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Authors – Bondar V., Kuzmenko I., Rudnichenko S., Dumanskyi R., Lesko N., Lukianova H., Skochylias-Pavliv O., Калетнік В., Karpova N., Piestsov R., Karnaukh A., Makarova O., Mikulin V., Голуб К., Маленко С., Скребовська С., Шутяєва В., Козій А., Марченко Т., Шевченко В., Kramarenko Y., Газаев А.И., Сэткей Т.Б., Ералиева Ж.Д., Ткаля О., Александренко О., Женунтій В., Kravtsov Y., Bogomaz K., Sorokina L., Свищо В., Mochkov O.

REVIEWER

Romanova Alona – Doctor of Law, Associate Professor, Professor at the Department of Theory and Philosophy of Law, Constitutional and International Law of the Institute of Law, Psychology and Innovative Education of Lviv Polytechnic National University.
Strelchenko Oksana – Doctor of law, Professor of the Department of Public Administration and Administration of the National Academy of Internal Affairs, Professor.

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SECTION 1. ADMINISTRATIVE LAW, ADMINISTRATIVE PROCESS

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1.1 Administrative responsibility for corruption offenses in Ukraine

Today in Ukrainian society there is an active scientific discussion on the corruption situation in the country. Corruption is both a transnational and a state phenomenon, it can manifest itself in both the public and private sectors. It is quite logical that these debates were primarily related to the election process in Ukraine. However, it is not only the political and social aspects that cover this phenomenon. First of all, corruption crimes have a negative impact on economic indicators: the conditions of fair competition for the right to work in domestic and foreign markets are violated; are one of the leading factors in shading the economy not only of a particular state, but also the world market; damage the country's image, hindering the inflow of investment, etc. Realizing this, each country creates its own system and legislation to combat corruption. Ukraine, as an independent and democratic country, has also created these barriers, developed a legal framework in this direction, and constantly cooperates with various international organizations in this regard. Thus, the timeliness and relevance of the study on combating and preventing corruption is beyond doubt.

The Law of Ukraine "On Prevention of Corruption" of October 14, 2014 provides the following definition of corruption: «Corruption is the use of a person's official powers and related opportunities to obtain an improper benefit or to accept a promise (offer) of such a benefit for himself or others or, accordingly, a promise (offer) or to provide an improper benefit to such a person or its request to other natural or legal persons in order to persuade that person to misuse the official powers granted to him and the related opportunities» (Article 1) [2].

Ukraine has a system for combating and preventing corruption. It should be noted that in the detection of corruption offenses play an important role not only specially authorized bodies authorized by the state to take measures to prevent and combat corruption (National Police of Ukraine, Prosecutor's Office, National Agency for Prevention of Corruption, National Anti-Corruption Bureau of Ukraine) and state and local authorities, public associations [4, p. 55]. Based on the law, the state policy of Ukraine is aimed at combating and preventing corruption: a strategy has been developed, a legal framework has been created, legal responsibility has been established, an electronic income declaration space has been created, the infrastructure of state anti-corruption bodies has been built.

According to the current legislation, today in our country there are three types of legal liability for corruption and corruption-related offenses: administrative, criminal and disciplinary. Thus, it is clear that administrative responsibility is a cross-cutting line in the state's development of anti-corruption logistics in our country. The main source of law, which outlines a number of restrictions and prohibitions in this area, is the Code of Ukraine on Administrative Offenses.

Analyzing the Code in the context of the fight against corruption offenses, it is worth highlighting Chapter 13-A "Administrative Offenses Related to Corruption". It contains 8 articles, which set out the composition of this type of offense:

- Article 172^{-4}. Violation of restrictions on combination and combination with other activities: «Violation by a person of statutory restrictions on other paid activities… or entrepreneurial activities - entails the imposition of a fine of three hundred to five hundred non-taxable minimum incomes of citizens with confiscation of income from entrepreneurial activities or remuneration for part-time work» [1].

However, there are exceptions. In particular, an official has the right to engage in paid activities, provided that it has a teaching, creative, scientific nature, or it is medical, judicial practice or coaching practice in sports.

«Violation by a person of statutory restrictions on membership in the board, other executive or supervisory bodies, or the supervisory board of an enterprise or organization for profit… – entails a fine of three hundred to five hundred non-taxable minimum incomes with confiscation of the received income from such activities» [1].

With regard to exceptions, officials have the right to take actions to manage shares, stocks, units that are state-owned or have represented the interests of the state in the company's board (supervisory board), the audit committee of the company.

«The actions provided for in part one or two, committed by a person who during the year was subject to administrative penalties for the same violations – entail a fine of five hundred to eight hundred non-taxable minimum incomes with confiscation of income or remuneration and deprivation of the right to hug certain positions or engage in certain activities for a period of one year» [1].

- Article 172^{-5}. Violation of the restrictions on the receipt of gifts established by law: "entails the imposition of a fine of one hundred to two hundred non-taxable minimum incomes with confiscation of such a gift.

The same act committed by a person who during the year was subject to administrative penalties for violation of part one of this article – entails a fine of two hundred to four hundred non-taxable minimum incomes with confiscation of such a gift (donation) and deprivation of the right to hold certain positions or engage in certain activities for a period of one year» [1].

However, there are exceptions. The first: if the official accepts a gift from a loved one and it does not exceed one thousand four hundred and fifty hryvnia. According to the Law of Ukraine "On Prevention of Corruption", it should be noted that close persons are considered «who live together, have a common life and have mutual rights and obligations with the subject,… who live together but are not married, and – regardless of these conditions – husband, wife, father, mother, stepfather , stepmother, son, daughter, stepson, stepdaughter, brother, sister, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law, father-in-law or guardian, a person under the care or custody of the said entity» [2]. The same Law provides an interpretation of the gift: "cash or other property, benefits, privileges, services, intangible assets that provide / receive free of charge or at a price below the minimum market" [2].

The second exception: the official can accept public discounts on goods or services, public winnings, prizes, bonuses and bonuses.

- Article 172^{-6}. Violation of financial control requirements: «Late submission of the declaration of a person authorized to perform the functions of the state or local self-government without good reasons – entails the imposition of a fine of fifty to one hundred non-taxable minimum incomes.

Failure to notify or late notification of the opening of a foreign currency account in a non-resident bank or of significant changes in property status – entails the imposition of a fine of one hundred to two hundred non-taxable minimum incomes.

Actions provided for in part one or two, committed by a person who during the year was subject to administrative penalties for the same violations – entail a fine of one hundred to three hundred non-taxable minimum incomes with confiscation of income or remuneration and deprivation of the right to hold certain positions or engage in certain activities for a period of one year.

Submission of knowingly inaccurate information in the declaration of a person authorized to perform the functions of state or local self-government – entails the imposition of a fine of one thousand to two thousand five hundred non-taxable minimum incomes».

- Article 172^{-7}. Violation of the requirements for the prevention and settlement of conflicts of interest: «Failure to notify a person in the cases established by law and the procedure of the existence of a real conflict of interest – entails the imposition of a fine of one hundred to two hundred non-taxable minimum incomes.

Taking action or making decisions in a real conflict of interest – entails a fine of two hundred to four hundred non-taxable minimum incomes.

Actions provided for in part one or two, committed by a person who during the year was subject to administrative penalties for the same violations – entail a fine of four hundred to eight hundred non-taxable minimum incomes of citizens deprived of the right to hold certain positions or engage in certain activities for one term year» [1].

It should be noted that the interpretation of the category of conflict of interest is reflected in Article 1 of the Law of Ukraine "On Prevention of Corruption".

- Article 172^{-8}. Illegal use of information made known to a person in connection with the performance of official or other statutory powers: «Illegal disclosure or other use in the interests of a person of information that became known to him in connection with the performance of official or other powers specified by law – entails a fine of one hundred to one hundred and fifty non-taxable minimum incomes».

- Article 172^{-9}. Failure to take measures to combat corruption: «Failure to take the measures provided by law by an official of a public authority, local government official, legal entity, their structural units in case of corruption – entails a fine of one hundred and twenty-five to two hundred and fifty non-taxable minimum incomes.

The same act, committed repeatedly within a year after the application of administrative sanctions, entails the imposition of a fine of two hundred and fifty to four hundred non-taxable minimum incomes» [1].

It should be noted that this type of offense is very actively monitored by public organizations and journalists.

It is also important to determine by law the administrative responsibility for persons covered by disciplinary statutes for committing administrative offenses (Article 15). Namely: police officers, servicemen, conscripts and reservists during the meeting, members of the rank and file of the State Penitentiary Service of Ukraine, the Civil Protection Service and the State Service for Special Communications and Information Protection of Ukraine.

For administrative offenses under disciplinary statutes, including «committing corruption-related offenses. … These persons are administratively liable on general grounds. Public works, correctional work and administrative arrest may not be applied to these persons» [1].

For the commission of an offense related to corruption, an administrative penalty will be imposed within 3 months from the date of its detection, but not later than 2 years from the date of its commission, as provided for in Article 38.

Another important step in the fight against corruption is the requirement to provide "information, documents, as well as violations of statutory deadlines for their provision, providing knowingly inaccurate information or not in full", which entails a fine of one hundred to two hundred and fifty non-taxable minimum incomes.

The same actions committed by a person who during the year was subjected to administrative penalties for the same violation – entail the imposition of a fine of two hundred to three hundred non-taxable minimum incomes» [1]. Such lawful actions of the relevant instances correspond to the Article 188^{-46}.

As for drawing up reports on corruption offenses, only authorized officials of the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, and the Prosecutor's Office are entitled to such actions. Only the court decides on bringing to administrative responsibility, but the participation of the prosecutor in the trial is a mandatory condition.

According to the latest data «The Committee on Prevention and Counteraction to Corruption during the work of the Verkhovna Rada of the VIII convocation prepared 7039 expert opinions on draft laws on their compliance with the requirements of anti-corruption legislation» [3]. A proposal was also prepared to discuss the Anti-Corruption Strategy and other draft laws prepared by the Committee at the first session of the Verkhovna Rada of Ukraine of the IX convocation.

Despite the well-thought-out legal system for combating corruption and the created legal framework, the fallacy of retrospective determinism in our country lies in the hope that the perception of corruption by citizens will be negative. However, the mentality, historical background and level of legal culture of the population does not contribute to the rapid and radically opposite recognition of corruption as a negative phenomenon for the development of society. Therefore, the state, establishing legal responsibility for corruption offenses, prevents and counteracts the development of this phenomenon in our country.

Analyzing the ways to fight corruption, it is worth noting the important place of income declaration. This step contributes to the transparency of financial revenues of public officials in the article of their income, which reduces the risk of them committing corruption offenses.

Manifestations of corruption should be viewed from two perspectives: from the point of view of public opinion and from the point of view of the law. In Ukrainian society, the transformation of understanding and condemnation of corruption is slow, but in the right direction. An information space has been created, explanatory work with the population is carried out, regular social advertising helps to form the concept of corruption as a negative phenomenon.

In conclusion, we note that the problem of combating corruption is international, each country builds its own policy to combat and prevent corruption offenses, including the types of legal liability for them. In Ukraine, in the arsenal of ways to combat this phenomenon, along with criminal and disciplinary, there is also administrative responsibility. Analysis of the national legislative field allows us to state that the main sources of law, which outlines administrative responsibility, are the Law of Ukraine "On Prevention of Corruption" and the Code of Ukraine on Administrative Offenses. In particular, the Code, as part of the anti-corruption mechanism, reflects anti-corruption restrictions and prohibitions, and clearly outlines ways to establish administrative liability (recovery, dismissal, etc.).

Corruption crime at the present stage of state development is becoming one of the main sources of obstacles to the implementation of socio-political and economic reforms. This means that the realization of important vital interests of Ukraine in general is becoming more difficult. Given the complexity of corruption, its scale and the extraordinary diversity of its forms, it can be concluded that this component poses a significant threat to Ukraine's national security.