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ORIGINAL CONTRIBUTION

Administrative and Criminal Mechanisms for Bringing to Justice For the Theft Of Budget Funds in Public Procurement

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Abstract— Public procurement remains one of the most vulnerable areas of budget expenditure, and the Republic of Kazakhstan continues to record offenses related to the theft of budget funds despite recent reforms aimed at transparency and control. This study examines the administrative liability and criminal liability mechanisms for the embezzlement of budget funds in public procurement in the Republic of Kazakhstan, aiming to overcome the fragmentation of existing approaches to this problem. The research combines doctrinal legal analysis, normative mapping of administrative liability and criminal liability provisions, and qualitative coding of a sample of 38 law-enforcement materials covering 2023-2025. Four typical schemes of illegal appropriation of budget funds in public procurement were identified – overestimation of procurement costs, fictitious competition, fictitious execution of contracts, and fragmentation of the procurement subject – with administrative liability dominating law-enforcement practice over criminal liability. Between 2023 and 2025, administrative offenses increased, while criminal investigations declined, indicating limited transformation of administrative materials into criminal prosecution. The normative mapping reveals a structural "gray zone" between administrative liability and criminal liability in the Republic of Kazakhstan, caused by high evidentiary barriers, the absence of clear harm thresholds, and fragmented interaction between control and investigative bodies.

Index Terms— Public procurement, Administrative liability, Criminal liability, Normative mapping, Republic of Kazakhstan

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Introduction

In modern countries, public procurement has become one of the main instruments for implementing budget policies and ensuring sustainable socio-economic development. However, this sector remains one of the most vulnerable to abuse, corrupt practices, and misappropriation of budget funds (Adeleke, 2020). These statements have been confirmed by international studies and analyses published by national oversight and law enforcement agencies.

In today's fast-paced digital transformation of public administration, the introduction of electronic procurement platforms and the increase in public spending have changed the functioning of public procurement and the conduct of illegal activities in this area. Modern methods of embezzlement of public funds often combine legal administrative procedures with actions that have caused serious damage to public finances (Hatchard, 2025; Khamitov, 2020).

The above issues have become particularly relevant for the Republic of Kazakhstan, which has recently implemented a large-scale reform of its public procurement system (Trochev & Slade, 2019). These reform processes were aimed at increasing transparency, competition, and the efficiency of using budget resources. Despite the introduction of electronic control mechanisms and the updating of the legislative framework, practical application has shown that a significant number of legal violations related to the misappropriation of budget funds during procurement processes continue to occur (Kaiyrbekova, 2024; Waxenecker & Prell, 2024; Zhursimbaev & Kemali, 2020). This also indicated the presence of a systemic scientific and practical problem. In particular, the most pressing problems included fragmentation and insufficient coordination of administrative and criminal law mechanisms for holding individuals accountable (Bayseitov, 2023).

Despite significant attention to corruption, economic crimes, and violations of public procurement procedures, researchers have considered administrative and criminal liability mechanisms mainly in isolation from each other. The transition from a detected administrative violation to the organization of criminal prosecution, as well as certain regulatory and evidentiary barriers through which actions with signs of intentional appropriation of budget funds could fall within the scope of administrative qualification, has remained insufficiently studied. This gap has become especially noticeable in those studies of law enforcement practice of the Republic of Kazakhstan that were related to the public procurement sector.

The theoretical significance of the study was to conceptualize the relationship between administrative and criminal liability as a single mechanism of legal response to abuse in the field of public procurement. The legal significance lay in the organization of regulatory and evidentiary criteria that influenced the delimitation of an administrative offense and the further development of the criminal offense scheme. The practical significance was related to the possibility of improving the procedures for transferring materials from control bodies to pre-trial investigation bodies. It was also related to increasing the consistency of legal qualifications and strengthening the protection of budget funds.

Theoretical Foundations and Research Background

Modern authors have paid attention to the analysis of issues related to transparency of procurement procedures, anti-corruption mechanisms, and the efficiency of the use of budget funds (Adhi et al., 2025). Within the framework of these studies, public procurement is described as an institutionally vulnerable area in which the combination of significant financial flows and complex procedures has created conditions for systemic abuse. In the legal doctrine, the problem of embezzlement of budget funds in the field of public procurement has been analyzed in the context of criminal liability. Researchers have pointed out the main components of crimes related to embezzlement and abuse of office, as well as the features of evidence in cases of economic crimes (Davletbaeva et al., 2025; Duisenbayeva et al., 2024; Ismailov, 2020). Scientists have pointed out the practice of financial investigations and asset recovery from abroad. The authors analyzed the main problems of interstate cooperation, evidence, and jurisdictional restrictions (Brici & Achim, 2023; Seitenov et al., 2024; SP et al., 2025). At the same time, more recent works have indicated a shift from a purely criminal-legal understanding of the problem to an interdisciplinary analysis. In particular, the authors recognized that procurement is considered both as a space for already committed crimes and as a transition zone from administrative irregularity to a criminally punishable act (Adhi et al., 2025).

The work of Thibault (2022), although not directly devoted to public procurement, has become important for understanding the political context of accountability in Kazakhstan. The author defined public "condemnation" (shaming) as a specific mechanism of political responsibility in conditions of limited electoral competitiveness and incomplete freedom of speech. Thibault (2022) indicated that in Kazakh politics, public exposure is often used selectively: either as a tool for disciplining lower-ranking officials, or as a way to preserve the legitimacy of the system without punishing top management.

Articles devoted to the role of public councils as an anti-corruption mechanism in Kazakhstan are close in logic. The authors pointed out that the Kazakh legislation on public councils complies with the five mechanisms of social accountability and concluded that the anti-corruption potential of these bodies remains limited (Davletbaeva et al., 2025; Jimenez-sanchez, 2023).

Jimenez-sanchez (2023) defined corruption as a phenomenon closely related to bribery in the narrow sense and to a general decrease in trust in government institutions. For the study of administrative and criminal mechanisms for combating the embezzlement of budget funds, this conclusion is fundamental: effective prevention of such crimes depends not only on criminal law sanctions, but also on the quality of procedures, transparency of decisions, and accountability of institutions.

Separately, it is worth mentioning the work of Movsumova (2022) which is devoted to the tactical and procedural features of the use of special knowledge in the investigation of crimes. This work has methodological significance for the present study, since it drew attention to the role of special knowledge, expertise, and correctly posed questions to the expert in the structure of evidence. Jones (2021) recognized that the success of the investigation largely depends on the investigator's ability to correctly involve specialists and use special knowledge to establish circumstances relevant to criminal prosecution. In cases of embezzlement of budget funds in procurement, this logic is also relevant, although it requires adaptation: instead of forensic medical or biological examinations, economic, accounting, commodity, computer-technical, and handwriting studies are of great importance.

An analysis of the literature on the legal system of the Republic of Kazakhstan indicated the presence of a significant array of normative-oriented and commentary works aimed at understanding the legislation on public procurement and economic crimes. However, most of them are descriptive in nature and focus on the analysis of individual norms without a comprehensive understanding of the interaction of administrative and criminal liability (Bayseitov, 2026; Siubayeva et al., 2023). These scientific gaps influenced the need for this study. Unlike studies that were devoted to individual countries of the post-Soviet space, a comprehensive analysis of the interaction of administrative and criminal liability in the sphere of public procurement in Kazakhstan has remained fragmentary. In fact, this formed the scientific novelty of the proposed work.

Aim, hypothesis and research questions of the paper

The purpose of the study was to conduct a comprehensive analysis of the interaction of administrative and criminal legal mechanisms of liability for the misappropriation of budget funds in the field of public procurement in the Republic of Kazakhstan. Attention was paid to the development of regulatory criteria for the delimitation of liability, evidentiary barriers, and the practice of transition from administrative response to criminal prosecution.

To achieve this goal, the following research questions were identified:

RQ1. What typical schemes of misappropriation of budget funds in the field of public procurement were identified in open materials of law enforcement practice in the Republic of Kazakhstan?

RQ2. What regulatory and evidentiary factors determined the delimitation of administrative and criminal liability for violations in the field of public procurement?

RQ3. What impact did the interaction of administrative and criminal legal mechanisms have on the effectiveness of detecting, qualifying, and preventing misappropriation of budget funds?

The analysis of previous studies has shown that administrative and criminal law mechanisms for combating violations in the field of public procurement often functioned separately. Administrative control was mainly aimed at identifying procedural violations, while criminal prosecution required establishing intent, the amount of damage caused, and other components of a criminal offense. Insufficient coordination between these mechanisms could hinder the transition from administrative proceedings to criminal prosecution (Bayseitov, 2026; Jiménez et al., 2022; Rodríguez et al., 2022).

H1. Insufficient coordination of administrative and criminal law mechanisms in the field of public procurement was associated with the predominance of administrative qualification and limited transfer of detected materials to criminal prosecution authorities.

The formal nature of public procurement procedures contributed to the external appearance of legality in cases where the actions of participants are aimed at the illegal appropriation of budget funds. The presence of properly executed documentation, formal competition or signed acts of work performed significantly complicated the proof of intent, other hidden affiliation and the actual amount of damage caused. As a result, administrative qualification could exist even in the presence of signs of a potentially criminal act (Gnaldi & Del Sarto, 2024; Khamitov, 2020; Khorana et al., 2024).

H2. The formal and procedural orientation of administrative control created conditions under which violations with signs of intentional appropriation of budget funds could remain within the limits of administrative liability. That is, there was no question of opening a criminal case.

The effectiveness of legal liability depended largely on the clarity of the criteria for distinguishing between offenses, the proportionality of the response, and the coordinated interaction of control and law enforcement agencies. Unclear thresholds of harm, the difficulty of proving intent, and the absence of a mandatory procedure for transferring materials could reduce the deterrent and preventive impact of the current liability system (Baimenov et al., 2022; Hoekman & Taş, 2024; Seitenov et al., 2024).

H3. The lack of clear criteria for distinguishing between administrative and criminal liability, and individual elements of the mandatory mechanism for transferring materials between competent authorities limited the preventive potential of legal liability in the field of public procurement.

Methodology

The study was designed using a mixed legal research design. In particular, the article combines doctrinal research (analysis of basic norms and criminal legislation), normative mapping and coding, and qualitative analysis of practice.

Materials and data collection

1) Normative sources (primary legal sources). The corpus includes: Criminal Code of the Republic of Kazakhstan (relevant clauses: fraud, embezzlement, abuse of office, corruption crimes, and related economic clauses); Code of the Republic of Kazakhstan on Administrative Offenses (clauses covering violations of procurement procedures, financial discipline, liability of officials); legislation on public procurement of the Republic of Kazakhstan and by-laws (procedures, requirements, control/monitoring, grounds for rejection, typical violations). The collection was carried out based on the formation of a list of norms and their systematization by subject: procedural violations → financial violations → corruption risks → criminal schemes.

2) Law enforcement materials (secondary legal sources). A corpus of documents and articles is being formed from open access, in particular: open court decisions by relevant components (selection from available registers/publications), official notifications, and analytical reviews of authorized bodies (audit/control/anti-corruption notifications), as well as annual reports of the Supreme Audit Chamber (where aggregated indicators of violations of budget discipline are available).

3) Official statistical data (secondary quantitative sources). To contextualize the results of the normative and qualitative analysis, aggregated statistical indicators for 2023–2025 were also used. This information was published by the Committee on Legal Statistics and Special Accounts of the Prosecutor General's Office of the Republic of Kazakhstan through the Qamqor information system. The following indicators were used for the analyzed indicators: the number of registered inspections by categories of business entities (Figure 1); the number of registered administrative offenses and criminal investigations (Figure 2); and the number of registered cases of fraud under Article 190 of the Criminal Code of the Republic of Kazakhstan (Figure 3). The data were obtained from open interactive statistical modules because of using the appropriate filters by year and the corresponding category of offenses. The indicators were then systematized in comparative tables and visualized by year.

The proposed aggregated statistical data were used exclusively to characterize general trends in administrative control and criminal law response. They were not obtained from a sample of 38 materials and were not used to determine the frequency of schemes within this sample. Therefore, the comparison of the two data sets was of a contextual and interpretative nature. There was no question of a statistically causal nature (Republic of Kazakhstan, Committee for Legal Statistics and Special Accounts of the Prosecutor General's Office, 2025a, 2025b).

Inclusion criteria: the presence of a connection with budget funds or public contracts/tenders; sufficiency of the description of the factual circumstances (to code the scheme); and a temporal focus on modernity (indicators for 2023-2025 were considered). A sample of 38 materials was formed. For each type, a coding card (variable matrix) was filled in: type of subject (official/supplier/intermediary), scheme (inflated prices/fictitious acts/affiliation/forgery of documents/rollback), type of reaction (administrative/criminal/parallel), article/articles of qualification, stage (detected by audit/pre-trial/court), and result (sanction/termination/requalification, if any). It should be noted that the sample of 38 materials, despite being sufficient for a qualitative typological analysis, did not claim to be statistically representative of the entire array of law enforcement practice for 2023–2025. It reflected typical, frequently repeated patterns of violations.

In addition, various scientific methods were used to analyze the data. Doctrinal and normative analysis was applied for the purpose of systematic interpretation, comparison of dispositions and sanctions, identification of conflicts and "gray zones" between administrative and criminal liability, and producing a "map" of demarcation criteria (harm, method, intent, subject, documentary fixation, and public danger).

Another important method was normative mapping. A matrix of the following type was formed: violation in procurement → administrative composition → criminal legal risk → transition criterion → evidentiary markers. This made it possible to show where the system "breaks" and why essentially the same actions sometimes fall under administrative offenses. A qualitative analysis was also conducted, producing typical models (typologies) with legal consequences.

Since the sample was limited to publicly available materials, it was affected by selection and publication bias. Criminal proceedings, high-profile cases, and cases in which official sanctions were applied are more likely to be made public than ordinary administrative decisions, discontinued proceedings, or materials that did not progress beyond the initial stage of control. Therefore, the distribution of schemes and types of legal qualification in the sample reflected the patterns of publicly documented law enforcement practice. It was not intended to represent the actual prevalence of the relevant violations in Kazakhstan. This limitation was considered when interpreting the coding frequencies and comparing them with aggregated national statistics.

Data Analysis

The analysis of regulatory provisions and open materials of law enforcement practice made it possible to point out certain typical schemes for the illegal appropriation of budget funds that were carried out in the process of public procurement during the period from 2023 to 2025. The first and most common was the scheme of overstating the cost of procurement. It was based on the manipulation of technical specifications, estimate documentation, or contract terms. The second typical model was fictitious competition, which was carried out through the participation of affiliated or pre-agreed bidders. In such cases, law enforcement practice was dominated by an administrative-legal response, because the formal presence of several tender offers creates the appearance of a competitive procedure. The third common scheme was the fictitious execution of contracts, which involved signing acts of performed work or deliveries without providing goods or services. A separate group is made up of schemes of splitting the subject of procurement into small lots to avoid open procedures. Despite the obvious intentional nature of such actions,

in most cases, they were subject to administrative rather than criminal liability (see Table I).

Table I
Search strategy and eligibility framework for literature selection

№	Type of scheme	Key features	Basic legal norms	Preferred qualification
1	Overpricing of procurement costs	Manipulation of estimates, technical requirements, formal legality	Criminal Code of the Republic of Kazakhstan (fraud, embezzlement); Administrative Code of the Republic of Kazakhstan (violation of procedures)	Administrative
2	Fictitious competition	Affiliated participants, concerted actions	Administrative Code of the Republic of Kazakhstan (procurement violations)	Administrative
3	Fictitious execution of the contract	Signing of acts without actual work	Criminal Code of the Republic of Kazakhstan (embezzlement)	Criminal/Mixed
4	Lot splitting	Avoidance of open procedures	Administrative Code of the Republic of Kazakhstan	Administrative

After the coding was completed, absolute and relative frequencies for the main categories were calculated. For each material, the main pattern of violation and the predominant type of legal response were determined: administrative, criminal, or parallel/mixed. Frequency analysis was applied to ensure transparency of coding and characterize the sample structure, rather than to statistically generalize the results to the entire set of law enforcement materials of the Republic of Kazakhstan (Table II).

Table II
Distribution of the coded materials by scheme and type of legal qualification (*n* = 38)

Scheme of violation	Administrative qualification, *n*	Criminal qualification, *n*	Parallel/mixed qualification, *n*	Total, *n* (%)
Overpricing of procurement costs	3	3	2	8 (21.1%)
Fictitious competition	3	3	3	9 (23.7%)
Fictitious execution of contracts	6	2	3	11 (28.9%)
Lot splitting	2	2	6	10 (26.3%)
Total	14	10	14	38 (100%)

The materials were coded by two researchers. They first independently coded the materials according to a pre-developed matrix that covered the type of subject, the pattern of the violation, the type of legal response, the legal qualification, the stage of the proceedings, and its outcome. After completing the independent coding, the results were compared, and disagreements were discussed until an agreed solution was reached. This procedure made it possible to reduce the influence of subjective interpretation on the assignment of materials to analytical categories.

The regulatory and legal analysis indicated that each of the identified schemes was potentially subject to administrative and criminal legislation. A study of the structure of registered administrative inspections for 2023-2025 indicated the dominance of inspections that were directed at medium and large business entities. Therefore, administrative control is focused on those economic actors whose activities are associated with increased financial risks for public finances (see Figure 1).

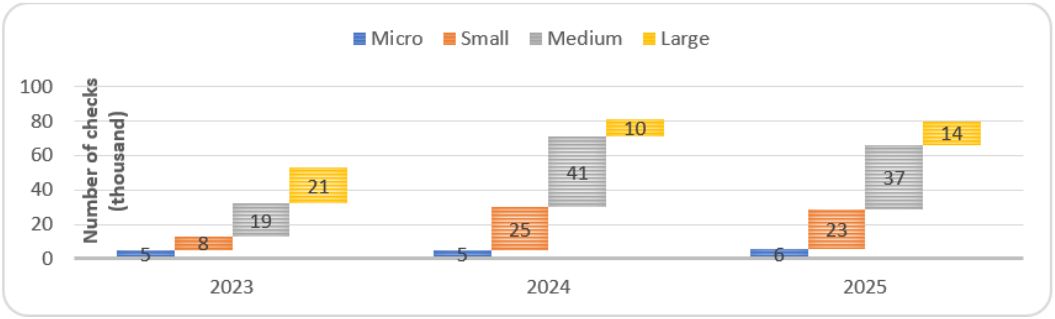

Fig. 1 *Registered checks by type (2023-2025)*

At the same time, the data obtained indicated the procedural nature of the administrative response, which, despite the scale of control activity, does not necessarily lead to more severe forms of legal liability. A comparative analysis of administrative offenses and criminal investigations indicated an imbalance between administrative and criminal legal response. This gap between growing administrative activity and a decline in criminal proceedings confirmed the assumption of the limited effectiveness of mechanisms for transforming materials into criminal cases (see Figure 2).

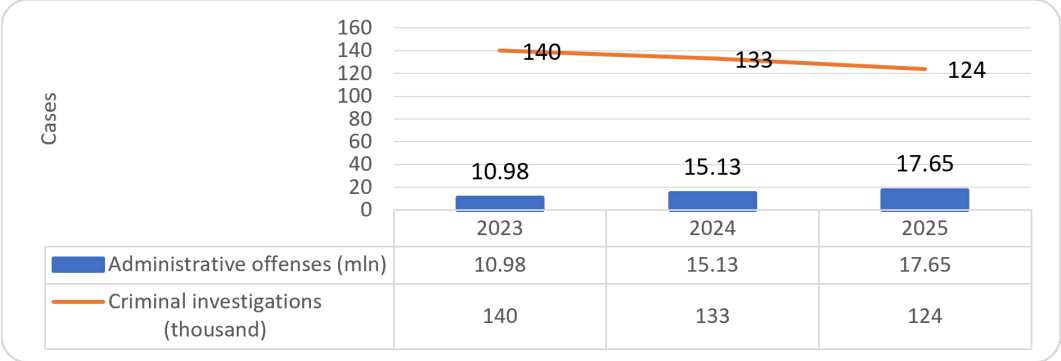

Fig. 2 *Administrative and criminal dynamics (2023-2025) (Republic of Kazakhstan, Committee for Legal Statistics and Special Accounts of the Prosecutor General's Office, 2025a)*

The dynamics of individual categories of economic crimes attracted particular attention. In particular, the number of registered cases of fraud (Article 190 of the Criminal Code of the Republic of Kazakhstan) increased by 5.2% – from 45,156 to 47,483 (see Figure 3).

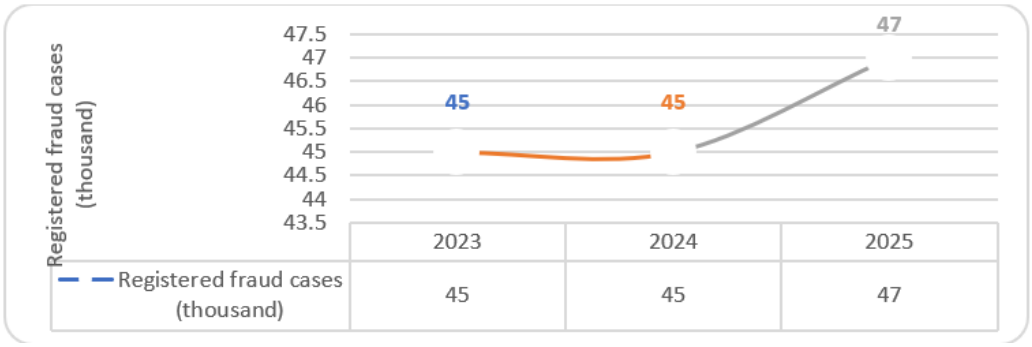

Fig. 3 *Fraud (Art. 190 CC RK) (Republic of Kazakhstan, Committee for Legal Statistics and Special Accounts of the Prosecutor General's Office, 2025b)*

Although the statistics presented do not directly reflect crimes in the field of public procurement, they indicate a general trend of increasing complexity of economic crime, within which violations related to public contracts are disguised as general criminal law. Analysis of the provisions of the criminal and administrative legislation of the Republic of Kazakhstan indicated that the formal distinction between administrative and criminal liability in the field of public procurement was based on a set of several regulatory criteria, none of which had an independent determining character. The key criteria include: (1) the amount of damage caused (the extent of financial harm involved); (2) the form of guilt and the presence of intent (whether the offense was intentional or negligent); (3) the method of committing the offense (how the violation was carried out); (4) the status of the subject (the position and role of the violator); and (5) the nature of the documentation of actions (how the actions were recorded and documented).

The regulatory analysis indicated that administrative legislation is focused on identifying procedural violations. At the same time, it is noticeable that criminal law formally links liability with the infliction of severe damage and the social danger of the act. The amount of damage is formally considered one of the key factors in the transition from administrative to criminal liability. However, the results of the analysis indicated that economic damage in the field of public procurement is not always amenable to unambiguous measurement. In cases of overestimation of the cost of procurement, fictitious competition, or splitting of lots, the damage was often indirect or distributed in nature (Shevchuk et al., 2019; Sysoiev et al., 2024). This situation made it difficult to prove such damage in criminal proceedings. The procedural legitimation of actions could eliminates the evidentiary value of economic consequences. The statistical data from Figures 1-3 indicated that the growth of administrative activity was not accompanied by a proportional increase in criminal response.

Therefore, the main regulatory problems relate to the lack of clear legislative thresholds for the transition from administrative to criminal liability in the procurement sector. There is a noticeable procedural bias in administrative legislation, which does not consider the real economic result of the act.

Administrative and legal mechanisms played a key role at the stage of detecting violations in the field of public procurement. The mass of inspections, preventive control, and supervision (Figure 1) had a high institutional capacity of the state to record deviations from procurement procedures. At the same time, the effectiveness of administrative liability is limited, since: sanctions are mostly formal or financially insignificant; administrative proceedings are focused on eliminating violations, rather than compensating for full damage to the budget; and there is no

mandatory mechanism for transferring materials to pre-trial investigation bodies. As a result, it becomes noticeable that the administrative model performs a control and statistical, but not a preventive, function. Criminal legal mechanisms are formally designed to ensure the highest level of legal response to socially dangerous encroachments on budget funds. However, empirical data (Figure 2) indicated a reduction in the number of criminal investigations.

Table III

Normative mapping of empirically identified schemes and supplementary legal risk categories in public procurement

Scheme of violation	Admin. qualification	Criminal potential	Escalation likelihood	Evidential barriers	Actual practice	Regulatory gap
Overpricing of procurement cost	Procedural breach	● Fraud/embezzlement	◐	High (price benchmarks)	Admin. dominant	No damage thresholds
Fictitious competition (affiliation)	Competition violation	◐ Fraud/conspiracy	○	High (hidden affiliation)	Admin. fines	No presumption of collusion
Fictitious contract execution	Reporting breach	● Embezzlement	●	Medium (expertise)	Selective criminal	Narrow criminal use
Splitting of lots	Formal breach	○ Budget damage	○	High (formal legality)	Admin. only	Cumulative effect ignored
Forgery of tender documentation	Reporting violation	● Forgery/fraud	◐	Medium–high	Mixed response	No automatic escalation
Abuse of official position	Disciplinary/admin.	◐ Abuse of power	○	High (discretion)	Admin. dominant	Unclear discretion limits

Note: ● High/clearly present; ◐ Medium/conditional; ○ Low/weak. "Admin. Dominant" indicates the administrative response prevails.

Note. The first four categories represent recurring schemes identified in the qualitative sample of 38 materials. "Forgery of tender documentation" and "abuse of official position" are supplementary categories derived from the doctrinal and normative analysis and are included to demonstrate their potential administrative and criminal qualification.

Table IV

Proposed measures to strengthen administrative and criminal liability for the misappropriation of public procurement funds in Kazakhstan

Identified problem	Proposed measure	Responsible body/actor	Expected effect
Absence of clear damage thresholds distinguishing administrative misconduct from a criminal offence	Establish statutory quantitative and qualitative criteria for determining the level of damage and the applicable form of liability	Parliament of the Republic of Kazakhstan; Ministry of Justice	Greater legal certainty, uniform qualification of offences, and reduced discretionary interpretation
Lack of a mandatory mechanism for transferring case materials to investigative authorities	Introduce a compulsory referral procedure where audit findings indicate signs of criminal misappropriation	Supreme Audit Chamber; Internal State Audit Committee; Prosecutor's Office	Timely initiation of criminal proceedings and reduced risk of concealment or procedural delay
Predominantly formal and insufficiently deterrent administrative sanctions	Increase administrative fines, introduce disqualification measures, and link sanctions to the value of misappropriated funds	Parliament; Ministry of Finance; administrative courts	Stronger deterrence and improved proportionality between the offence and the sanction
Weak interagency coordination between supervisory and law-enforcement bodies	Establish a unified interagency protocol and secure digital platform for information exchange and case tracking	Prosecutor's Office; Anti-Corruption Agency; Ministry of Finance; Ministry of Internal Affairs	Faster information exchange, elimination of duplicated functions, and improved detection of procurement-related offences
Fragmented monitoring of repeated and systemic procurement violations	Create a centralised risk-based register of offenders, affiliated entities, and recurring procurement irregularities	Ministry of Finance; Anti-Corruption Agency; public procurement authorities	Earlier identification of systemic schemes and prevention of repeated misuse of public funds

The study also conducted a normative mapping of administrative-legal and criminal-legal mechanisms of liability for violations in the field of public procurement. The purpose of the mapping was to identify points of intersection, gaps, and "gray zones" between various levels of legal response. The mapping was carried out by correlating typical violation schemes (T1) with normative constructs of administrative and criminal liability (T2) and the practice of legal response (T3) (see Table III).

The normative mapping was based primarily on four recurring patterns that were identified through qualitative coding of a sample of 38 materials. Two additionally significant categories were also proposed for mapping: falsification of tender documents and abuse of office. These categories constituted separate grounds for administrative or criminal qualification under the current legislation. These two categories were identified because of a doctrinal analysis of the legislation and were not considered as separate recurring patterns within the qualitative sample. Therefore, Table III distinguishes between empirically identified patterns and additional categories included to ensure a comprehensive normative analysis.

The results obtained made it possible to formulate several practical recommendations. First, it would be advisable to legislate clear quantitative and qualitative thresholds for the transition from administrative to criminal liability (for example, by the amount of damage caused). Second, it is worth introducing a mandatory mechanism for transferring materials from administrative inspections to pre-trial investigation bodies in cases that contain signs of a crime. Third, strengthening interdepartmental coordination between control (audit) and law enforcement bodies could significantly reduce the described "gray zone" of impunity (see Table IV).

The proposed measures would not be unique to Kazakhstan. Similar mechanisms for the separation of liability have already been partially tested in other jurisdictions. Comparing these approaches allowed us to assess how universal the identified problems have become, and which solutions have demonstrated their effectiveness in practice (see Table V).

Table V

Comparative approaches to distinguishing administrative and criminal liability for violations in public procurement

Country	Main mechanism of distinguishing administrative vs. criminal liability in public procurement	Key regulatory gap
Kazakhstan	Administrative liability generally applies to procedural breaches of procurement rules, whereas criminal liability arises when the conduct contains the elements of offences such as embezzlement, fraud, abuse of office, or corruption. The distinction therefore depends primarily on the nature of the conduct, intent, consequences, and the statutory elements of the relevant offence.	Public procurement violations are regulated through several general administrative and criminal provisions rather than a single specialised criminal-law framework. This may create difficulties in the consistent qualification and referral of procurement-related cases.
Mexico	The General Law of Administrative Responsibilities distinguishes between non-serious and serious administrative misconduct committed by public officials and private parties. Criminal liability applies where the same conduct satisfies the elements of corruption, unlawful exercise of public service, embezzlement, bribery, or another offence under federal or state criminal law.	The coexistence of administrative and criminal proceedings may produce overlapping jurisdiction, inconsistent qualification, and coordination problems between internal control bodies, administrative courts, audit institutions, and prosecutors.
Spain	Ordinary irregularities in tender preparation, award, or contract performance are addressed through administrative review, invalidation, financial liability, or procurement sanctions. Criminal liability requires additional elements such as deliberate arbitrariness, collusion, fraud against a public entity, bribery, misappropriation, or intentional manipulation of a tender.	The boundary between an unlawful administrative decision and criminal administrative misconduct may remain difficult to establish, particularly where proof of arbitrariness, fraudulent intent, or collusion is required.
Uzbekistan	Violations of procurement procedures are generally subject to administrative, disciplinary, civil, or financial measures, while criminal liability applies when the conduct constitutes embezzlement, fraud, abuse of authority, bribery, or another socially dangerous offence under the Criminal Code.	The procurement legislation refers broadly to liability under other laws but provides limited sector-specific criteria for distinguishing procedural violations from criminal conduct. The absence of comprehensive corporate criminal liability may further restrict enforcement against legal entities.
Ukraine	Administrative liability primarily covers breaches of statutory procurement procedures, while criminal liability is based on general offences against property, public service, and economic activity, including misappropriation, abuse of office, official forgery, and corruption. Qualification depends on intent, the offender's status, material consequences, and the constituent elements of the offence.	The absence of a separate criminal offence covering public procurement abuse requires law-enforcement authorities to rely on several general provisions. This may result in inconsistent legal qualification and difficulties in distinguishing procedural non-compliance from intentional criminal schemes.

The comparative analysis demonstrated that the problem of distinguishing administrative and criminal liability for economic offenses in the field of procurement was of a transnational nature, that is, it did not become exclusively a feature of the Kazakhstani legal system. At the same time, the specific mechanisms for overcoming this problem – from clear thresholds of harm to mandatory interdepartmental transfer of materials – varied depending on the institutional tradition of the country, which emphasized the need for further adaptation of international experience to the national legal context of Kazakhstan. It is important to note that it was not a question of mechanically borrowing it.

Discussion

The proposed results made it possible to consider the illegal appropriation of budget funds in the field of public procurement as a systemic phenomenon. The identified types of schemes — overestimation of the cost of procurement, fictitious competition, fictitious execution of contracts, and fragmentation of the subject of procurement – confirmed the thesis of other scholars that modern forms of abuse were increasingly based not on direct violation of procedures, but on their formally correct use.

From a theoretical point of view, such schemes could be a manifestation of "normative mimicry," when illegal behavior was disguised as legitimate administrative activity. Formal compliance with procurement procedures has significantly complicated the proof of the subjective side of the crime, primarily intent. This situation has confirmed the conclusions of supporters of the theory of "regulatory evasion," according to which the complexity and formality of regulatory regimes have created additional opportunities for abuse within the framework of the law (Lyra et al., 2022; Mazur et al., 2025; Ritthong et al., 2026).

Particularly indicative in this context has been the predominance of administrative liability for schemes of overpricing of procurement costs and fictitious competition. The formal existence of a competitive procedure or compliance of documentation with the requirements of the law has created the illusion of legality, which has limited the potential of criminal-legal response. In contrast, fictitious performance of contracts, which involved the documentation of non-existent works or supplies, more often led to criminal qualification, as it contained more obvious evidence of material damage. The identified imbalance between the growth of administrative offenses and the reduction of criminal investigations in 2023-2025 was of fundamental importance for understanding the effectiveness of mechanisms for bringing offenders to justice. The increase in the number of registered cases of fraud as a universal criminal-legal qualification of economic crimes further confirmed the trend towards a generalized approach in criminal law (Cepeda-Francese & Ramírez-Álvarez, 2023; Mattoni et al., 2024; Meneses Reyes & Fondevila, 2022). The results also indicated that the distinction between administrative and criminal liability in the field of public procurement in the Republic of Kazakhstan is of a rather legal-technical nature.

Comparison with international studies also indicated that such a model is not unique to Kazakhstan. Khamitov (2020) indicated that even in legal systems with developed control institutions, fragmentation between supervisory and criminal prosecution bodies can lead to an underestimation of the role of criminal law in the field of public finances. The results of this study confirmed this trend. Thus, administrative mechanisms play the role of a "last resort," rather than the initial stage of escalation of responsibility (Baltrunaite et al., 2021; Bosio et al., 2022). At the same time, in contrast to approaches focused primarily on criminalization, research in the field of financial crimes has pointed to the existence of risks of excessive reliance on proof of direct intent and the exact amount of damage (Danilyan et al., 2024; Golovin et al., 2022).

The results obtained are generally consistent with the three hypotheses, although the qualitative and non-representative design of the study did not allow for their statistical confirmation or the establishment of causal relationships. The prevalence of administrative over exclusively criminal qualification in the coded sample, together with the identified gaps in the transfer of materials between competent authorities, was generally consistent with H1. The frequent application of administrative or mixed qualification to schemes implemented through formally legitimate procurement procedures supported H2 and indicated that procedural formalization was complicated by the detection and proof of criminal intent. The results of the normative mapping were also consistent with H3: unclear harm thresholds, evidentiary barriers, and the lack of a mandatory transfer mechanism likely limited the preventive potential of the current legal liability system. Therefore, these findings should be interpreted as qualitative support for the hypotheses.

The proposed results made it possible to demonstrate the structural imbalance between administrative-legal and criminal-legal mechanisms for responding to violations in the field of public procurement. The administrative model demonstrated high institutional capacity at the stage of detecting and recording violations, which is confirmed by the mass of inspections, preventive control measures, and supervision. In this sense, administrative-legal instruments performed the function of a primary filter for violations (Baimenov et al., 2022; Sasko et al., 2026; Shevchuk et al., 2019; Shevchuk et al., 2022) . The results of the study indicated the limited functional potential of administrative liability. The formal nature or insignificant amount of sanctions, the orientation of proceedings toward eliminating procedural violations rather than compensating for the damage caused, and the absence of a mandatory mechanism for transferring materials to pre-trial investigation bodies transformed administrative control into a statistical and accounting tool. Researchers also drew attention to the fact that it was not an effective prevention mechanism (Behera, 2021; Chan et al., 2022). Thus, administrative liability recorded the consequences of violations rather than influencing behavioral incentives (Carbone et al., 2024; Lisciandra et al., 2022).

Criminal law mechanisms, despite their normative purpose, provided the highest level of protection of public finances. Attention was drawn to the widespread patterns of violations, which was explained not by the absence of criminal law norms, but by evidentiary and normative barriers. Researchers believed that regulatory gaps contributed to the consolidation of administrative dominance in law enforcement practice (Decarolis et al., 2025; Pavliuk et al., 2025).

Limitations

This study had several limitations. First, the qualitative sample comprised 38 purposively selected open-access materials and was not statistically representative of the entire set of violations in the field of public procurement or law enforcement practice in Kazakhstan. Therefore, the given

coding frequencies should be considered characteristic of the internal structure of the analyzed sample. Secondly, the use of only publicly available materials introduced selection and publication bias. Criminal proceedings, high-profile cases, and cases that resulted in the application of official sanctions may have been published more often than ordinary administrative decisions, discontinued proceedings, or materials that did not go beyond the initial stage of control. As a result, certain categories of violations and types of legal responses may have been over- or under-represented in the sample.

Conclusion

The study found that violations in the field of public procurement have become systemic and repetitive. A qualitative analysis of a sample of 38 materials demonstrated the existence of four recurring patterns: overpricing of procurement costs, fictitious competition, fictitious execution of contracts, and division of the subject of procurement into separate lots. Falsification of tender documentation and abuse of official position were additionally considered legally significant categories within the framework of regulatory mapping. However, they were not classified as independent recurring patterns in the qualitative sample studied. Quantitative data showed an increase in administrative control and the number of administrative violations in 2023-2025, which reflected the intensification of the control activities of state bodies. At the same time, the reduction in criminal investigations indicates a limited transformation of detected violations into the criminal law sphere. An analysis of the regulatory criteria for the delimitation of liability indicated that the current model was based on procedural indicators. The regulatory mapping conducted revealed the presence of persistent “gray zones” within which violations with criminal potential remain at the level of administrative liability. The article also indicates that administrative and legal mechanisms are effective at the stage of detecting and fixing violations, but their impact on preventing systemic abuse remains limited.

Conflict of interest

The authors declare that they have no known competing commercial interests or personal relationships that could have appeared to influence the work reported in this article.

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Ethics statement

This study did not require approval from an Institutional Ethics Committee, as it is based exclusively on doctrinal legal analysis, publicly available legislation, and open-access secondary materials (court decisions, official reports, and statistical data). The research did not involve human participants, personal or identifiable data, biological samples, or any form of intervention.

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