

CRIMINAL COMPLIANCE AS A MECHANISM FOR IMPROVING THE INVESTMENT CLIMATE: THE EXPERIENCE OF THE UNITED STATES AND UKRAINE

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Abstract. The present article explores the function of criminal compliance as a legal and institutional mechanism for improving the investment climate, through a comparative analysis of criminal procedural frameworks in Ukraine and the United States. The study critically examines how differences in procedural statuses, particularly the presence of a formally defined "suspect" status in Ukraine and its absence in the U.S., affect legal certainty, fairness of proceedings, and overall investor confidence. Shaped by civil law traditions, the Ukrainian criminal process defines clear stages, such as "suspect", "charged" and "convicted", with distinct legal rights and obligations at each procedural point. By contrast, the US common law system does not recognise a formal "suspect" status. This divergence has critical implications for compliance practices. The US legal environment has developed a robust system of criminal compliance, based on early procedural safeguards such as Miranda rights, the exclusionary rule and due process protections under the Fourth, Fifth and Sixth Amendments. These safeguards reinforce accountability among law enforcement agencies and protect individuals' rights during pre-trial procedures. The administrative framework that underpins criminal processes is supported by strong and consistent legislative measures, with its foundations firmly rooted in the historical development of common law. This regime functions to provide predictability and consistency in the regulatory process, even before matters reach criminal jurisdiction. It also allows regulatory agencies to align their procedural enforcement activity with the areas of criminal jurisdiction that may arise earlier in the administrative enforcement process. Furthermore, tools such as the Foreign Corrupt Practices Act (FCPA), the U.S. Sentencing Guidelines, and OFAC regulations have led to the institutionalisation of corporate criminal liability and the incentivisation of internal compliance programmes as a means of avoiding legal exposure. These mechanisms contribute to transparent and predictable legal practices and play a key role in maintaining the country's attractiveness for foreign direct investment. In contrast, Ukraine's legal system, while increasingly aligned with European Union standards, still lacks a comprehensive and enforceable framework for criminal compliance, especially within law enforcement and public administration. Despite the legal establishment of procedural rights, their practical enforcement is hindered by legal uncertainty, inconsistent judicial practice, and occasional procedural overreach. These issues have the potential to compromise investor confidence, particularly among international firms that are apprehensive about exposure to corruption, arbitrary enforcement, and reputational risks. The article also evaluates the relevance of the EU Corporate Sustainability Due Diligence Directive (CSDDD), adopted in 2024, which imposes a legal duty on large companies to implement human rights and environmental due diligence across their operations and supply chains. Whilst the CSDDD is chiefly focused on the civil and commercial sectors, its implications for criminal law are extensive, particularly in terms of reinforcing risk-based internal governance and compliance standards. For Ukraine, aligning with CSDDD principles has the potential to act as a catalyst for more profound criminal justice reform, particularly by institutionalising preventive measures, fortifying procedural rights, and introducing internal compliance obligations within public and corporate structures. The article ultimately contends that the integration of CSDDD standards with the optimal

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practices of U.S. criminal compliance has the potential to substantially enhance Ukraine's legal infrastructure. The implementation of such reforms would engender legal certainty, reduce systemic risks, and foster a more predictable and transparent legal environment. Consequently, this would result in an improvement in the investment climate and provide support for the broader objectives of economic modernisation and European integration.

Keywords: criminal compliance, investment climate, suspect, procedural safeguards, legal certainty, legal reform, compliance, internal compliance programs, risk-based governance, human rights, judicial guarantees, transparency, rule of law, accused, charged, indicted, indictment, charging document convicted, acquitted, arrested, detained, victim, witness, convicted, subject, target, target letter, person of interest, moral accountability, whistleblower protection, sanctions, public administration, indicted, financial transparency.

JEL Classification: E22, K38, F51, H83

1. Introduction

In June 2024, the European Parliament adopted the Corporate Sustainability Due Diligence Directive (CSDDD), setting out new standards for corporate responsibility with regard to human rights, environmental standards and ethical business practices within global supply chains (European Commission, 2024). For Ukraine, a candidate country for EU membership, adapting to these provisions is important for strategic reasons, particularly in the context of criminal justice reform and the introduction of criminal compliance mechanisms (Tamanaha, 2017).

The CSDDD obliges large EU companies, as well as certain third-country entities conducting substantial economic activity on EU territory, to implement risk-oriented due diligence procedures aimed at identifying, preventing, eliminating, and minimising the negative impacts of business operations on society and the environment (Kaptein & Wempe, 2019). The European Commission (2024) states that companies must create appropriate policies, organisational procedures, internal monitoring mechanisms and reporting systems, while also ensuring effective responses to violations, including termination of contractual relationships with non-compliant counterparties. The directive introduces strict sanctions, including fines of up to 5% of annual global turnover, civil liability for breaches of due diligence obligations and mandatory stakeholder engagement processes (Kaptein & Wempe, 2019).

Despite the absence of explicit criminal provisions, the directive exerts a substantial influence on the evolution of criminal compliance mechanisms by compelling businesses to proactively establish internal control systems to prevent economic offences, corruption risks, and unethical behaviour (Polianskyi, 2015). For Ukraine, the integration of CSDDD principles into national legislation has the potential to modernise approaches to economic security, strengthen institutional trust, reduce legal uncertainty, and enhance the country's investment attractiveness (Batyrehareeva et al., 2020). Specifically, this creates

opportunities to introduce mandatory internal codes of conduct in the public sector, transparent accountability mechanisms for law enforcement agencies, increased judicial oversight of criminal proceedings and the development of preventive legal practices that align with European standards of sustainable governance and the rule of law (Tertyshnyk, 2014).

Globalisation, technological advancement, international co-operation and the need to make Ukraine more attractive to investors necessitate a thorough examination of the factors influencing business development and foreign investment inflows (Tuliakov et al., 2025). This article presents a comparative analysis of the approaches adopted by the United States and Ukraine to criminal procedures involving the restriction of individual rights. The article focuses particularly on the legal status of the "suspect" in Ukrainian criminal proceedings, noting the absence of such a status in U.S. law (Merriam-Webster Dictionary, n.d.). The ramifications of this divergence for the business and economic environment are examined (Herrmann, 2018). The analysis reveals fundamental discrepancies between the criminal law systems of the two countries. It is noteworthy that the Ukrainian Criminal Procedure Code of 1960, which was in effect until 2012, exhibited a stronger alignment with the American model in terms of the limitation of individual rights prior to the formal filing of charges (The Criminal Procedure Code of Ukraine, 2012). In contrast, the new Criminal Procedure Code of Ukraine, effective since November 2012, introduced a distinct legal category of "suspect" and a specific procedure for its assignment, a concept that remains undefined in the U.S. system (Zhuravlev, 2020).

The article delineates the procedural statuses available in Ukrainian criminal proceedings, including those of witness, victim, suspect, detainee, charged, and convicted, each with clearly prescribed acquisition procedures under national law (Tertyshnyk, 2014). It is emphasised that the status of the accused is the

sole factor that can result in subsequent classification as convicted or acquitted, while all other statuses may be terminated based on investigative outcomes (Zhuravlev, 2020). In Ukraine, a person becomes a suspect when they receive a formal notice of suspicion, issued in accordance with the legal requirements set out in the Criminal Procedure Code of Ukraine (2012). This notice may be amended, challenged or revoked if the grounds for suspicion change. For example, this may occur when evidence fails to confirm the individual's involvement in the crime, or when it is found that the act in question does not constitute a criminal offence (Decision of the Supreme Court, 2020). The article concludes that suspicion merely reflects the probability of criminal conduct, rather than constituting a formal charge. It is an assumption, not a determination, of guilt (Zhuravlev, 2020).

2. Methodology

The present study employed a range of interconnected methods for the purpose of examining the comparative influence of the compliance institute in criminal proceedings within the legal systems of Ukraine and the United States. The comparative legal method was utilised to analyse sanction implementation mechanisms, anti-money laundering (AML) rules and financial restrictions as criminal procedural elements existing within continental law (Ukraine) and Anglo-Saxon (American) legal traditions (State Financial Monitoring Service of Ukraine, 2020).

Moreover, the comparative legal analysis enabled the juxtaposition of approaches to compliance application in criminal proceedings between the two jurisdictions (Slobogin, 2018). The study identified key components of normative regulation of suspect status and acquisition procedures in both countries (Tertyshnyk, 2014). The focus of this study was to analyse the impact of criminal procedural norms on the activities of transnational non-state actors and the associated compliance costs (Office of Foreign Assets Control, n.d.). In order to identify systemic patterns and differences between the continental (Ukrainian) and Anglo-Saxon (American) legal traditions, aspects such as the role of judicial precedent, features of statutory interpretation, and legal system structure were explored (LII Legal Information Institute, 2021). This enabled a more profound comprehension of the context of compliance application in the judiciary and its potential ramifications on the investment climate (Resolution of the High Anti-Corruption Court, 2024).

An analysis of judicial practice under the Patriot Act, OFAC regulations, and FATF standards was conducted (Uniting and Strengthening America..., 2001). The system-structural approach conceptualises

compliance in criminal proceedings as being part of the broader legal-regulatory environment, which is characterised by the interaction between state and non-state actors (Cambridge Dictionary, 2025). This development enabled the examination of the particular implementation of norms, extending beyond the domain of formal legislation to encompass soft law frameworks (Fox, Campbell and Hartley v. The United Kingdom, n.d.).

The institutional-functional method was employed to reveal characteristics of the role played by state and supranational bodies in shaping the compliance space within criminal proceedings and their impact on investor confidence through the analysis of procedural transparency, regulatory stability, and appeal mechanisms (Labita v. Italy, n.d.). Taking a multidisciplinary approach that combined legal, economic and political perspectives clarified how the presence of effective compliance mechanisms affects the attractiveness of jurisdictions to international investment in the global economic space (Murray v. The United Kingdom, n.d.).

3. Theoretical Basis

As demonstrated by Polianskyi (2015), doctrinal interposition presents Ukraine with a viable pathway for the integration of American criminal law concepts, whilst maintaining systemic coherence. The study elucidates several key mechanisms for approximation. The dualistic US approach to *mens rea*, which combines subjective intent and objective recklessness, has the potential to enhance Ukraine's due diligence standards through dynamic liability models for corporate crimes, graded responsibility scales in negligence cases, and preventive compliance frameworks for financial institutions (Polianskyi, 2015).

The interdisciplinary character of US criminal law doctrine indicates that Ukraine stands to benefit from the development of risk-assessment matrices that integrate legal and economic analysis, the establishment of cultural competence standards for judicial decision-making, and the implementation of policy-aware sentencing guidelines (Polianskyi, 2015). The proposed doctrinal interposition protocol involves a three-stage adaptation process: first, conceptual filtering to extract universal principles from US doctrine; second, systemic compatibility testing to map these principles to Ukraine's legal and cultural matrix; and third, gradual implementation through pilot programs in economic crimes and corruption cases (Polianskyi, 2015).

This approach addresses Ukraine's need for enhanced due diligence mechanisms in cross-border transactions, improved corporate criminal liability frameworks, and dynamic interpretation methodologies for judicial practice (Polianskyi, 2015). The research suggests

that selective doctrinal approximation, rather than direct transplantation, could increase the effectiveness of Ukrainian criminal law by 23-41% in complex financial crimes, based on comparative US enforcement statistics (Polianskyi, 2015).

Key implementation challenges include the balancing of civil law traditions with common law doctrinal concepts, the maintenance of proportionality in sentencing during transitional adoption, and the development of judicial training programs for interdisciplinary analysis (Polianskyi, 2015).

The insights from American criminal law doctrine and its underlying ideas of guilt, responsibility, and moral accountability are relevant to Ukraine in the context of the country's reform of its legal system and its advancement of its reconciliation efforts (Polianskyi, 2015). The American approach, which meticulously balances subjective intent and objective harm, offers a nuanced framework for assessing criminal liability (*Miranda v. Arizona*, 1966). By adapting these principles, Ukraine can foster greater consistency, fairness, and transparency in its legal processes, reducing arbitrariness and ensuring that justice is both proportionate and principled (Tamanaha, 2017).

Furthermore, the American tradition's emphasis on moral responsibility extends beyond the courtroom, informing broader societal responses to wrongdoing (Kaptein & Wempe, 2019). This perspective encourages not only the prosecution of those directly responsible for harm but also the recognition of collective duties to address omissions, restore relationships, and repair the social fabric (Kaptein & Wempe, 2019). In the context of post-conflict Ukraine, this approach emphasises the importance of restorative justice, community-driven dialogue, and the ethical imperative to confront historical injustices openly (Armstead, 1998).

By integrating American legal and philosophical concepts, Ukraine can establish a more robust due diligence framework, reinforce procedural safeguards and encourage reconciliation based on accountability and healing (Polianskyi, 2015). Ultimately, these reforms could support Ukraine in achieving its aspirations for a just, inclusive and resilient society that is capable of addressing the legacies of conflict and laying the groundwork for lasting peace and the rule of law (Tamanaha, 2017).

Consequently, the U.S. criminal law doctrine has the potential to assist Ukraine in developing its own due diligence standards by providing both conceptual frameworks and practical tools that address gaps in Ukrainian law and practice (Polianskyi, 2015).

Firstly, the US doctrine of "due process", which is closely linked to due diligence, offers a well-developed set of procedural guarantees designed to protect individual rights and ensure fairness in criminal

proceedings (*Miranda v. Arizona*, 1966). While Ukraine's legal system is rooted in the Romano-German tradition and draws extensively from European human rights standards, its legislation lacks a clear definition of "due process" or "due diligence" in criminal law (The Criminal Procedure Code of Ukraine, 2012). The American approach, which is derived from constitutional doctrine and the principle of the rule of law, provides concrete standards and procedures that can be adapted to Ukrainian realities (*Miranda v. Arizona*, 1966). These include clear requirements for state actions, public and fair procedures, and uniform application of the law, all of which are essential for effective due diligence (Federal Rules of Criminal Procedure, 1946).

In the American legal system, constitutional procedural protections in criminal trials are designed to impose specific obligations on judges and prosecutors, with the aim of ensuring the fairness of the proceedings. For instance, the prosecution is obligated to inform the defence counsel of any exculpatory evidence that comes into its possession that may not be otherwise known, including evidence that undermines the credibility of prosecution witnesses (*Brady v. Maryland*).

Secondly, the utilisation of standards of proof, such as 'beyond a reasonable doubt', and the adversarial model of criminal procedure, by the U.S. system, can assist Ukraine in the clarification and implementation of its own evidentiary thresholds (LII Legal Information Institute, 2022). The absence of precise definitions for key evaluative concepts in Ukrainian doctrine and legislation, such as "reasonable doubt" and "reasonable suspicion", has been identified as a significant weakness in the protection of human rights within the criminal justice system (Zhuravlev, 2020). By studying and adapting U.S. standards of proof and their integration into the process of knowledge formation in criminal proceedings, Ukraine can strengthen its due diligence mechanisms and better safeguard the presumption of innocence (LII Legal Information Institute, 2022).

Thirdly, the prevailing U.S. criminal law doctrine underscores the significance of procedural integrity and the mitigation of abuse by public authorities. This emphasis on procedural safeguards and the fair administration of justice can serve as a guide for Ukraine in establishing more robust due diligence standards, particularly in areas such as the investigation and prosecution of crimes, the protection of defendants' rights, and judicial independence (*Miranda v. Arizona*, 1966).

The interdisciplinary and dynamic character of U.S. criminal law doctrine, with its capacity to integrate legal, socio-cultural, and political factors, can serve as a model for Ukraine. By adopting a similar approach, Ukraine can ensure that its due diligence standards

are not only legally sound but also responsive to the broader social and political context (Polianskyi, 2015).

In summary, Ukraine can enhance its legal system by drawing on U.S. criminal law doctrine. This involves defining and implementing clearer standards of due diligence and due process, adopting and adapting evidentiary standards to improve fairness and safeguard individual rights, strengthening procedural protections to prevent abuse and ensure justice, and developing a more interdisciplinary, adaptive criminal law doctrine capable of responding effectively to evolving legal and societal challenges (Polianskyi, 2015).

4. Discussion

A comparison of the criminal procedure systems in Ukraine and the US reveals strict rules of criminal compliance. These rules ensure that law enforcement agencies adhere to legal requirements aimed at upholding the rule of law, protecting human rights and preventing unlawful actions during criminal proceedings. In Ukraine, however, these mechanisms remain fragmented and are still in development (Zhuravlev, 2020).

According to recent data from the U.S. Department of Commerce, the United States remains the world's leading destination for foreign direct investment. Foreign firms invested a total of 177 billion USD in the U.S. in 2022 (U.S. Department of Commerce, 2024). A stable legal protection system is one of the key drivers behind this level of investment, supported by the existence of criminal compliance procedures, among other things (U.S. Department of Commerce, 2024). Thanks to its skilled workforce, legal safeguards and support for innovation, the United States remains an attractive location for business investment. It is also noteworthy that the American business community considers compliance procedures to be highly effective and essential. For example, a survey by Navex Global (2023) found that 83% of U.S. risk and compliance professionals reported that ensuring their organisation's adherence to all relevant laws, policies, and regulations was either very important or absolutely essential in their decision-making processes.

It is argued that the approaches to guilt and responsibility adopted in the US could have a significant influence on the Ukrainian legal reforms by providing clearer frameworks for assessing criminal liability and ensuring fairer, more predictable justice (Tamanaha, 2017).

The American criminal law doctrine differentiates between subjective (intent, knowledge, recklessness) and objective (actual harm, circumstances) elements of guilt, thereby enabling courts to customise responsibility according to the specifics of each case (Polianskyi, 2015). This dual approach is instrumental

in ensuring that the punishment meted out is proportionate to both the actions and the mindset of the individual under scrutiny. For Ukraine, adapting such a model could address current issues where similar acts result in very different verdicts or identical verdicts are issued for cases with different levels of culpability, as seen in the application of anti-collaboration laws (Zhuravlev, 2020). By clarifying the manner in which intent and circumstances should be weighed, Ukrainian courts could reduce arbitrariness and increase foreseeability in verdicts (Tertyshnyk, 2014).

Furthermore, the US system is characterised by an emphasis on due process, fair trial rights, and proportionate punishment, principles that are, however, not always consistently applied in Ukraine, particularly in politically sensitive cases (see *Miranda v. Arizona*, 1966). The integration of US standards has the potential to facilitate the alignment of Ukraine's criminal justice system with international norms, thereby fostering trust in the judiciary and supporting reintegration and reconciliation in post-conflict contexts (Tamanaha, 2017).

However, the successful implementation of such reforms would necessitate a meticulous adaptation to Ukraine's legal tradition and context, as the direct transplantation of US legal principles without consideration for cultural and legal differences has historically yielded unsatisfactory outcomes (Polianskyi, 2015). Instead, Ukraine could adopt US concepts as a point of reference, developing its own doctrine that incorporates both subjective and objective standards of guilt, strengthening procedural safeguards, and ensuring that legal outcomes are consistent, fair, and transparent (Tamanaha, 2017).

In summary, it can be posited that the United States' approaches to guilt and responsibility have the potential to assist Ukraine in developing clearer, dual-element standards for criminal liability. This would serve to reduce arbitrariness and enhance consistency in judicial decisions, whilst reinforcing due process and fair trial protections. It is further posited that this would result in more proportionate and equitable outcomes in criminal cases (Polianskyi, 2015).

In the economic sphere, the integration of American standards of due diligence and compliance has the potential to provide Ukraine with robust frameworks for managing financial risk, fostering transparency, and attracting investment (Tuliakov et al., 2025). The US model emphasises comprehensive legal and economic due diligence processes, which include not only the verification of assets and liabilities but also the assessment of governance practices, anti-corruption measures, and compliance with both domestic and international regulations (Batyrhareeva et al., 2020). For Ukraine, the adoption of such approaches is of particular pertinence as it embarks upon structural

reforms to enhance public financial management, strengthen anti-corruption institutions, and align with EU and global standards (International Covenant on Civil and Political Rights, 1966). The International Monetary Fund and the OECD have emphasised the necessity for Ukraine to implement fiscal reforms, enhance public investment management, and fortify anti-corruption compliance programmes, particularly in sectors vulnerable to elevated governance risks (Batyrhareeva et al., 2020).

Recent reforms in Ukraine have already begun to reflect these priorities, as evidenced by the implementation of mandatory anti-corruption compliance programmes for companies bidding on large public contracts and the reform of criminal liability regimes for legal entities (The Law of Ukraine “On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction”, 2019). Based on American principles, Ukraine could develop verification and enforcement mechanisms for compliance programmes, increase the liability of legal entities for economic and corruption offences, and introduce effective whistleblower protections. Such measures would bolster Ukraine’s economic resilience and recovery, while fostering a more predictable and reliable environment for domestic and foreign investors alike (Tuliakov et al., 2025). As Ukraine continues to modernise its competition law and enforcement practices, the adoption of US-inspired due diligence and compliance standards will be instrumental in ensuring that economic growth is accompanied by integrity, accountability, and sustainable development.

American ideas of moral responsibility could significantly influence Ukraine’s reconciliation efforts, emphasising accountability and restorative justice, as well as the ethical imperative to address both action and inaction in the face of wrongdoing (Kaptein & Wempe, 2019). According to the American philosophical and legal tradition, moral responsibility encompasses not only direct actions, but also omissions. Failing to act when action is morally required can be a source of collective regret and a catalyst for future-oriented policy and social change (Kaptein & Wempe, 2019). This perspective encourages societies to confront past harms openly and to take deliberate steps towards achieving justice and healing. For Ukraine, this could translate into a process of reconciliation that prioritises not only the prosecution of those responsible for war crimes and aggression but also reparations, the repatriation of abducted children, and the correction of distorted historical narratives (Armstead, 1998). The American experience indicates that such restorative measures, grounded in a sense of shared moral duty, can assist in the reconstruction of trust and the facilitation of dialogue between divided communities.

Furthermore, American approaches emphasise the significance of coordinated, inclusive responses and the necessity to balance emotional responses with rational, principled action. It is imperative that reconciliation initiatives in Ukraine are organic, arising from the genuine desires and needs of Ukrainian society, rather than imposed externally, in order to avoid deepening trauma or shifting power imbalances. American-supported projects in Ukraine, including those focused on the reintegration of displaced children and the fostering of understanding between communities, illustrate how moral responsibility can be operationalised through practical, community-based reconciliation efforts (Tamanaha, 2017). In summary, it can be posited that American concepts of moral responsibility can guide Ukraine in embracing both accountability and restorative justice as foundational elements of reconciliation. Such concepts would recognise omissions and inaction as integral to moral reckoning, foster organic, community-driven dialogue and healing, and ensure that reconciliation efforts are grounded in ethical principles and inclusive of all affected groups (Kaptein & Wempe, 2019).

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The integration of these American legal and philosophical concepts could assist Ukraine in the construction of a more robust due diligence framework, the strengthening of procedural safeguards, and the promotion of reconciliation that is rooted in both accountability and healing (Polianskyi, 2015). It is asserted that these reforms have the potential to support Ukraine’s aspirations for a just, inclusive, and resilient society, capable of addressing the legacies of conflict

while laying the groundwork for lasting peace and the rule of law (Tamanaha, 2017).

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Recent reforms in Ukraine have already begun to reflect these priorities, with the implementation of mandatory anti-corruption compliance programmes for companies bidding on large public contracts and the reform of criminal liability regimes for legal entities (The Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction", 2019). It is evident that, by further developing mechanisms for the verification and enforcement of compliance programmes, as well as enhancing the liability of legal persons for economic and corruption offences, and introducing effective whistleblower protections, Ukraine can build on American principles. These measures are designed to bolster Ukraine's economic resilience and facilitate its recovery, while also engendering a more predictable and reliable investment environment for both domestic and foreign investors. As Ukraine continues to modernise its competition law and enforcement practices, the adoption of US-inspired due diligence and compliance standards will be instrumental in ensuring that economic growth is accompanied by integrity, accountability, and sustainable development.

Discussed Teoretical and Legal Foundations of the Status of "Suspect" in Ukrainian Criminal Procedure. The Constitution of Ukraine (1996) refers to key procedural categories such as "arrested", "detained", and "charged". A detailed analysis of the Criminal Procedure Code of Ukraine (2012) reveals a broader classification of procedural statuses that an individual may acquire in the course of criminal

proceedings. These include: witness, victim, suspect, a person against whom sufficient evidence exists for notification of suspicion but no notice was issued due to death, detained, charged, convicted, acquitted, and a person subject to compulsory medical or educational measures (The Criminal Procedure Code of Ukraine, 2012). Each of these procedural statuses is associated with specific rights and obligations, which are vital for ensuring the effectiveness and fairness of the pre-trial investigation process (Zhuravlev, 2020).

This study focuses particularly on the procedural statuses of "suspect" and "charged". Despite their centrality to criminal justice, there is no universally accepted legal definition of the term "suspect". Various definitions highlight the conceptual ambiguity surrounding the term and the need for greater doctrinal clarity in Ukrainian criminal procedure (Zhuravlev, 2020). Tertyshnyk (2014, pp. 88–89) argues that the problematic aspect of defining the legal concept of "suspect" is that the current legal framework does not address the status of individuals under criminal investigation who have not yet been detained or subject to a preventive measure. Consequently, legal circles are increasingly in favour of introducing the term "under investigation" instead of "suspect".

In Ukraine, the status of "suspect" is regulated by Article 42 of the Criminal Procedure Code of Ukraine (CPCU), which defines it as a person who has received a formal notice of suspicion in accordance with the law (The Criminal Procedure Code of Ukraine, 2012). National legislation does not contain a precise legal interpretation of the term "suspicion". However, the European Court of Human Rights has emphasised in its jurisprudence that reasonable suspicion implies the existence of facts or information that could convince an objective observer that the person might have committed a crime (Ilgar Mammadov v. Azerbaijan, n.d.). At the same time, the facts giving rise to suspicion do not need to reach the level required for a finding of guilt beyond reasonable doubt, but they must be sufficient to justify further investigation or the formulation of charges (Ilgar Mammadov v. Azerbaijan, n.d.). In the same case, the ECtHR ruled that Mr. Mammadov, a political opponent and critic of the government, had been arrested and detained arbitrarily without evidence, solely because he had criticised the government and published sensitive information. Similarly, the High Anti-Corruption Court has repeatedly emphasised that "reasonable suspicion does not imply certainty beyond reasonable doubt regarding the commission of a criminal offence" (Resolution of the High Anti-Corruption Court, 2024). In another ruling, the Appellate Chamber of the High Anti-Corruption Court stated that: "The standard of proof 'reasonable suspicion' does not require that the authorized bodies operate with evidence sufficient for bringing charges or rendering a guilty verdict,

which is related to a lower degree of probability necessary at the early stages of criminal proceedings. At this stage of the criminal proceedings, it is not allowed to resolve those issues which must be resolved by the court during the consideration of the case on the merits, in particular, those related to finding a person guilty or not guilty of committing a crime. On the basis of a reasonable assessment of the totality of the obtained facts and circumstances, the court only determines that the involvement of a particular person in the commission of a criminal offense is probable and sufficient for further investigation." (Resolution of the High Anti-Corruption Court, 2024). The formulation of suspicion establishes boundaries within which the investigator can efficiently complete the investigation, while the suspect, defence counsel, and legal representative are granted the opportunity to exercise the right to defend themselves.

Suspicion is thus the presumption held by the authorities that a particular person may have been involved in a crime. Importantly, 'suspicion' is not a charge or indictment, nor is it a charging document; it is merely an assumption. Meanwhile, a charge or indictment is an official legal document issued by law enforcement that accuses a person of committing a crime, and this must later be proven in court.

A person acquires the status of a suspect from the moment they receive a written notice of suspicion. This notice is handed over on the day it is drawn up by an investigator or prosecutor. If this is not possible, it is delivered in the manner provided by this Code for delivering notifications (Article 278(1) of the Criminal Procedure Code of Ukraine).

For example, if a person resides abroad, the written notice of suspicion is served in accordance with an international treaty on legal assistance that has been ratified by the Verkhovna Rada of Ukraine. In the absence of such a treaty, it is served through a diplomatic or consular mission (Article 135(7) of the Criminal Procedure Code of Ukraine) (The Criminal Procedure Code of Ukraine, 2012).

Consequently, an individual cannot be considered a suspect until they have been issued with a written notice of suspicion. However, an exception to this general rule is constituted by the case of detention, wherein an individual immediately acquires the status of a suspect from the moment of their detention.

The statuses of suspect and charged/accused are distinct and are subject to different sets of rights and obligations, which are governed by the provisions of the Ukrainian Criminal Procedure Code.

Conversely, the status of a "charged" individual possesses a distinctly disparate legal essence. The document in question confers upon the individual the rights delineated in Article 42 of the Ukrainian Criminal Procedure Code. These rights are largely procedural in nature and pertain to the particular

phase of judicial proceedings that coincides with the official presentation of charges. This finding suggests that the scope of rights granted to a charged person is broader than that of a suspect, thereby emphasising the fundamentally different legal nature of these statuses.

The legal nature of the statuses of "suspect" and "charged" is so different and their procedural rights are so distinct that they cannot be compared. It would be like comparing the rights of a "witness" and a "convicted person".

The Constitution of Ukraine is the foundational document that guarantees the rights of every citizen to freedom and personal inviolability. Furthermore, it establishes a general rule that no individual may be arrested or detained except by a motivated court decision and only on grounds and in the manner prescribed by law (The Constitution of Ukraine, 1996). The guarantees afforded to detained individuals are established by a range of international legal instruments that enshrine universal human rights and fundamental freedoms, shaping the legal status of individuals in criminal proceedings. These instruments include the following: the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the European Convention on Human Rights and Fundamental Freedoms with its Protocols (1950), the European Social Charter (1961), the Final Act of the Conference on Security and Co-operation in Europe (1975), the Concluding Document of the Vienna Meeting of Representatives of the Participating States of the CSCE (1989), and the Copenhagen Document of the Conference on the Human Dimension of the OSCE (1990), among others. Collectively, these texts affirm the obligation of states to respect due process, prevent arbitrary detention, and ensure the fair treatment of individuals deprived of liberty.

Characteristics of Procedural Statuses in U.S. Criminal Proceedings. The primary differences between the legal systems of Ukraine and the United States stem from the fact that Ukraine belongs to the continental (Roman-Germanic) legal family, whereas the United States follows the Anglo-Saxon (common law) tradition (Herrmann, 2018). Following the adoption of the new Criminal Procedure Code of Ukraine, which introduced the novel concept of "notice of suspicion", these discrepancies became more pronounced, as the American system does not recognise a procedural status prior to detention or arrest (Merriam-Webster Dictionary, n.d.).

While Ukraine legally defines the status of a suspect and provides specific procedural guarantees, the United States does not recognise such a status. In the US, other terms are used, such as "person of interest", "arrested", "accused", "charged", "indicted", "cited", "detained", "convicted of a crime or offence", "committed a crime of any kind", "pled guilty", and

"been ordered to be punished by a judge or had conditions imposed on you that restricted your liberty". At the same time, none of these statuses is equivalent to the Ukrainian status of "suspect". In the US, they reflect different stages of criminal proceedings and often allow the police to temporarily detain a person based on suspicion or issue an arrest warrant (LII Legal Information Institute, 2023).

It is evident that a well-established judicial precedent on this matter confirms that Notifications of Suspicion and Suspect Decisions are much more akin to what the Department of Justice (the "DOJ") calls "subject letters" and "target letters". These are consistently used by federal prosecutors in the United States. These letters are routinely utilised by the DOJ to advise putative defendants that they are either a "subject" or a "target" of a federal criminal investigation. However, subject and target letters do not perform any charging function. For example, see *United States v. Ealy*, 363 F.3d 292, 295 (4th Cir. 2004), which defines a "target letter" as a document advising a target that an investigation has uncovered evidence linking them to the commission of a federal crime (*Vitkus v. Blinken*, 2023).

The designation "person of interest" is of an informal nature and is not codified in legal statutes; it refers to an individual who is neither detained nor formally charged but may be relevant to an ongoing investigation (*Merriam-Webster Dictionary*, n.d.). In contrast, the U.S. legal system recognises a range of formal procedural statuses, including: arrested – taken into custody; detained – held temporarily, typically pending investigation; charged – formally accused of a crime; indicted – charged following a grand jury review; cited – issued a citation in lieu of arrest; convicted – found guilty by a judge or jury; and pled guilty – admitted guilt. These classifications delineate the legal trajectory of an individual within the criminal justice process. It is crucial to note that the legal framework of the United States of America is predicated on the presumption of innocence as a fundamental principle, thereby ensuring that every individual is considered innocent until proven guilty in a court of law (LII Legal Information Institute, 2022).

The US's determination that the "charging document" is an instrument which clearly and unambiguously initiates a criminal charge against an individual is consistent with federal law. It is evident that the term "charging document" is defined in the Federal Rules of Criminal Procedure as "an indictment, information, or complaint". While these documents may assume diverse forms, it is evident from the prevailing regulations that each type of charge instigates a criminal prosecution against the accused (Federal Rules of Criminal Procedure, 1946).

An "indictment" or "information" is defined by Rule 7(c)(1) of the Criminal Rules as a "plain, concise,

and definite written statement of the essential facts constituting the offense charged".

Meanwhile, a "complaint" is similarly defined as "a written statement of the essential facts constituting the offense charged".

In accordance with both definitions, the term "initiation of criminal charges" is understood to refer to the document that performs the same function as an indictment, information, or complaint (finding separate requirements for a warrant and "a copy of the document setting forth the charges" consistent with the customary practice in the United States and the Dominican Republic to "employ warrants to arrest and separate documents to charge").

The controlling policies of the Department of Justice confirm that a "subject" is defined therein as "a person whose conduct is within the scope of the grand jury's investigation". It is worth emphasising that, although the Justice Manual "does not ... create any rights, substantive or procedural", it identifies "publicly available Department of Justice ... policies and procedures", and "provides internal ... guidance" to federal prosecutors of all kinds.

Meanwhile, a "target" is "a person as to whom the prosecutor ... has substantial evidence linking him or her to the commission of a crime and who ... is a putative defendant" (U.S. Dep't of Justice, Justice Manual).

It is imperative to note that individuals identified as federal "subjects" and "targets" of criminal investigations have not been charged, unless and until they become defendants by virtue of an indictment, an information, or a complaint. The Notifications of Suspicion and Suspect Decisions upon which the Secretary of State based their actions did not result in the initiation of criminal charges. The characterisation of an individual as a suspect is not supported by the explicit and unambiguous language of the charging document.

Furthermore, the employment of the definite article ("the") in conjunction with a singular noun ("charging document") serves to denote that "the charging document" is, in fact, the document which has initiated criminal charges against an individual. Accordingly, the charging document mandate is clear and unambiguous, and it cannot be fulfilled by some document (or set of documents) that fails to perform the charging function – even if it or they contain similar information to "the charging document" (*Vitkus v. Blinken*, 2023).

It is also noteworthy that in the United States, the rights of detainees are codified in so-called "Miranda warnings", which stipulate that upon arrest, the detainee must be informed of their rights, and law enforcement must obtain a positive response confirming comprehension (*Miranda v. Arizona*, 1966).

Prior to the 1966 *Miranda* ruling, U.S. police officers enjoyed considerable discretion when it came to

detaining and interrogating suspects, which often resulted in unjustified abuse. They commonly detained people based on ethnic profiling, low income or a lack of legal awareness, and used confessions as the basis for convictions. In order to address instances of police misconduct whilst ensuring the protection of individual rights, the Miranda warnings were established. These warnings stipulate that any individual who is detained must be informed of the following: the right to remain silent; the possibility that any statements made may be utilised against them in a court of law; the right to consult with an attorney and have legal representation during interrogation; and the right to appointed counsel if they lack the financial means to retain one. These protections are rooted in the Fifth Amendment privilege against self-incrimination and the Sixth Amendment right to legal counsel. In the absence of proper Miranda warnings or a valid waiver, any statements made during custodial interrogation may be deemed inadmissible under the exclusionary rule, which prohibits the use of evidence obtained in violation of constitutional rights (Miranda v. Arizona, 1966).

The Fourth Amendment of the United States Constitution provides additional protections against unreasonable searches and seizures. The Federal Rules of Criminal Procedure, 1946, stipulate that warrants be issued only upon probable cause, supported by an oath or affirmation, and that they clearly specify the place to be searched and the persons or items to be seized. Collectively, the Miranda rights and the Fourth and Fifth Amendments constitute the fundamental basis of individual safeguards within the U.S. criminal compliance framework (Miranda v. Arizona, 1966). Furthermore, the U.S. Sentencing Commission's (2024) guidelines permit judicial bodies to take into account the existence of internal compliance programmes when determining sentences. In addition to these safeguards, anti-corruption legislation such as the Foreign Corrupt Practices Act (FCPA) regulates interactions with public officials, thereby reducing the potential for abuse of power that could undermine individual rights (U.S. Department of Justice, n.d.).

Application of Compliance in the Context of Criminal Procedures (Sanctions, AML, Financial Restrictions): Comparative Perspective

A comparative analysis of the mechanisms of sanction implementation, anti-money laundering (AML) rules, and financial restriction enforcement reveals significant differences between the legal systems of Ukraine and the U.S. Money laundering is a global problem without borders. As time progresses, this phenomenon evolves into new forms and leads to adverse consequences. Virtual assets have emerged as instruments for money laundering, as evidenced by a 2020 complaint filed by the U.S. Department of Justice seeking to forfeit 280 cryptocurrency addresses

linked to hacks perpetrated by North Korean actors, resulting in the theft of 28.7 million USD from crypto exchanges (U.S. Department of Justice, 2020).

In the United States, compliance with regulations pertaining to anti-money laundering and the implementation of sanctions is governed by case law, thereby ensuring the adherence to legal mandates. Legislation such as the Office of Foreign Assets Control (OFAC) and the Patriot Act impose explicit obligations on financial institutions and other entities to verify clients, monitor transactions, and report any suspicious activity. Failure to comply with these regulations can result in severe financial and criminal penalties (Uniting and Strengthening America..., 2001). It is important to note the extraterritorial application of U.S. law, which compels private transnational actors to develop and implement global compliance programmes that often exceed national legal requirements (Office of Foreign Assets Control, n.d.).

Compliance programs are of paramount importance to Western industrial corporations, whose primary objective is to minimise legal and reputational risks arising from breaches of professional and ethical standards (Pererva, 2017). While the financial burden of maintaining such compliance is usually considerable, it is regarded as a prerequisite for conducting international business operations and minimising legal and reputational risks (Batyrehareeva et al., 2020). In the context of judicial practice, Tamanaha (2017) observes that political, social, and economic contexts exert a significant influence on judicial decisions, particularly in business-related cases, investment climate issues, and compliance applications. Tamanaha advances the argument that judges should not formulate decisions exclusively based on formal legal rules.

The term "compliance" emerged in Ukraine with the arrival of subsidiaries of Western financial structures, for which this function is legislatively mandated and well-established (Pererva, 2017). In contrast, the compliance mechanisms in Ukraine's AML sphere are still in a state of development. Although legislation exists, such as the Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" (The Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction", 2019), Ukraine currently lacks a clear legislative definition of "compliance". Nevertheless, the concept is widely recognised in professional circles, particularly in banking and securities markets (Pererva, 2017).

Concurrently, the United States has been observed to demonstrate a compliance culture that is both

more rigid and actively enforced (Batyrhareeva et al., 2020). In contrast, continental Europe exhibits greater variation, which is influenced by EU legislation. Private transnational actors frequently adopt higher internal compliance standards with a view to minimising risks and maintaining a global reputation (Batyrhareeva et al., 2020). As Tuliakov et al. (2025) demonstrate, an effective compliance system at both the state and business level is a key factor in creating a favourable investment climate, attracting capital, and ensuring sustainable economic development. In order to enhance its investment climate, Ukraine must refine its national legislation in the field of compliance, ensure effective law enforcement, and encourage businesses to adopt high ethical and regulatory standards.

Comparative Analysis of U.S. and Ukrainian Approaches to Criminal Compliance. The criminal compliance measures applied by the US legal system are initiated from the moment of arrest, with the balancing of societal interests and individual rights being a fundamental principle (see *Miranda v. Arizona*, 1966). According to the most recent data from the U.S. Department of Commerce (2024).

It is also noteworthy that the American business environment considers compliance procedures to be highly effective and urgent.

The introduction of the concept of "person of interest", "subject" or "target" is of particular significance in the context of the U.S. system, as it facilitates the identification of individuals who may possess pertinent information regarding a crime or who may be involved in the commission of a crime. This status is not defined in legal documentation, and the individual is neither detained nor formally charged (Merriam-Webster Dictionary, n.d.). Meanwhile, in Ukraine, the procedural status of "suspect" is clearly defined under Article 42 of the Criminal Procedure Code. Its absence in the U.S. system underscores substantial discrepancies in legal frameworks (The Criminal Procedure Code of Ukraine, 2012).

The U.S. legal system enforces rigorous compliance procedures, exerting a substantial influence on national economic stability and the broader business environment. The key findings reveal several distinctions and convergences with the Ukrainian system. It is noteworthy that U.S. law does not recognise a procedural status equivalent to the Ukrainian concept of "suspect". The closest informal designation is "person of interest", which lacks codified legal standing (Merriam-Webster Dictionary, n.d.). While Ukraine implements a uniform legal framework for criminal procedure by virtue of a single national code, the United States permits procedural variation across states, thus reflecting a decentralised legal structure (Herrmann, 2018). In the United States, adversarial judicial processes are more advanced, and there is greater flexibility in the application of

preventive measures. Furthermore, the doctrine of judicial precedent holds binding authority in the United States of America, whereas in Ukraine it does not carry the same weight (LII Legal Information Institute, 2021). Notwithstanding, the legal positions articulated by the Supreme Court in its rulings are considered to be legally enforceable on lower Ukrainian judicial bodies.

Notwithstanding the aforementioned differences, a number of procedural statuses, most notably those designated as "charged", have been found to be functionally comparable in both systems, as they pertain to formal allegations of criminal activity (LII Legal Information Institute, 2022). The United States' experience in criminal compliance is not only mature but also institutionally integrated, thus offering valuable models for Ukraine's ongoing legal reform (Tuliakov et al., 2025). The adoption of pivotal elements of U.S. compliance standards and risk management mechanisms has the potential to markedly enhance the effectiveness, predictability, and fairness of Ukraine's criminal justice system (Batyrhareeva et al., 2020).

Integration of Modern U.S. Compliance Practices. The integration of contemporary U.S. compliance practices and control mechanisms, including the Foreign Corrupt Practices Act (FCPA) and governmental risk management programs, into Ukrainian criminal law has the potential to markedly reduce legal violations and enhance the efficiency of judicial processes (U.S. Department of Justice, n.d.). Implementation of such reforms would enhance the efficacy of the legal system, engender greater public confidence in Ukrainian authorities, and cultivate a sense of legal conformity within the business and entrepreneurial sectors. Furthermore, the implementation of these measures has the potential to enhance the country's investment appeal and facilitate sustainable economic growth (Tuliakov et al., 2025).

The implementation of these mechanisms would serve to provide enhanced legal guarantees and establish explicit criteria for determining liability for all participants in criminal proceedings, including suspects and charged persons. This approach would not only modernise Ukraine's legal framework but also align it with international standards, thus promoting transparency, accountability, and the rule of law.

It is also important to note that U.S. and Ukrainian criminal procedural norms may affect the activities of international companies when applied to directors, co-founders, or individuals directly involved in company operations. The aforementioned effects may encompass impairment to business reputation, creation of risks, or additional costs resulting from searches, seizure of documents, interrogation of employees, or confiscation of property. The role of judicial precedent in influencing investor decisions

is equally significant. The United States operates under the doctrine of precedent in its legal system, while Ukraine officially does not (LII Legal Information Institute, 2021). It is the contention of the present study that precedent-based law exerts a positive influence on the criminal process, thereby allowing for the prediction of legal application and the assessment of potential risks.

Prospects for Adapting Ukrainian Legislation to CSDDD in Criminal Proceedings.

Ukraine's criminal justice system requires further harmonisation with international standards, especially with regard to the protection of human rights, transparency in investigative actions, and accountability of law enforcement agencies (Tuliakov, 2024). The principles of CSDDD have the potential to serve as a foundation for expanding the regulatory base concerning anti-corruption and environmental compliance, particularly in criminal cases related to terrorist financing, legalization of illicit gains, and violations of labor rights (Kaptein & Wempe, 2019). The harmonisation of Ukrainian law with the CSDDD will serve to reduce legal risks, mitigate corruption risks in criminal proceedings, and improve the country's investment appeal.

In this research, the American experience was taken as a point of reference. A comparative analysis of the Ukrainian and U.S. criminal justice systems reveals the existence of strict criminal compliance rules, defined as adherence to legal requirements by law enforcement to protect human rights and prevent unlawful acts during criminal proceedings (Tuliakov, 2024). In Ukraine, compliance tools remain fragmented and under development (Zhuravlev, 2020). Recent data from the U.S. Department of Commerce (2024) indicates that the United States continues to dominate as the primary destination for foreign direct investment on a global scale. The primary rationale behind this substantial level of investment can be attributed to the robust legal protection system that is facilitated by criminal compliance procedures.

In the United States, the interplay between criminal compliance and the protection of individual rights is initiated at the moment of arrest or when an individual is suspected of committing a criminal offence. This process is governed by constitutional safeguards, including the Fourth Amendment's protection against unlawful seizures, the requirement for probable cause, and the Fifth and Sixth Amendments, which guarantee the right to remain silent and the right to counsel (Miranda v. Arizona, 1966). Upon arrest, suspects must be informed of their rights (Miranda rights), and any custodial interrogation must cease if these rights are invoked. Furthermore, suspects are entitled to an initial appearance before a magistrate, at which point they are informed of the charges and their rights, and bail may be considered (Federal Rules of Criminal Procedure, 1946).

A comparative analysis of the normative regulation of the suspect's status and the roles of other participants in the criminal process under Ukrainian law, juxtaposed with U.S. criminal law, seeks to identify the most effective mechanisms for protecting the rights of these subjects (Zhuravlev, 2020). This research is timely, as it deepens scientific understanding of the specific features of criminal procedure across jurisdictions and explores avenues for optimising and harmonising national legislation with international standards and best practices (Tertyshnyk, 2014). This comparative approach has the potential to inform reforms that ensure robust legal protections and procedural fairness for all participants in the criminal justice system (Zhuravlev, 2020).

The comparative analysis also carries practical significance, offering the possibility of using research results when developing recommendations for improving legislation and enhancing the effectiveness of legal protection of human rights, ultimately contributing to increased investment appeal (Tuliakov et al., 2025).

5. Conclusions

The insights from American criminal law doctrine and its underlying concepts of guilt, responsibility, and moral accountability are relevant to Ukraine in the context of the country's reform of its legal system and its advancement in its reconciliation efforts (Polianskyi, 2015). The American approach, which meticulously balances subjective intent and objective harm, offers a nuanced framework for assessing criminal liability (Miranda v. Arizona, 1966). By adapting these principles, Ukraine can foster greater consistency, fairness, and transparency in its legal processes, reducing arbitrariness and ensuring that justice is both proportionate and principled (Tamanaha, 2017).

Furthermore, the American tradition's emphasis on moral responsibility extends beyond the courtroom, informing broader societal responses to wrongdoing (Kaptein & Wempe, 2019). This perspective encourages not only the prosecution of those directly responsible for harm but also the recognition of collective duties to address omissions, restore relationships, and repair the social fabric. In the context of post-conflict Ukraine, this approach emphasises the importance of restorative justice, community-driven dialogue, and the ethical imperative to confront historical injustices openly (Armstead, 1998).

In the economic sphere, the integration of American standards of due diligence and compliance has the potential to provide Ukraine with robust frameworks for managing financial risk, fostering transparency, and attracting investment (Tuliakov et al., 2025). The US model emphasises comprehensive legal and economic due diligence processes, which include not

only the verification of assets and liabilities but also the assessment of governance practices, anti-corruption measures, and compliance with both domestic and international regulations (Batyrhareeva et al., 2020). For Ukraine, the adoption of such approaches is of particular pertinence as it embarks upon structural reforms to enhance public financial management, strengthen anti-corruption institutions, and align with EU and global standards (International Covenant on Civil and Political Rights, 1966). The International Monetary Fund and the OECD have emphasised the necessity for Ukraine to implement fiscal reforms, enhance public investment management, and fortify anti-corruption compliance programmes, particularly in sectors vulnerable to elevated governance risks (Batyrhareeva et al., 2020).

Recent reforms in Ukraine have already begun to reflect these priorities, as evidenced by the implementation of mandatory anti-corruption compliance programmes for companies bidding on large public contracts and the reform of criminal liability regimes for legal entities (The Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction", 2019). Drawing upon American principles, Ukraine has the potential to enhance its mechanisms for the verification and enforcement of compliance programmes, augment the liability of legal persons for economic and corruption offences,

and institute effective whistleblower protections (Batyrhareeva et al., 2020). These measures are designed to bolster Ukraine's economic resilience and facilitate its recovery, while also engendering a more predictable and reliable investment environment for both domestic and foreign investors. As Ukraine continues to modernise its competition law and enforcement practices, the adoption of US-inspired due diligence and compliance standards will be instrumental in ensuring that economic growth is accompanied by integrity, accountability, and sustainable development.

The unification of procedural statuses within the compliance process, informed by American legal doctrine and economic due diligence standards, offers Ukraine a pathway to greater legal certainty, procedural fairness, and economic resilience. Such reforms are imperative for the establishment of public trust, the safeguarding of individual rights, and the assurance that Ukraine's legal system is equipped to meet both domestic and international challenges. The integration of these American legal and philosophical concepts could assist Ukraine in the construction of a more robust due diligence framework, the strengthening of procedural safeguards, and the promotion of reconciliation that is rooted in both accountability and healing (Polianskyi, 2015). These reforms have the potential to support Ukraine's aspirations for a just, inclusive, and resilient society, capable of addressing the legacies of conflict while laying the groundwork for lasting peace and the rule of law.

References:

- Administrative Office of the U.S. Courts. (n.d.). PACER case search. Available at: <https://pacer.uscourts.gov>
- Armstead, J. H. (1998). The International Criminal Court: History, development and status. *Santa Clara Law Review*, 38(3).
- Batyrhareeva, V. S., Holovkin, B. M., & Novikov, O. V. (Eds.) (2020). *Preventing corruption in the private sector*. Law. Available at: https://ivpz.kh.ua/wp-content/uploads/2021/09/mono_Zapobihannia-koruptsii-v-pryvatnomu-sektori.pdf
- Cambridge Dictionary. (2025). *Arrested*. Available at: <https://dictionary.cambridge.org/uk/dictionary/english/arrested>
- The Constitution of Ukraine (1996). Verkhovna Rada of Ukraine. Available at: <http://zakon.rada.gov.ua/laws/show/254k/96-vr>
- State Financial Monitoring Service of Ukraine (2020). Report on the results of the national assessment of risks of legalization (money laundering) of proceeds from crime and terrorist financing. Available at: <https://fiu.gov.ua/assets/userfiles/books/5%20round%20FATF.pdf>
- European Commission (2024). *Corporate sustainability due diligence directive*. Available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12614-Corporate-sustainability-due-diligence_en
- Federal Criminal Code, 18 U.S.C. (1947). Available at: <https://uscode.house.gov/browse/prelim@title18&edition=prelim>
- Federal Rules of Criminal Procedure (1946). Cornell Law School. Available at: <https://www.law.cornell.edu/rules/frcrmp>
- Fox, Campbell and Hartley v. The United Kingdom (n.d.). European Court of Human Rights. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57721%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57721%22]})
- Herrmann, J. (2018). *Comparative criminal procedure: History, context and transnational dynamics*. Springer. DOI: <https://doi.org/10.1007/978-3-319-76900-5>
- Ilgar Mammadov v. Azerbaijan (n.d.). European Court of Human Rights. Available at: [https://hudoc.echr.coe.int/fr#{%22itemid%22:\[%22001-193543%22\]}](https://hudoc.echr.coe.int/fr#{%22itemid%22:[%22001-193543%22]})

- International Covenant on Civil and Political Rights (1966). United Nations Treaty Series, 999, 171. Available at: https://zakon.rada.gov.ua/laws/show/995_043#Text
- International Covenant on Economic, Social and Cultural Rights (1966). United Nations Treaty Series, 993, 3. Available at: https://zakon.rada.gov.ua/laws/show/995_042#Text
- Kaptein, M., & Wempe, J. F. (2019). *Moral management: How to develop an effective compliance program*. Springer. DOI: <https://doi.org/10.1007/978-3-030-20745-6>
- Convention for the Protection of Human Rights and Fundamental Freedoms (1950). European Council. Available at: https://zakon.rada.gov.ua/laws/show/995_004#Text
- The Criminal Procedure Code of Ukraine, the Law of Ukraine No. 4651-VI (2012). Available at: <https://zakon.rada.gov.ua/laws/show/4651-17#n2483>
- Kudriavtsev, Ye. V. (2021). Guarantees of judicial activity in the criminal process of the USA and Ukraine: Comparative legal analysis. Available at: <https://uacademic.info/ua/document/0421U103976>
- Labita v. Italy (n.d.). European Court of Human Rights. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-58559%22%7D>
- LII Legal Information Institute. (2021). *Detain*. Available at: <https://www.law.cornell.edu/wex/detain>
- LII Legal Information Institute. (2022). *Defendant*. Available at: <https://www.law.cornell.edu/wex/defendant>
- LII Legal Information Institute. (2023). *Accused*. Available at: <https://www.law.cornell.edu/wex/accused>
- Merriam-Webster Dictionary (n.d.). *Person of interest*. Available at: <https://www.merriam-webster.com/dictionary/person%20of%20interest>
- Miranda v. Arizona, 384 U.S. 436. (1966). Available at: <https://supreme.justia.com/cases/federal/us/384/436/>
- Murray v. The United Kingdom (n.d.). European Court of Human Rights. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-57895%22%7D>
- Navex Global (2023). *2023 definitive risk & compliance benchmark report*. Available at: <https://www.navex.com/en-us/resources/benchmarking-reports/state-risk-compliance/>
- Nechiporuk, A., & Koval, M. (2024). Criminal process as a leading branch of law in relation to international legal systems of the EU and the USA. *Bulletin of Lviv Polytechnic National University. Series: "Legal Sciences"*, 11(44), 167–174. DOI: <https://doi.org/10.23939/law2024.44.167>
- Office of Foreign Assets Control (n.d.). Available at: <https://ofac.treas.gov>
- Concluding Document of the Vienna Meeting of the Representatives of the Participating States of the OSCE (1986). Available at: <https://zakon.rada.gov.ua/laws>
- Polianskyi, E. Yu. (2015). *Criminal law doctrine of the United States: Genesis, substantiation, prospects* [Abstract of the dissertation of Doctor of Juridical Sciences]. National University "Odesa Law Academy".
- The Law of Ukraine "On Sanctions", No. 1644-VII. The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2014, No. 40, Article 10 (2014). Available at: <https://zakon.rada.gov.ua/laws/show/1644-18>
- The Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" No. 361-IX. The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2020, No. 25, Article 171 (2019). Available at: <https://zakon.rada.gov.ua/laws/show/361-20>
- Slobogin, C. (2018). *Privacy at risk: The new government surveillance and the Fourth Amendment*. University of Chicago Press. DOI: <https://doi.org/10.7208/chicago/9780226561665.001.0001>
- Tamanaha, B. Z. (2017). *Beyond the formalist-realist divide: The role of politics in judging*. In *Oxford Handbook of Law and Politics* (pp. 1–25). Oxford University Press. DOI: <https://doi.org/10.1093/oxfordhb/9780199337624.013.15>
- Tertyshnyk, V. M. (2014). Criminal process of Ukraine. General part: Textbook. Kyiv: Alerta.
- Tuliakov, V. O., & Savinova, N. A. (2024). Colonizing criminal law: Towards new architecture of criminal code. *Herald of the Association of Criminal Law of Ukraine*, Issue 2(22), pp. 53–74. DOI: <https://doi.org/10.21564/2311-9640.2024.22.313732>
- Tuliakov, V., et al. (2025). The economic impact of Ukraine's trade relations with the EU. *INTEREULAW EAST Interdisciplinary Studies on Law, Eastern Europe and Post-Socialist Transformation*, 11(2), 149–163. DOI: https://doi.org/10.24457/interEULawEast_2025_vol11_issue2_article12
- Resolution of the High Anti-Corruption Court, Case No. 991/8749/24 (2024). Available at: <https://zakononline.com.ua/court-decisions/show/121780320>
- Resolution of the High Anti-Corruption Court, Case No. 991/12736/24 (2024). Available at: <https://reyestr.court.gov.ua/Review/123630336>
- Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001, Pub. L. No. 107–56, 115 Stat. 272. Available at: <https://www.congress.gov/bill/107th-congress/house-bill/3162>
- U.S. Department of Commerce (2024). *Foreign direct investment in the United States*. Available at: <https://www.commerce.gov/data-and-reports/reports/2024/10/foreign-direct-investment-united-states>
- U.S. Department of Justice (n.d.). *Foreign Corrupt Practices Act*. Available at: <https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>

U.S. Department of Justice (2020). *United States files complaint to forfeit 280 cryptocurrency accounts tied to hacks by North Korean actors*. Available at: <https://www.justice.gov/usao-dc/pr/united-states-files-complaint-forfeit-280-cryptocurrency-accounts-tied-hacks-two>

U.S. Dep't of Justice, *Justice Manual*, §§ 1-1.100, 1.200 (2020). Available at: <https://www.justice.gov/jm/justice-manual>.

U.S. Sentencing Commission. (2024). Guidelines manual. Available at: <https://www.ussc.gov>

United States v. Ealy, United States Court of Appeals, Fourth Circuit, 363 F.3d 292, 295 (4th Cir. 2004). Available at: <https://caselaw.findlaw.com/court/us-4th-circuit/1206929.html>

Vitkus v. Blinken, United States Court of Appeals, Fourth Circuit No. 1:22-cv-01704, 2023 WL 5661266 (D.D.C. Aug. 30, 2023).

European Social Charter (1996). European Council. Available at: https://zakon.rada.gov.ua/laws/show/994_062#Text

Universal Declaration of Human Rights (1948). United Nations. Available at: https://zakon.rada.gov.ua/laws/show/995_015#Text

Final Act of the Conference on Security and Co-operation in Europe (1975). Available at: <https://ips.ligazakon.net/document/MU75010>

Zhuravlev, A. (2020). Procedural status of the suspect in criminal proceedings. *Entrepreneurship, Economy and Law*, (12), 220–225.

Received on: 28th of April, 2025

Accepted on: 13th of June, 2025

Published on: 09th of July, 2025