

FINANCIAL ABUSE OF PUBLIC OFFICIALS: CHARACTERISTICS AND PROBLEMS OF LIABILITY

Yuliia Abakumova¹, Oleksandr Prasov², Olha Symonenko³

Abstract. The purpose of the article is to study the issues of characterisation and liability for financial abuse of public officials under the laws of Ukraine and other countries, with a view to eliminating the existing gaps in legislation. The results of the study are based on the analysis of the development of the regulatory framework for liability of officials of various levels for financial abuse, including for misappropriation of property through abuse of office in Ukraine, some European countries and other states. The article describes the concept and characteristics of an official. The present article conducts an analysis of the principles of activity that pertain to officials. The investigation encompasses the conceptualisation and typology of official abuse within the financial sphere perpetrated by officials. The article provides a comprehensive overview of the procedural framework and the principles of liability that govern officials' actions in such contexts. The authors analyse foreign experience in combating corruption, in particular in the USA, France and the UK. The article analyses the legal framework that regulates the issue of liability for criminal acts related to financial abuse of public officials. Proposals are made to take into account foreign experience in the process of combating corruption. The paper substantiates the need for a systematic and comprehensive approach to combating such a negative phenomenon as corruption. The types of criminal offences committed by public officials are systematised and classified under Ukrainian criminal law. Value/Originality. Financial misuse by public officials is a manifestation of corruption. The indicators of the Corruption Perceptions Index can be improved through a systemic public policy aimed at counteracting this negative phenomenon. The article provides proposals for taking into account and applying foreign experience in combating financial abuse of public officials and corruption. In particular, it is noted that in order to increase the effectiveness of combating corruption criminal offences in Ukraine, it is considered appropriate to: 1) to create an extensive system of public supervision over the activities of the state apparatus and the process of investigation of such criminal acts; 2) to introduce a mechanism of "unclear procedure for approval of assets" in the process of investigation of criminal offences related to obtaining unlawful benefits, which effectively reveals the unlawfulness of the source and manner of origin of an official's property.

Keywords: official, liability, financial mismanagement, misappropriation of property, official position, undue advantage, signs of an official, financing.

JEL Classification: H56, H82, K11, K14, K19, K33, K42

1. Introduction

The study is devoted to the issues of characterisation and liability for financial abuse of public officials under the laws of Ukraine, European countries and other states. The solution to this problem is of great theoretical and practical importance, given that it is related to such urgent tasks as: prevention of corruption; proving the relevance of a different

approach to understanding the essence of official abuse, according to which selfish or other personal motives are not a specific feature of such acts; research of foreign experience in combating financial abuse through the use of power or official position; reform of legislation on liability for offences in the field of official activity; elimination of existing gaps in legislation, etc.

¹ Classic Private University, Ukraine (*corresponding author*)

E-mail: julia_v_abakumova@ukr.net

ORCID: <https://orcid.org/0009-0008-7018-8850>

² Zaporizhzhya Circuit Administrative Court, Ukraine

E-mail: paazu@ukr.net

ORCID: <https://orcid.org/0009-0009-4243-1363>

³ Classic Private University, Ukraine

E-mail: olya_symonenko@ukr.net

ORCID: <https://orcid.org/0009-0008-6875-4008>



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The analysis of the legislation of Ukraine and other countries, as well as a review of recent research and publications on the characteristics of offences related to financial abuse of office and misappropriation of property through abuse of office, shows that the existing legal theory of the essence of official abuse remains unchanged. At the same time, selfish motives or other personal interests of officials and unlawful gain are considered synonymous. In addition, most of the abuses by officials, especially those that are combined with financial gain, are also related to corruption, while corruption is one of the most widespread socially negative phenomena. The fight against corruption has been ongoing for the entire period of existence of the state and society. To date, most of the means and measures of a regulatory, legal, organisational and managerial nature to combat this negative phenomenon have not had the desired effect. The level of corruption, especially in post-Soviet states, remains quite high. In Ukraine, this issue is particularly negative due to the already difficult situation in the country. With the outbreak of war, martial law was introduced in Ukraine, and Ukrainian legislation, including criminal law, has undergone significant changes. For example, Law of Ukraine No. 2155-IX of 24. 03.2022 "On Amendments to the Criminal Code of Ukraine on Liability for Illegal Use of Humanitarian Aid" criminalised actions involving the sale of humanitarian aid goods (items) or the use of charitable donations, free aid or the conclusion of other transactions for the disposal of such property, with the aim of making a profit, if they are committed in a significant amount (when the total value of such humanitarian aid, charitable donations or free aid is three hundred and fifty times or more than the tax-free minimum income of citizens) (Article 201-2(1) of the Criminal Code of Ukraine) (The Law of Ukraine "On Amendments to the Criminal Code of Ukraine on Liability for Illegal Use of Humanitarian Aid", 2022). In addition, the legislator has defined qualified corpus delicti of this criminal offence, namely: actions under Article 201-2(1) of the CCU committed repeatedly or by prior conspiracy by a group of persons, or by an official using his/her official position, or on a large scale (Article 201-2(2)); acts under parts one or two of this criminal law provision committed by an organised group or on a particularly large scale, or during a state of emergency or martial law (Article 201-2(3)) (The Criminal Code of Ukraine, 2001). This was due to the fact that after Russia's attack on Ukraine, a large number of charitable foundations and volunteer organisations began to operate in the country, which are not always distinguished by their integrity, which, of course, also applies to the activities of officials who, for example, head or organise such a charitable foundation. There are also other financial abuses related to the

misappropriation of property (misappropriation, embezzlement, misappropriation through abuse of office, etc.), money, financial benefits, etc. by officials. Even the commission of a criminal offence using the conditions of martial law or a state of emergency, or other extraordinary events, is an aggravating circumstance under Article 67(1)(11) of the Criminal Code of Ukraine (CCU) (The Criminal Code of Ukraine, 2001). Other branches of law also provide for the liability of officials. The scope of research on this issue should include other specialities, such as economics, political science, sociology, etc. Such manifestations of corruption not only undermine the economy of the state, but also instil in society distrust in officials, state bodies, and, accordingly, in the state as a whole, which has a particularly negative impact, especially in times of armed aggression.

Analysing the scientific literature on this issue, the following scholars should be noted: P. Andrushko, P. Berzin, O. Bodnaruk, V. Borysov, V. Burdin, S. Vitvitskyi, V. Hatseliuk, O. Dudorov, Z. Zahynei-Zabolotenko, K. Zadoia, O. Kvasha, V. Kovalenko, O. Kolb, O. Kostenko, O. Marin, M. Melnyk, R. Movchan, N. Muravska, A. Muzyka, V. Navrotskyi, Ye. Nazymko, M. Panov, Ye. Pysmenskyi, T. Ponomarova, A. Savchenko, T. Slutska, D. Sysoiev, V. Tiutiuhin, I. Fris, P. Fris, V. Furman, M. Khavroniuk, A. Shevchuk, as well as B. Kanton, A. Sterbfing, D. Kholdar, and others. The opinions of these respected scholars certainly deserve attention. However, the issue of financial abuse of public officials in any form, and especially during martial law, has been and will continue to be a subject of heated debate in society and an object of criticism, which makes the chosen topic relevant.

2. Financial Abuse of Public Officials under Ukrainian Law

According to Article 19 of the Constitution of Ukraine, officials are obliged to act only on the basis, within the limits of their powers and in the manner prescribed by the Constitution and laws (The Constitution of Ukraine, 1996).

The legislative strengthening of the state apparatus is an important factor in the development and construction of the rule of law in Ukraine. The state apparatus comprises three branches of government (legislative, executive and judicial), various public organisations associated with it, as well as enterprises, institutions and organisations of any form of ownership. In order to strengthen the rule of law in the country, effective measures are needed to stop any violations in the activities of the state apparatus, including those related to corruption.

Corruption is a complex, multifaceted social phenomenon. It should be viewed from many perspectives, including legal, economic, social,

sociological and psychological aspects. Given that corrupt acts affect various sectors of the economy, it should be noted that the study of the economic aspect of this phenomenon serves as the basis for analysing all components of this type of socially dangerous illegal activity (Lazarenko, Babenko, 2014)

The Article 1 of the Law of Ukraine "On Prevention of Corruption" dated 14 October 2014 No. 1700-VII (the Law) states that corruption is the use by persons defined in Article 3(1) of the Law of their official powers or related opportunities in order to obtain an unlawful benefit or acceptance of such benefit or acceptance of a promise (offer) of such benefit for themselves or other persons, or, accordingly, a promise (offer) or provision of an unlawful benefit to the person concerned or, at their request, to other individuals or legal entities in order to induce that person to unlawfully use their official powers or related opportunities (The Law of Ukraine "On Prevention of Corruption", 2014). In turn, the term "corruption offences" refers to acts that contain signs of corruption and for which the law establishes criminal, disciplinary and/or civil liability. Such an act must be committed by the relevant entity. In addition, the legislator defines the concept of 'corruption-related offence' as an act that does not contain signs of corruption, but violates the requirements, prohibitions and restrictions established by Ukrainian legislation, committed by persons referred to in Article 3(1) of the Law, for which the law establishes criminal, administrative, disciplinary and/or civil liability (The Law of Ukraine "On Prevention of Corruption", 2014). Therefore, in case of violation of domestic legislation by an official, he or she is subject to liability: criminal, disciplinary, administrative, and liability for damages.

Corruption offences include a large number of acts related to financial and other abuses by public officials, the commission of which is undoubtedly contrary to the principles of public service and the interests of the state and society. Liability for such acts is primarily provided for in the Criminal Code of Ukraine.

If to analyse the content of the Criminal Code of Ukraine and the criminal law provisions provided for by it, it is possible to distinguish several groups of criminal offences by officials (taking into account the fact that an official may be a representative of the authorities). First of all, the following should be singled out:

I. Offences by public officials that do not involve obtaining an unlawful financial benefit.

II. Offences by public officials related to obtaining unlawful financial gain.

The first category includes such criminal offences as:

1. These offences are provided for in Chapter XVII of the Criminal Code of Ukraine "Criminal offences in the sphere of official activity and professional

activity related to the provision of public services", in particular: Abuse of power or official authority by a law enforcement officer (Art. 365); Forgery in office (Art. 366); Declaration of false information (Art. 366-2); Failure of the declarant to submit a declaration of a person authorised to perform the functions of the state or local self-government (Art. 366-3); Official negligence (Art. 367); Provocation of bribery (Art. 370).

2. Provided for in other sections of the Criminal Code of Ukraine, for example:

– Criminal offences against justice (Chapter XVIII of the Criminal Code of Ukraine) committed by an official (representative of the authorities). These include: Knowingly unlawful detention, bringing, house arrest or detention (Article 371); Bringing a person who is known to be innocent to criminal responsibility (Article 372); Coercion to testify (Article 373), etc.

– Criminal offences in the field of economic activity (Chapter VII of the Criminal Code of Ukraine): Misuse of budgetary funds, making budgetary expenditures or granting loans from the budget without the established budgetary allocations or in excess of them (Article 210), Issuance of regulatory acts that reduce budget revenues or increase budget expenditures contrary to the law (Article 211) (although these acts are related to the illegal redistribution of funds, the motives for their commission do not affect the qualification); Violation of the procedure for maintaining a database of depositors or the procedure for generating reports (Article 220-1), and others.

– Criminal offences against industrial safety (Chapter X of the Criminal Code of Ukraine): Violation of labour protection legislation (Article 271).

– Criminal offences against the established order of military service (military criminal offences) (Chapter XIX of the CCU): Violation of the rules of border service (Article 419); Inaction of military authorities (Article 426); Excess of power or authority by a military official (Article 426-1); Surrender or abandonment of means of warfare to the enemy (Article 427), etc.

All of these criminal offences are committed by officials (including government officials), but are not characterised by a special purpose (e.g., obtaining an unlawful benefit) or a special motive (e.g., a useful one). And "official negligence" is generally committed out of negligence.

The offences of officials related to obtaining unlawful financial gain include the following:

1. Provided for in Chapter XVII of the Criminal Code of Ukraine (Articles: 364 "Abuse of power or official position"; 364-1 "Abuse of authority by an official of a legal entity of private law regardless of the organisational and legal form"; 365-2 "Abuse of authority by persons providing public services"; 365-3 "Inaction of a law enforcement officer regarding

illegal activities in organising or conducting gambling or lotteries"; 368 "Acceptance of an offer, promise or receipt of an unlawful benefit by an official"; 368-5 "Illicit enrichment"; 369-3 "Unlawful influence on the results of official sports competitions").

2. Provided for in other chapters of the Criminal Code of Ukraine, in particular:

– Criminal offences against property (Chapter VI of the Criminal Code of Ukraine): Misappropriation, embezzlement or seizure of property through abuse of office (Article 191).

– Criminal offences in the field of protection of state secrets, inviolability of state borders, conscription and mobilisation (Chapter XIV of the Criminal Code of Ukraine): Transmission or collection of data constituting official information collected in the course of operational and investigative, counter-intelligence activities, in the field of defence of the country (Article 330(2)).

– Criminal offences against the established order of military service (military criminal offences) (Chapter XIX of the Criminal Code of Ukraine): Stealing, misappropriation, extortion by a serviceman of weapons, ammunition, explosives or other munitions, vehicles, military and special equipment or other military property, as well as obtaining them by fraud or abuse of office (Article 410(2)).

– Criminal offences in the field of economic activity (Chapter VII of the Criminal Code of Ukraine): Illegal use for profit of humanitarian aid, charitable donations or free aid (Article 201-2(2)); Illegal appropriation of property of an enterprise, institution or organisation (Article 206-2(3)); Tax evasion, duties (mandatory payments) (Article 212); Evasion of payment of a single contribution to the obligatory state social insurance and insurance contributions to the obligatory state pension insurance (Article 212-1); Leading a bank to insolvency (Article 218-1); Leading to bankruptcy (Article 219).

All these acts are committed either for mercenary motives or for the purpose of obtaining any unlawful benefit. As an example, there are several *corpus delicti* of criminal offences committed by an official for the above reasons or purposes.

Thus, Art. 201-2 of the Criminal Code of Ukraine provides for liability for an act consisting in the sale of humanitarian aid goods (items) or the use of charitable donations, free assistance or the conclusion of other transactions on the disposal of such property, with the aim of making a profit, committed in a significant amount (Article 201-2(1)). A qualified element of this criminal offence is that it is committed by an official using his/her official position (The Criminal Code of Ukraine, 2001). It is important to note that this socially dangerous act has the potential to disrupt the established social relations within

the domain of charity. The objective of this act is to illegally obtain financial benefits in a manner that is outlined in the provisions of Art. 201-2. This act effectively encroaches upon the concept of humanitarian aid as a distinct material category.

According to Art. 1 of the Law of Ukraine "On Humanitarian Aid", humanitarian aid is defined as "targeted targeted gratuitous assistance in cash or in kind, in the form of non-refundable financial assistance or voluntary donations, or assistance in the form of work, services, provided by foreign and domestic donors on the grounds of humanity to recipients of humanitarian aid in Ukraine or abroad who need assistance due to social insecurity, material insecurity, difficult financial situation, the introduction of martial law or a state of emergency, an emergency or a serious illness of a particular individual, as well as to prepare for the armed defence of the state and its protection in the event of armed aggression or armed conflict", and the term "free aid" means (shipment, performance of work, provision of services) the provision of humanitarian aid without any monetary, material or other types of compensation to donors (The Law of Ukraine "On Humanitarian Aid", 1999). Therefore, the subject of the investigated act may be: banknotes in circulation in Ukraine or other states; property (things of the material world, characterised by such features as cost and labour invested in their production); food; provision of material services; performance of works.

According to Art. 201-2 of the Criminal Code of Ukraine, the subject of this criminal offence is not just "goods" (objects), but only those that fall under the concept of "humanitarian aid". It can also include charitable donations and free assistance. At the same time, criminal liability for the act occurs only if the total value of such humanitarian aid, charitable donations or free assistance is three hundred and fifty times or more than the tax-free minimum income of citizens (a significant amount) (part 2 of the Note to Article 201-2) (The Criminal Code of Ukraine, 2001). This is a prerequisite, defined as a combination of a specific object and its value equivalent. It is the value of the object of the offence that must exceed a significant amount, not the profit from its sale or other actions. Therefore, it does not matter how and for what price the goods were purchased, how much it cost to deliver them to the recipient, how much taxes (fees, mandatory payments) were paid, etc. The main factor in charitable activities is that the recipients of assistance should not have to pay anything for it. This is the defining principle of charity. In other words, humanitarian aid is a type of charity and should be directed in accordance with the circumstances, objective needs, consent of its recipients and subject to the requirements of Article 3 of the Law of

Ukraine "On Charity Work and Charitable Organisations". According to this regulatory act (Article 6), a charitable donation is defined as "a gratuitous transfer by a benefactor of funds, other property, property rights into the ownership of beneficiaries to achieve certain pre-determined goals of charitable activities" (The Law of Ukraine "On Charity Work and Charitable Organisations", 2012). Therefore, charitable assistance (as the subject of the criminal offence under investigation) acquires its status under certain circumstances. This may be a decision of the owner or producer of goods (works, services), a decision of the authorities or court, enactment of regulations by the legislative bodies of the state, etc. In other words, any product at a certain stage of its existence may receive the status of charitable assistance. Moreover, the acquisition of this status by a certain product must be reliably known to the person who commits illegal actions with it. In addition, in accordance with the Resolution of the Cabinet of Ministers of Ukraine (CMU) No. 174 dated 01.03.2022 "On Some Issues of Humanitarian Aid Passage through the Customs Border of Ukraine under Martial Law", goods are recognised as humanitarian aid on a declarative basis without a decision of specially authorised state bodies on humanitarian aid (The Resolution of the Cabinet of Ministers of Ukraine "On Some Issues of Humanitarian Aid Passage through the Customs Border of Ukraine under Martial Law", 2022). In other words, in the process of moving across the state border, the goods acquire the status of charitable assistance, in particular, on the basis of a relevant declaration submitted by the person moving it to the customs authority in electronic or paper form. From the moment the declaration is submitted to the customs, the goods are considered humanitarian aid and are subject to the procedures and formalities regulated by the said CMU Resolution.

Taking into account the content of the disposition of Art. 201-2 of the Criminal Code of Ukraine, it may be noted that, from the objective side, this criminal offence may be committed by: selling the subject matter of the offence; its other unlawful paid alienation (as evidenced by the clearly defined purpose of this act by the legislator "...for the purpose of making a profit..."; turning the subject matter of the offence in one's own favour or in favour of third parties; entering into other transactions with respect to such subject matter). The objective aspect of this act, especially when it is committed by an official through abuse of office (Article 201-2(2)), has certain similarities with the objective side of the criminal offence under Article 191 of the Criminal Code of Ukraine "misappropriation, embezzlement or seizure of property through abuse of office", which is expressed in the misappropriation or embezzlement of another's

property entrusted to the person or under his/her control, or in the misappropriation, embezzlement or seizure of another's property through abuse of office by an official (The Criminal Code of Ukraine, 2001). The commission of such unlawful acts is driven by the objective of enhancing one's financial standing or that of external parties, often resulting in the exploitation of property or other tangible assets that are within one's purview (entrusted to them or under their jurisdiction).

The subject of the illegal use of humanitarian aid, charitable donations or free aid for profit, according to Article 201-2(1) of the Criminal Code of Ukraine, is general. But the following should be noted here. It is the opinion of the legislator that the transfer of humanitarian aid should be executed from donors (i.e., charitable organisations, being legal entities) to the intended recipients of said aid. According to Art. 4 of the Law of Ukraine "On Charity Work and Charitable Organisations", the subjects of charitable activities are charitable organisations established and operating in accordance with this Law, as well as other benefactors and beneficiaries (The Law of Ukraine "On Charity Work and Charitable Organisations", 2012). At the same time, recipients of humanitarian aid must be legal entities registered in the Unified Register of Recipients of Humanitarian Aid maintained by the Ministry of Social Policy of Ukraine. Obviously, the subject of the offence under consideration cannot be the recipient of the aid, since such persons are the final beneficiaries and dispose of the aid at their own discretion. Also, it cannot be donors, as they are the only ones who decide how and on what conditions to provide humanitarian aid. It is quite logical to assume that it is the recipients of humanitarian aid who are the entity that should be held liable under this article. Therefore, it can be concluded that it is the recipients (i.e., officials and employees of legal entities) who could "illegally use" humanitarian aid. This is already a special subject of a criminal offence. However, at the moment, the commission of a criminal offence under Article 201-2 of the Criminal Code of Ukraine by an official is only a qualifying feature of this act, which is a significant omission by the legislator.

Intentionally restricting access to humanitarian aid for people in need and misappropriating humanitarian aid are acts that violate international law. Various international treaties and conventions emphasise that every state is obliged to protect and provide for its civilians, condemn and oppose any actions aimed at restricting access to humanitarian assistance (Shapovalova, 2023). Violation of the principles of international humanitarian law in non-international armed conflicts may lead to individual criminal liability of a government official (Decision on the

Appeal on Jurisdiction in the Tadic case, op. cit. (note 14), 2021). For this reason, the violation of the right of the population of a state to humanitarian aid may not only be a criminal offence under Ukrainian law, but also constitute an international war crime (Rottensteiner, 2010).

Another criminal offence related to the receipt of undue advantage by an official is abuse of power or position (Article 364 of the Criminal Code of Ukraine). This criminal act consists of the intentional use of power or official position by an official in order to obtain any unlawful benefit for himself/herself or another individual or legal entity (if it caused significant damage to the rights, freedoms and interests of individuals, or to the state or public interests, or to the interests of legal entities) (The Criminal Code of Ukraine, 2001). It may be committed only by an official whose characteristics are specified in Notes 1 and 2 to this provision. The objective aspect of this criminal offence implies that the official wishes to take advantage of their official position, and this objectively contradicts the interests of the service. In any case, there is a demonstrable correlation between the official position of the perpetrator and their subsequent behaviour, which is manifest in their illegal actions or inaction. A mandatory feature of the subjective side of abuse of power or position is the presence of a special purpose, namely the obtaining of any unlawful benefit for oneself or another individual or legal entity. A criminal offence can be qualified as abuse of power or official position only if liability for such an act is not provided for in other articles of the Criminal Code of Ukraine, which contain special *corpus delicti* of this crime, in particular, "Violation of the secrecy of voting" (Article 159), "Illegal actions regarding adoption" (Article 169(2)), etc.

One of the most prevalent corruption-related criminal offences is the acceptance of an offer, promise or receipt of an unlawful benefit by an official, as outlined in Article 368 of the Ukrainian Criminal Code (bribery). This act is expressed in the acceptance of an offer or promise or in the receipt by an official of an undue benefit (bribe), as well as in a request to provide such a benefit for oneself or a third party for performing or failing to perform any action in the interests of the person offering, promising or providing the undue benefit, or in the interests of a third party, using the power or official position vested in the official (The Criminal Code of Ukraine, 2001). Such an act is aimed primarily at the illicit enrichment of an official or other persons, most often relatives of such an official.

Thus, the main type of liability for financial abuse by public officials under Ukrainian law is criminal. Liability for non-financial abuse may also be administrative, disciplinary, and liability for damages.

3. Financial Abuse of Public Officials and Means of Combating It under the Laws of Foreign Countries

Financial abuse by public officials is, in fact, a manifestation of corruption. Corruption is a socially dangerous phenomenon, a corrosion of power that is inherent in almost any state. Unfortunately, the corruption rate in Ukraine is still too high. As of 2023, Ukraine ranked 121st in the world (out of 180 countries) in terms of corruption and had a corruption perception index of 33, the same as in Algeria, Angola, El Salvador, Mongolia, Zambia, and the Philippines (Table 1) (Ranking of countries by level of corruption, 2023). This is a very disappointing indicator.

Table 1

Rating of countries by level of corruption

Position in rating	Country	Index
1.	Denmark	90
2.	Finland	87
3.	New Zealand	87
4.	Norway	84
5.	Singapore	83
6.	Sweden	83
7.	Switzerland	82
8.	Netherlands	80
9.	Germany	79
10.	Ireland	77
11.	Luxembourg	77
12.	Hong Kong	76
13.	Australia	75
14.	Canada	74
15.	Estonia	74
16.	Iceland	74
17.	Uruguay	74
18.	Belgium	73
19.	Japan	73
20.	United Kingdom	73
121.	Ukraine	33
180.	Somalia	12

However, during the year, Ukraine received 36 out of 100 points in the Corruption Perceptions Index, and as of 2024, it ranks 104th. It should also be noted that over the past 10 years, Ukraine has added a total of 11 points, which is the largest increase among the countries that currently have EU candidate status. Transparency International Ukraine experts identify the following key events that influenced this result: 1) adoption and implementation of the Anti-Corruption Strategy and the State Anti-Corruption Programme (SAP); 2) intensification of detentions and investigations in top corruption cases; 3) majority of procurements in Prozorro (Corruption

Perceptions Index 2023: Ukraine improved its score by 3 points, 2024).

Combating corruption-related criminal activities and their prevention is one of the most urgent areas of public policy in many countries. It is difficult to identify a common element of such a system in foreign countries due to the fact that they all approach this problem systematically, developing mechanisms and tools that have a comprehensive nature and a comprehensive effect. For example, the primary principles of combating corruption in the United States can be mentioned: 1) the US Constitution (1787), which introduced a system of checks and balances to limit abuse of power; 2) the Bill of Rights (1791), which provides for the protection of citizens' rights, restrictions on government power, and freedom of the press as a tool of public control; 3) Judiciary (Judiciary Act of 1789) (established a federal judiciary to ensure effective administration of justice and provided for the possibility of holding officials accountable for abuses) (Khobin, 2024). Currently, the US legislation provides for the criminal liability of public officials for various abuses, including corruption, in various sections of the federal and state criminal codes. For example, in federal law, these rules are found in sec: 18 U.S.C. (Articles 201-211, 215-216, 599); Title 5 (Article 7342) and elsewhere. Also, the issues of liability for such abuses at the federal level are regulated by various laws on: criminal liability for bribery and other official misconduct; and "conflict of interest" laws, which prohibit public officials and their close relatives from having a financial interest in matters that may be affected by decisions made by such officials (such laws apply to officials who have already left office within one year after such resignation). However, only federal officials, i.e., those who are in the "service of the United States" and acting officially on behalf of and for the benefit of the state, can be prosecuted for malfeasance. This includes federal judges. Pursuant to Section 201 of Article 11, "Bribery, Bribery or Conflict of Interest" (Title 18 of the US Code), the term "official" includes: members of Congress; an officer or employee of Congress; a delegate or member of a parliamentary commission; and a person acting on behalf of the United States or any department, agency, or government of a state, including the District of Columbia, and performing a relevant official function under the authority of the relevant department, agency, or government (Fedorchuk, 2010).

Corruption is combated in the United States on a systematic and regular basis. However, the level of white-collar crime in the country has recently increased slightly. Thus, if in 2017 in 2017, the United States had 75 points in the Transparency International ranking (high level of transparency), in 2020 this rating dropped to 67 points, which was the largest drop in a decade. The reasons for the downgrade included: conflicts

of interest, which in particular related to potential conflicts between Trump's personal business and his role as president; transparency issues, including the refusal to release tax returns and public requests for investigations into his business; and political polarisation, such as controversy over key decisions regarding relations with foreign countries, which raised doubts about the government's transparency (Khobin, 2024).

Although the observance of human rights and freedoms in the United States in the process of fighting corruption is quite successful, which is ensured by a high level of anti-corruption legislative structures, an independent judiciary, a developed level of legal awareness of citizens and the use of progressive organisational measures, it should be noted that corruption in this country is considered in its broadest manifestation. It can also exist in disguised forms, such as favouritism, lobbying, protectionism, investment by commercial entities at the expense of the state budget, contributions to political purposes, and so forth (Buhera, 2023). In other words, although the US has come a long, difficult way in the fight against corruption and has many effective mechanisms to counteract this phenomenon, the problem has not been completely eradicated.

According to French criminal law, all criminal acts are divided into 3 groups according to their gravity: 1) crimes; 2) misdemeanours; 3) offences. Many official misconducts fall into the category of misdemeanours and are not considered to be serious offences. A particular drawback of French legislation is the fact that the Criminal Code does not contain a general definition of a public official. On the other hand, various chapters of the Code on criminal liability of public officials define some special types of such subjects of crimes: a person performing duties in the civil service; a person vested with state power; a person performing the functions of a representative of state power; a person holding a public office; a person holding an elected mandate; an employee of a state institution; an employee of a state administration body; an employee of the state postal or communication service; a manager or employee of a state enterprise; an employee of a local self-government body; a state depositary and its subordinates; a state accountant and its subordinates; an employee of a nationalised enterprise; an employee of a mixed-type business entity where the state or a state organisation owns more than 50 per cent of the capital (Fedorchuk, 2010).

All types of abuse of power under the French Criminal Code can be divided into the following 3 groups: abuse of power that infringes on the order of governance; abuse of power that infringes on the rights of private individuals; breach of the duty of decency by an official. In France, the activities of public officials (representatives of the authorities) are also

regulated by various laws and regulations, for example, the Law on the Rights and Duties of Civil Servants of July 13, 1983 (Novikova, 2014).

With regard to bribery-related malfeasance, French criminal law defines the subject matter of such offences as benefits, gifts, remuneration, gifts and other privileges. At the same time, not only public law officials and officers but also private law persons may be held liable for such acts (Komarnytska, 2020).

In order to combat corruption, the French Criminal Code provides for large monetary fines for official misconduct (from 100,000 to 3 million FRF), as well as additional penalties: prohibition to hold public office, as well as to carry out professional or social activities in the performance of or in connection with which the offence was committed; prohibition to exercise political, civil and family rights; confiscation of all funds or illegally obtained items (Fedorchuk, 2010).

The experience of criminalisation of bribery (obtaining undue advantage) in the UK is also interesting. On the one hand, the UK legislation does not clearly define such an act as "illicit enrichment", unlike Ukrainian legislation (Article 368 "Acceptance of an offer, promise or receipt of an undue advantage by an official" and Article 368-5 "Illicit enrichment"). In contrast, the UK's "unclear wealth order" institution stipulates the necessity for the clarification of specific circumstances, including the provenance of financial assets or real estate, their previous location, and the validity of the income-generating basis. In essence, the accused individual is obligated to furnish documentation substantiating the legality of property ownership and the means of acquisition. Therefore, this institution is a very successful tool for combating and counteracting corruption. In addition, the UK, as well as the US, has a developed network of public associations authorised to oversee the investigation of criminal acts with signs of corruption in the police, which guarantees a more transparent investigation and is a positive experience (Hryhorenko, 2014).

Thus, while it is impossible to completely eliminate corruption, the indicators can be significantly improved through systematic public policies aimed at countering it.

4. Conclusions

The article examines the state policy on the liability of officials for offences in the field of official activities and professional activities related to the provision of public services. The article examines the problems and peculiarities of liability, criminalisation and counteraction to such acts in the legislation of foreign countries, in particular, the USA, France and the UK. The authors of the study argue for the necessity of reforming national legislation in this area, drawing upon the experience of other countries.

In conclusion, it is evident that corruption represents a significant and prevailing concern in the contemporary era. This socially dangerous phenomenon is inherent in any state. It accompanies humanity at all stages of social development. Although, unfortunately, it is impossible to eradicate corruption completely due to its social nature, it can be noted that many countries have managed to create effective mechanisms to combat corruption, which significantly reduces its level.

Financial abuse of public officials is a component of corruption. Under Ukrainian legislation, financial abuse by public officials is a criminal offence. They are classified as criminal offences.

According to the subject matter of the offence, Ukrainian criminal law distinguishes two main groups of criminal offences by officials: offences by officials that are not related to obtaining an unlawful financial benefit; offences by officials that are related to obtaining an unlawful financial benefit.

In order to increase the effectiveness of combating corruption-related criminal offences in Ukraine, it is advisable to create an extensive system of public oversight of the state apparatus and the process of investigating such criminal acts. The authors also believe that the experience of the United Kingdom in introducing the mechanism of "unclear wealth approval" in the process of investigating criminal offences related to obtaining unlawful benefits, which effectively reveals the unlawfulness of the source and manner of origin of an official's property, is useful.

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