the law enforcement, general social, specialised criminological, organisational and managerial levels;

– Establish a Central Coordination Centre for forecasting, collecting information on legislative and other measures related to the activities of the defence industry, analyse their effectiveness and eliminate shortcomings;

– Introduce a unified register of records and statistical reporting on criminal offences committed in the defence industry;

### II. Tactical:

– Ensure integration of criminological policy in the defence and security sector in the process of its interaction with criminal law, criminal procedure and criminal executive policies;

– Improve the mechanism of bringing to criminal responsibility and preventing recurrence in the future;

– Introduce scientific achievements and best domestic and foreign experience into the theory and practice of criminology;

– Improve scientific, educational and methodological support for the activities of bodies and institutions of the criminal justice system;

### III. Strategic:

– Streamline the political system of society, elect and appoint an independent and functional supervisory board on a transparent basis, neutralise any harmful government influence on decision-making by defence officials, appoint directors of state-owned enterprises/joint stock companies on a competitive basis, and regulate the system of state procurement and taxation;

– Ensure at the state level the effective activity of scientific and educational institutions to train specialists in the field of criminological practice to address the problems of neutralising criminogenic factors in the defence industry;

– Consolidate the relevant provisions of a huge array of sectoral regulations in the defence industry, as well as eliminate fragmentation of legal regulation, inconsistency of regulatory material and logical and legal errors in the content of legislative provisions;

– Introduce mandatory criminological expertise of legal regulations;

– Clarity, consistency and intensification of anti-corruption policy, identification and elimination of motivation for officials to commit theft;

– Develop and implement a multisectoral system of public control over the activities of executive authorities in the field of security and defence;

– Comprehensive state response to the circumstances and factors contributing to crime.

### 4. Conclusions

Thus, an important task in the field of law-making is to create a new paradigm of legislation aimed at improving the functioning of the defence industry, and to form and develop criminological policy in this field.

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### Ярослав Федорчук,

здобувач кафедри правоохоронної та антикорупційної діяльності, ПрАТ «ВНЗ «Міжрегіональна Академія управління персоналом», вулиця Фрометівська, 2, Київ, Україна, індекс 03039, [yaroslav\\_fedorchuk@ukr.net](mailto:yaroslav_fedorchuk@ukr.net)

ORCID: [orcid.org/0000-0002-4699-6133](https://orcid.org/0000-0002-4699-6133)

## ЗАГАЛЬНОСОЦІАЛЬНІ ЗАХОДИ ЗАПОБІГАННЯ КРИМІНАЛЬНИМ ПРАВОПОРУШЕННЯМ, ЩО ВЧИНЯЮТЬСЯ В ОБОРОННО-ПРОМИСЛОВОМУ КОМПЛЕКСІ УКРАЇНИ

**Анотація. Мета.** Метою статті є сформулювати загальносоціальні заходи запобігання кримінальним правопорушенням, що вчиняються в оборонно-промисловому комплексі України. *Результати.* У статті, з урахуванням стратегічних цілей національної безпеки та особливостей функціонування оборонно-промислового комплексу України, сформовано перспективні загальносоціальні заходи запобігання кримінальним правопорушенням, що вимагає іншого нормативного підходу через визнання проблеми кримінальних правопорушень на рівні деструктивного феномену серед умов поточних та прогнозованих чинників, які впливають на його розвиток, особливо в умовах воєнного стану; постановку та виконання алгоритмізованих стратегічних задач кримінологічної політики в умовах воєнного стану на оперативному, тактичному та стратегічному рівнях. Встановлено, що основними напрямками розвитку кадрової політики в оборонно-промисловому комплексі України є: система кадрового менеджменту (реалізація єдиної кадрової політики, прийняття раціональних управлінських рішень щодо визначення потреб у кадрових ресурсах оборонної промисловості); підготовка кадрів (застосування сучасних підходів кадрового менеджменту на всіх етапах професійного росту, починаючи від відбору, підготовки і, завершуючи звільненням); соціальне та гуманітарне забезпечення персоналу. Акцентовано увагу на тому, що ефективна боротьба проти корупції в оборонно-промисловому комплексі України, крім наявності політичної волі, вимагає законодавчого (комплекс нормативно-правових приписів, що регулюють механізми запобігання корупції, а також відповідальність за вчинення корупційних порушень) та виконавчого забезпечення (формування дієвої системи органів кримінальної юстиції, належне координування формування та реалізація антикорупційної політики, здійснення превентивних заходів запобігання корупції, а також її подолання). З огляду на такі обставини пропонується внести низку змін та доповнень до чинного законодавства. **Висновки.** Зроблено висновок, що важливим завданням у сфері законотворчої діяльності залишається робота зі створення нової парадигми законодавства, спрямованого на покращення функціонування оборонно-промислового комплексу, формування та розвиток кримінологічної політики в цій сфері.

**Ключові слова:** оборонно-промисловий комплекс, стратегія, закон, кримінальне правопорушення, програма, концепція, запобігання.

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