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PRINCIPLES OF APPLICATION OF FINANCIAL ADMINISTRATIVE SANCTIONS IN THE LEGAL DOCTRINE OF UKRAINE AND THE WORLD

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Abstract. The focus of states on administrative sanctions has increased, with these sanctions being considered a higher priority than criminal sanctions in terms of combating offences. The application of such sanctions is relatively straightforward and expeditious. Furthermore, financial sanctions serve to replenish state budgets. Nevertheless, the administrative nature of such sanctions carries with it the risk of violating the fundamental rights of the individual who is the weaker party in these legal relations, given that the body that brings charges and the body that imposes the penalty usually coincide. The crux of the issue pertains to the necessity of adhering to the three principles of prohibition of double responsibility, presumption of innocence and proportionality. However, divergent schools of thought have divergent perceptions of the content of these principles and the extent of their application in the area of administrative sanctions. The purpose of this article is to ascertain the main principles of financial administrative sanctions as recognised by scholars in Ukraine and other countries worldwide. The article presents a comparative analysis of publications by Ukrainian and foreign scholars on three fundamental principles of legal liability in the context of financial administrative sanctions. The article also contains the author's point of view on the application and content of these principles. The authors define the term "administrative sanction" and describe the existence of this legal phenomenon in the legal system of Ukraine, as well as characterise related legal phenomena. The research is grounded in the study and comparison of doctrinal sources. The article is of a theoretical nature. The conclusions drawn can inform the processes of lawmaking and law enforcement, in addition to further scientific research.

Keywords: administrative sanction, discretionary powers, financial liability, guilt of a legal entity, legal liability, presumption of innocence, prohibition of double liability, proportionality.

JEL Classification: K23, K42, H27

1. Introduction

Significant differences between legal systems around the world make it difficult to conduct a comprehensive comparative study of financial administrative sanctions. At the same time, the basic provisions of administrative law doctrine have many common features that can be generalised. The emergence of a legal rule is preceded by the adoption of a legal principle, which in turn is based on a doctrinal vision of the directions of legal development. The effective application of legal norms is ensured, in particular, by legal liability. In the contemporary era, states extensively utilise financial administrative sanctions as a means of encouraging subject entities to adhere to the principles of public law. Concurrently, it is imperative to ensure that the implementation of these instruments does not contravene the fundamental human rights and freedoms enshrined in state constitutions and international legal instruments. In order to direct the legal system towards respect for these rights and freedoms, states recognise the need to comply with certain principles on which the application of financial administrative sanctions should be based. The substance of these principles is delineated in detail in the works of scholars who have studied the

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administrative law of their own country. Nevertheless, a comparative legal study of the principles of application of financial administrative sanctions is absent in the field of administrative law science. The purpose of this study is to ascertain the main principles of application of financial administrative sanctions recognised by scholars in Ukraine and other countries.

2. Meaning of the Term "Administrative Sanction"

A generalisation of publications by foreign scholars leads to the conclusion that the term "administrative sanction" is usually used in contrast to the term "criminal sanction", and that these two concepts are usually considered as components of a broader system. Moura Emerson Affonso da Costa (2021), for example, states in an article that administrative sanctions, together with criminal sanctions, are part of the system of legal sanctions, to which the legal system assigns a separate place and which is called "sanctions law". This point of view is corroborated by E.C. Quinzacara (2012), who posits that there is no ontological difference between criminal and administrative sanctions. In order to distinguish administrative sanctions from other public law sanctions, foreign authors employ the subjective criterion (i.e., by the body that imposes the sanction). According to this criterion, an administrative sanction is defined as a general sanction for violation of public law, imposed by a public authority that does not belong to the judicial branch of power.

The term "administrative sanction" is utilised within the legal doctrine of Ukraine. However, related concepts are also employed, including "sanctions in administrative law", "administrative-economic sanctions", "financial sanctions", "measures of influence", "administrative penalties" and "administrative-legal sanctions". In particular, E. Ustymenko proposes to introduce into scientific circulation the concept of "administrative-legal sanction", which is defined as follows: "a measure of reaction of an authorised entity provided for by law, which is aimed at eliminating the causes and consequences of an unlawful act committed by the subject – the addressee of a legal provision and consists in eliminating the consequences of an unlawful act, its termination or punishment of the offender, and which is applied administratively" (Ustymenko, 2015, p. 35). In turn, O. Lavrenchuk and V. Tylchyk emphasise the need to distinguish between the concepts of "administrative sanction" and "sanction provided for by administrative law", pointing out that the latter term includes both administrative sanctions and disciplinary sanctions for state and municipal officials (Lavrenchuk, 2021, p. 50). Concurrently, S. Honcharuk observes that the concepts of "administrative sanctions" and "administrative penalties" are not synonymous: the former generally possesses a more extensive connotation (Honcharuk).

3. The Reason for the Terminological Differences

The absence of uniformity in the terminology of administrative sanctions in Ukraine is attributable to the idiosyncrasies of the legislation on administrative torts, a legacy of the Soviet legal system. This legislation was established in a context characterised by the absence of private ownership of the means of production and the absence of private legal entities. In that era, taxation did not constitute the primary source of budget revenue. There was an absence of economic competition, and the supervision of economic activity was internal. The state functioned as the predominant employer. Consequently, administrative liability was imposed only on individuals for offences that were less severe than crimes. The state had no objective need to establish the financial liability of legal persons, since the state itself owned the means of production. Under these conditions, administrative liability was easily codified, similar to the codification of criminal law. Therefore, Ukraine, like other states belonging to the socialist camp before 1991, inherited a codified law on administrative liability applicable to natural persons (the Code of Ukraine on Administrative Offences).

Following the transition of these countries to a market economy, there was a need to regulate the relationship between the state and the private sector. Compliance with business rules was to be ensured, inter alia, by a system of effective sanctions, primarily financial. Thus, Ukraine has a significant number of laws that provide for fines to be imposed on business entities for violations of public law. However, these sanctions were not included in the Code of Administrative Offences. They still exist in an unsystematised form, as 65 separate laws of Ukraine, each of which has both substantive and procedural peculiarities. In the legislation and modern legal doctrine of Ukraine these sanctions are covered by the terms "financial liability", "influence measures", "administrative-economic sanctions". Moreover, financial liability has emerged as a separate type of legal liability. This peculiarity of the development of the legal systems of the post-Soviet states has led to the lack of terminological identity between the concepts of "administrative sanction" and "administrative penalty" ("measure of administrative responsibility").

On the other hand, in countries where the market economy has existed for a long time, there is usually no codified legislation on administrative sanctions. Such sanctions apply to both natural and legal persons. They are imposed both on business entities and on

citizens who are not engaged in business activities. Therefore, the internal Ukrainian academic debate on the meaning of the term "administrative sanction" in the developed countries of the Western world may seem incomprehensible. Ukraine's course of European integration requires comparative research to harmonise domestic legislation with the legal system of Western countries. One of the areas of such harmonisation should be the unity of the system of financial administrative sanctions. The basis for the creation of such a system should be the generalisation of the principles of financial administrative sanctions.

4. General Overview of the Principles of Application of Financial Administrative Sanctions

An analysis of scientific publications shows that the following principles are the most frequently mentioned:
1) Prevention of double liability;
2) presumption of innocence;
3) proportionality and consideration of all the circumstances of the case.

It is important to consider whether this list of principles is exhaustive. It is evident that it is not. It is impossible to deny the need to comply with such principles as the rule of law; legality; the right to defence; freedom from self-incrimination; prohibition of retroactive effect of the law introducing or enhancing liability; and the right to appeal. These principles are common to the system of legal liability in general. Concurrently, the field of administrative law in various countries worldwide places significant emphasis on these three principles. The reasons for this phenomenon are manifold. Firstly, financial administrative sanctions are not a distinct entity, but rather a component of a broader legal system that also encompasses other forms of sanctions, chiefly criminal sanctions. Legislation may provide for different types of sanctions for similar or even identical acts, which makes the issue of avoiding double liability relevant. The second reason is that, in the case of financial administrative sanctions, the prosecuting authority and the sanctioning authority are usually one and the same. Therefore, ensuring that a person is treated as innocent until the sanction is imposed is a relevant area of research. The third reason pertains to the fact that financial administrative sanctions are characterised by the presence of various models. A predominant model is the fixed penalty model, which does not take into account the full range of circumstances pertaining to the act in question and the characteristics of the offender. Consequently, there is an imperative for mechanisms that will ensure compliance with the principle of proportionality of the sanction to the gravity of the offence. The remainder of this article will focus on the three principles mentioned above.

5. Prevention of Double Liability

In this context, the scientific literature typically poses the question of the possibility of simultaneous application of criminal liability and administrative sanctions for the same offence. At first sight, the answer to this question is obviously negative. After all, Art. 4 of Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms guarantees the following: "No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State." (European Convention on Human Rights) In the case law of the European Court of Human Rights, the concept of "criminal prosecution" has an autonomous meaning and can be extended to the right to administrative sanctions.

Simultaneously, the prevailing legal doctrine continues to lack a definitive response to the question of the precise content of the principle of non bis in idem in the context of administrative sanctions. Consequently, the article by AbdelAziz GM and Abouahmed A. examines the practice of the Constitutional Council of France with regard to double legal liability. The authors posit that the Constitutional Council of France has adopted a dualistic approach to the prevention of double legal liability, permitting it in certain areas and prohibiting it in others. To illustrate this, the authors cite the example of tax cases in France, where the combination of criminal and administrative penalties is permitted, contingent upon the severity of the offences in question. In addition, scholars have emphasised the necessity for legislative intervention to ensure clarity, and have further argued that the principle of non bis in idem should be limited only when absolutely necessary (AbdelAziz, 2024).

A more detailed list of the exceptions where a combination of criminal and administrative sanctions is permitted can be found in the article by M.G. Tomillo. Using Spanish legislation as an example, the academic concludes that two procedures (criminal and administrative) may be allowed if they have different objectives and different grounds, and provided that there is a sufficient period of time between the two procedures. The researcher considers that the acquittal of a person on the basis of the results of administrative proceedings, if the results of such proceedings have not been reviewed by a court, cannot be an obstacle to the further prosecution of a person. At the same time, if the conclusion that a person is innocent was reached by a judicial authority in the course of reviewing an administrative sanction, such a court decision has an adverse effect in the event of further criminal prosecution. The author

considers that there is room for discussion on whether an administrative sanction can be imposed on a person acquitted as a result of a procedural error (Tomillo, 2020).

In turn, Widow M.M.O. advances the hypothesis that a single act may be regarded as constituting a violation of multiple rules concurrently. Nevertheless, the scholar asserts that a system aspiring to uphold its own principles must adhere to specific criteria, and the legislator is constrained by the principle of ne bis in idem when instigating criminal or administrative sanctions (Widow, 2018).

In addition to the issue of combining criminal and administrative sanctions for the same act, the legal doctrine also discusses the possibility of applying more than one administrative sanction for the same act, in particular if the latter forms a perfect aggregate. The present article by V.C. Silva Xavier examines such a case. The scientist analysed the possibility of bringing business entities to an administrative sanction if they coordinate their actions while participating in a public tender. According to Brazilian legislation, such actions simultaneously entail liability under both antitrust and anti-corruption laws. The researcher posits that this state of affairs is warranted by virtue of the fact that it pertains to two discrete infractions that encroach upon different social values. Concomitantly, it is imperative to consider the idiosyncrasies inherent in Brazil's legal system, as evidenced by the scientist's observation that the fundamental legislation does not explicitly prohibit the accumulation of administrative sanctions (Silva Xavier, 2023).

The discourse within legal doctrine encompasses the subjective criterion for the implementation of the principle of avoidance of double legal liability. This issue assumes particular significance in the context of an offence committed by a legal entity. In this regard, M.L. Ramírez Torrado advocates for the substitution of the concept of "physical identity" with that of "legal identity". The scientist hypothesises that the concurrent imposition of an administrative penalty on both a legal entity and its representative constitutes a violation of the principle of prohibition of double legal liability (Ramírez Torrado, 2009). Concurrently, in certain jurisdictions, the notion of "physical identity" is explicitly codified by legislation. Consequently, while M.L. Ramírez Torrado examined the legislation of Spain, C. Fortini and A. Shermam, having studied the legislation of Brazil, cited Law 12846/13, according to which, "the liability of a legal entity does not exclude the individual liability of its directors or managers or any natural person who is a performer, co-author or participant in an unlawful act" (Fortini, 2018).

The principle of "non bis in idem" is enshrined in the text of the Constitution of Ukraine, which states that "no one shall be held legally liable twice for the same offence" (The Constitution of Ukraine). However, the prohibition of double legal liability as a principle of administrative sanctions remains little studied in Ukraine. Scientists usually consider this principle only in the context of criminal law. Recent case law shows that it is impossible to subject the same person to administrative and financial liability for the same act at the same time. At the same time, Ukraine does not prohibit the simultaneous imposition of sanctions on a legal entity (financial liability) and its official (administrative liability) for the same offence. It is generally recognised that administrative and criminal liability cannot be imposed simultaneously for the same offence; in Ukraine, in the event of competition between criminal law and administrative and tort law, criminal liability takes precedence. The possibility of simultaneous criminal and financial liability for the same offence is controversial, although some laws (e.g., the Tax Code of Ukraine) allow it.

6. Presumption of Innocence

Financial administrative sanctions are applied on behalf of the state, i.e., by a powerful entity against a non-powerful one. Because of the unequal legal status of the parties to a legal relationship, the weaker party must be provided with guarantees against arbitrariness on the part of the stronger party. One such guarantee is the principle of the presumption of innocence. It places the burden of proof of guilt on the prosecution. However, while the existence and content of this principle in criminal law and procedure are generally recognised, the application of the presumption of innocence in administrative sanctions law is a matter of debate. As a rule, the discussion is not about the possibility or impossibility of applying this principle, but about the content of the presumption of innocence in this area. The reasons for such a discussion are, on the one hand, the difficulty of guaranteeing the presumption of innocence due to the fact that the prosecuting and enforcing authorities are the same and, on the other hand, the peculiarities of the construction of legal norms, which often impose administrative sanctions regardless of guilt (especially in the case of legal persons).

In particular, E.B. Scheuermann argues that the application of the presumption of innocence in administrative sanctions is "nuanced". For example, the scholar agrees that the authority is obliged to treat the alleged offender as innocent, but the effect of this rule is limited to the moment when the decision to impose sanctions comes into force. The researcher also agrees that the administration must prove the fact of the offence, the person's involvement in its commission and the aggravating circumstances, but has the possibility of using legal presumptions.

Regarding the standard of proof, the researcher notes that in administrative sanctions it is the "standard of preponderance of probability" (Scheuermann, 2021), unlike in criminal proceedings where the standard is "beyond reasonable doubt".

The content of the presumption of innocence in the application of administrative sanctions to legal persons in the context of proving the existence of the subjective side of the offence is also discussed. Thus, Herrera Pérez, Enlil Iván; Barrera Apaza, Katerin; Rodríguez Cotrado, Ingrid Melanie, analysing the Peruvian legislation on the administrative liability of legal entities, consider that "the guilt of a legal entity is based on the act itself" (Herrera Pérez, 2023). The application of this concept signifies that the onus is on the subject of authority to demonstrate that the legal entity has contravened public law. In such circumstances, the culpability of the legal entity is to be presumed.

Concurrently, the issue of the standard of proof for financial administrative sanctions is not confined to legal entities. In his article, V.S. Baca Oneto rightly observes that the concept of formulating a legal framework for administrative sanctions that does not incorporate elements of culpability may be appealing, as it facilitates the enforcement of sanctions and streamlines the operations of public administration. The scientist provides examples of the existence of administrative sanctions for "mere non-compliance with a rule" when negligence is presumed; concurrently, he holds the opinion that this concept should not be a rule, but an exception, which can only be justified by the nature of the benefits protected in these cases (Baca Oneto, 2018).

The Constitution of Ukraine is explicit in its articulation of the presumption of innocence, albeit exclusively in the context of allegations pertaining to criminal activity. However, it is noteworthy that there is a consensus among Ukrainian scholars that the presumption of innocence should be a fundamental principle that governs administrative liability. For instance, citing O. Soloviova's position, it is asserted that, in accordance with the provisions enshrined in the Constitution of Ukraine, the rulings of the European Court of Human Rights and the Constitutional Court of Ukraine, as well as the stipulations outlined in the Code of Ukraine on Administrative Offences, the presumption of innocence in cases pertaining to administrative offences ought to be observed (Soloviova, 2022, p. 365). This standpoint is indicative of the prevailing legal doctrine in Ukraine. However, within the Ukrainian legal system, the term "administrative responsibility" is a more limited concept than "administrative sanctions". The state of research on other types of administrative sanctions is insufficient and is characterised by a lack of consistency and attention to only certain areas of sanctions. Whilst the position of scholars on the presumption of innocence in administrative liability is almost unanimous, the consensus is less clear-cut in relation to the presumption of innocence in tax law. For instance, V. Yanovskyi (2013, p. 120) posits that the uncritical adoption of the legal category of "presumption of innocence" from criminal law into tax legislation may precipitate a crisis in the tax system.

7. Proportionality and Consideration of All the Circumstances of the Case

The extrajudicial nature of financial administrative sanctions frequently necessitates the legislator to establish fixed amounts of penalties. This legislative approach is designed to prevent the abuse of discretionary powers by public administration entities and, by extension, to mitigate the risk of corruption. Conversely, this method ensures that the amount of the penalty cannot be adapted to reflect the severity of the offence or the individual characteristics of the offender. Primarily, the ratio of monetary penalties to potential losses (or potential profits from the violation) and the property status of the offender must be considered. The aforementioned factors indicate that a promising area of research is the compliance with the principle of proportionality when imposing financial administrative sanctions.

Petit Jacques argues that proportionality must be observed both at the stage of determining the amount of the sanction by law (abstract proportionality) and at the stage of imposing the sanction (concrete proportionality). However, the relationship between abstract proportionality and concrete proportionality is somewhat contradictory: the more precisely proportionality is established by law, the less discretion the authority has to adapt the sanction to each specific case. The researcher notes that French tax legislation often establishes a system of fixed fines, which deprives the sanctioning authority of any possibility of choosing the amount of the penalty. Moreover, the researcher insists that the constitutional obligation of the legislator is not to impose sanctions that are clearly disproportionate (Petit Jacques, 2019).

S. Rousseau and T. Blondiau distinguish two models of administrative sanctions: "act-based" and "harm-based" (they studied sanctions for environmental offences). In both cases, however, the amount of the sanction increases if the offence is repeated and decreases if the offender has taken measures to minimise the negative consequences of the offence. The amount of the penalty is also influenced by the characteristics of the offender, except when the offender is a legal person. Scientists rightly emphasise that if the purpose of imposing sanctions is to maximise compliance with the law, the amount of sanctions should depend on

the level of benefits received as a result of the offence (Rousseau, 2014).

The need to comply with the principle of proportionality in the adoption of the law was highlighted in particular by P. Majka. The researcher, who studied the legislation of the Republic of Poland, came to the conclusion that sanctions for non-compliance with the taxpayer's obligation to disclose information to the tax authority should be less severe than sanctions related to tax evasion (Majka, 2020).

The works of scholars also contain more categorical views on the optimal model of financial administrative sanctions. For example, N. Jílková argues that the administrative authorities should have the discretion to impose fair and proportionate penalties, and she also believes that it is necessary to abandon the establishment of an exhaustive list of aggravating and mitigating circumstances in the law and leave the assessment of these circumstances to the discretion of the administrative authorities in a particular case (Jílková, 2018).

If, on the other hand, the administrative authority is given a wide margin of appreciation in determining the amount of the penalty, this may lead to an abuse of discretion. In such circumstances, it is important that the court has the power to correct the breach of the principle of proportionality. For example, A. Tollenaar, studying the legislation of the Netherlands, notes that the maximum amount of an administrative fine is often higher than the amount of a criminal fine, and in these circumstances it is important that the sanction reflects, among other things, the degree of culpability of the offender. When analysing the judicial practice of appeals against decisions of administrative bodies, the researcher found a pattern: if the law provides for different amounts of sanctions for intentional and negligent offences, administrative bodies more often classify the offence as intentional. Subsequently, in 38% of cases, the court reduced the sanction amount, deeming it to violate the principle of proportionality. However, administrative authorities frequently fail to draw proper conclusions from the case law (Tollenaar, 2018).

Research is also being conducted into judicial control over compliance with the principle of proportionality, with a view to determining whether the court exceeds the limits of its jurisdiction. In this context, it is imperative to examine the rationale provided by courts in their decisions when invalidating administrative sanctions on the grounds of their disproportionate nature. As articulated by J.M.V. Olivares and T.P.I. Serrano, a pivotal criterion in the assessment of the contested act's proportionality is the existence of administrative precedent. The court examines whether there have been cases in which an administrative body has imposed a lesser penalty for a similar or less serious offence. Scholars also note the existence of a rule in Chilean law that, in the event of a violation of the principle of proportionality, the court sends the case back to the administrative authority for reconsideration, since the court cannot exceed its powers and substitute itself for the administrative authority (Olivares, 2023).

The "proportionality test" is a well-established principle that is utilised by the European Court of Human Rights in determining the limits of permissible state interference with human rights. Within the Ukrainian legal framework, both the European Convention on Human Rights and the case law of the European Court of Human Rights serve as important sources of law. In recent years, Ukrainian legislation has frequently led to the introduction of substantial fines, which have been a subject of debate within the academic community regarding their proportionality. For instance, in 2016, the state implemented substantial financial penalties for violations of labour legislation. The scholar O. Kravchuk contends that the magnitude of the fine, which does not consider the severity of the damage caused, but is solely focused on the amount (10 minimum wages for each employee), does not adhere to the principle of proportionality, as it imposes an excessive burden on the violator (Kravchuk, 2018, p. 125). Subsequently, during the quarantine in 2020, the state introduced significant fines for violating quarantine rules, the amount of which exceeded some criminal sanctions. Some scholars saw this as a violation of the principle of proportionality, in particular, I. Mishchuk (2022, p. 72) stressed that the level of sanctions should be revised.

8. Discussion

The authors posit the view that it is not possible to apply more than one measure of public liability for the same act. This is due to the fact that all such penalties are applied on behalf of the state for encroachment on the identical object of public relations, and the negative consequences relate to the same person. Consequently, when the state introduces a financial administrative sanction for an act that has already been criminalised, or introduces multiple financial administrative sanctions for equivalent acts, it is obligated to determine which sanction to apply.

Moreover, the implementation of financial administrative sanctions is often less complex than that of criminal sanctions. This is due to the absence of prior judicial control and the reduced opportunities available to the defence. The individual subject to such sanctions is typically in a more vulnerable position compared to the state. Consequently, the application of financial administrative sanctions by the state does not create any impediments that might hinder the possibility of applying criminal sanctions in the future.

In accordance with the case law of the European Court of Human Rights, the principle of the presumption of innocence, as a component of a fair trial, is also applicable to other public law sanctions of a general nature. Consequently, in states that recognise the jurisdiction of this international judicial institution, it is logical to infer that every individual subject to administrative sanctions is presumed to be innocent. With regard to legal persons, the author is of the opinion that the guilt of a legal person should be considered proven if the guilt of an official authorised to take key decisions for that legal person (e.g., a director or chairman of the board) is proven. This point of view is based on the fact that the subjective aspect is a mandatory element of the offence, as well as on the fact that the legal doctrine does not contain any other criteria for establishing the guilt of a legal entity.

The identity of the prosecutor and the enforcement authority is a natural difficulty in applying the presumption of innocence to financial administrative sanctions. However, the possible bias and presumption of guilt should be offset by the possibility of appealing against a financial administrative sanction before a court with full jurisdiction to review the evidence of the offence.

Constitutional laws of states do not usually contain a safeguard against the legislature imposing excessively high administrative sanctions. As a result, ensuring compliance with the principle of proportionality is often the task of courts of general jurisdiction rather than constitutional courts. Excessively harsh sanctions are usually compensated for by enforcement practice (e.g., by immunity on the grounds of immateriality). However, the phenomenon of the severity of a legal provision being nullified by the practice of its application is not normal in a constitutional state. Therefore, it is necessary to look for ways to constitutionally limit the legislator's ability to impose disproportionately high financial administrative sanctions.

The availability of discretionary powers in determining the amount of a financial administrative sanction is necessary if the amount of the sanction is significant and if, for objective reasons, it is impossible to establish alternative sanctions. In the authors' opinion, a promising area of research is not a discussion of the presence or absence of discretionary powers, but a search for safeguards against abuse of such discretionary powers. An important safeguard is the ability of the court to verify not only the legality of the sentence imposed, but also its proportionality.

9. Conclusions

An *administrative sanction* is defined as a measure of legal liability that: 1) is provided for by public law and applied for violation of public law norms; 2) is of a general nature; 3) is applied on behalf of the state; 4) is applied out of court; 5) is applied to both individuals and legal entities; 6) does not fall under criminal liability. In Ukraine, this term is not widely used; the legal doctrine pays more attention to administrative liability, the subject of which is an individual. Concurrently, within a market economy, alternative forms of administrative sanctions, which are not considered to be administrative liability and which are typically more stringent than administrative liability, are gaining prevalence. Within the Ukrainian legal doctrine and court practice, such penalties are typically grouped under the term "financial liability".

The present study explores three principles of financial administrative sanctions that are the subject of extensive scientific discussion: 1) avoidance of double legal liability; 2) presumption of innocence; 3) proportionality. According to the authors, the reasons for scholars' attention to these principles are as follows: 1) numerous cases in which several types of liability for the same act are established in legal systems; 2) the coincidence of the prosecution and the body imposing the penalty, which makes it difficult to ensure that a person is treated as innocent; 3) the desire of states to limit the discretionary powers to choose the type and amount of administrative sanction, combined with frequent cases of imposing excessively severe penalties (usually monetary).

There are the following main points of view in the world legal doctrine on the content of the principle of non bis in idem in financial administrative sanctions: 1) the combination of financial administrative sanctions with criminal sanctions or the combination of several financial administrative sanctions for the same act is exceptional and is allowed only if the offence is sufficiently serious; 2) the combination of two sanctions is allowed if they pursue different objectives and have different causes, for example in the case of "perfect aggregation" of offences. In the Ukrainian legal doctrine, this issue remains under-researched. Moreover, in court practice, there is a tendency to prohibit double jeopardy for two different types of public liability. There is no consensus among scholars worldwide as to whether it is possible to simultaneously bring both a legal entity and its official to liability for the same act. However, in Ukraine, such prosecution is considered possible.

The application of the presumption of innocence in all types of public liability is recognised as necessary. Conversely, there is a viewpoint that the standard of proof in financial administrative sanctions is less stringent for the state than in criminal liability. The subjective nature of the act committed by a legal entity is a salient issue, with divergent views being expressed on the matter. On the one hand,

the guilt of a legal entity is deemed to be based on the act itself and does not require separate proof. On the other hand, it is argued that guilt must be proved in the same way as for individuals. In the Ukrainian legal doctrine, there is a general consensus on the application of the presumption of innocence in cases of *administrative offences*. However, there is no consensus on the existence and content of this principle in the application of *other administrative sanctions*, primarily financial liability measures.

The principle of proportionality of administrative financial sanctions has two aspects: 1) the adequacy of the amount of the abstract sanction established by the law; 2) the adaptation of the amount of the specific sanction to the seriousness of the offence when imposing a penalty. The first aspect depends entirely on the legislator, and the second also on the administrative authority, if it has a discretionary power. The main areas of research in the field of proportionality of administrative sanctions are 1) criticism of unreasonably high fines disproportionate to the severity of the potential violation; 2) discussion of the limits of permissible discretion. On the one hand, the imposition of a fixed sanction contravenes the principle of individualisation of responsibility; on the other hand, the exercise of discretionary powers engenders the possibility of their abuse, since the entity imposing the penalty is interested in a high level of such penalty.

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