

**CHANGES IN THE SYSTEM OF CRIMINAL OFFENCES  
AGAINST JUSTICE IN THE CRIMINAL CODE OF UKRAINE  
DUE TO THE REFORMING THE CRIMINAL CODE  
OF UKRAINE IN 2020**

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In consequence of the last reforming of the Criminal Code of Ukraine [1] (hereinafter referred to as the CC), performed by the Law of Ukraine dated 22.11.2018 No. 2617-VIII «On making changes to some legislative acts of Ukraine on simplification of the pre-trial investigation of the certain categories of criminal offenses» [2], which came into effect on 01.07.2020, the notion of

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a criminal offense was introduced in the CC, which covered all criminally punishable acts, which were divided into crimes and misdemeanors.

The common criminal and legal nature of a crime and a criminal misdemeanor as subtypes of one legal category, a criminal offense is confirmed by a large number of articles of the Criminal Code, which are set out in combination and include both the crime and the criminal misdemeanor [3, p. 19].

In consequence of reforming 34 articles of section XVIII of CC «Criminal offenses against justice» [1] were divided as follows: 22 articles provide for criminal liability for crimes, 8 articles provide for criminal liability for criminal misdemeanors, 4 articles provide for criminal liability for combined criminal offenses, which have variants of criminal offenses in the form of crimes and in the form of criminal misdemeanors.

Since in accordance with Art. 12 of the Criminal Code [1], the type of a criminal offense is determined by the type and scope of the primary punishment and/or penalty established by the sanction of the Criminal Code article for the criminal offense provided for by such article (part, clause of the article), this principle was applied to the division of the criminal offenses belonging to section XVIII of the Criminal Code «Criminal offenses against justice» [1], by types. It should also be noted that a criminal misdemeanor is an act that has a lower degree of public danger than a crime, causing significant harm to the interests of a natural or legal person, society, state or international law, and not significant harm as a crime [4, p. 8]. Due to this fact the division of the criminal offenses belonging to section XVIII of the Criminal Code «Criminal offenses against justice» [1] by types clearly states the degree of social danger of any of such criminal offenses to the opinion of the legislator. That is why the research of the sanctions of the articles of section XVIII the Criminal Code «Criminal offenses against justice» [1], their changes or saving unchanged for 2018–2020 will show the degree of social danger of each of criminal offenses belonging to section XVIII of the Criminal Code «Criminal offenses against justice» [1].

Sanctions of Articles 372, 373, 376-1, 377, 378, 379, 380, 382, 383, 389-2, 390, 392, 393, 394, 396, 399, 400, 400-1 of the Criminal Code [1] were not changed during the period of 2018-2020 and, according to them, the criminal offenses provided for in the above articles were classified as crimes.

Sanctions of Articles 385, 386, 387, 389, 390-1, 395, 397 of the Criminal Code [1] were not changed during the period of 2018-2020 and, according to them, the criminal offenses provided for in the above articles were classified as criminal misdemeanors.

Sanctions of Articles 371, 381, 384, 400-1 of the Criminal Code [1] were not changed during the period of 2018–2020 and, according to them, the

criminal offenses provided for in part 1 of Article 371, part 1 of Article 381, part 1 of Article 384, part 1 of Article 400-1 of the Criminal Code [1], were classified as criminal misdemeanors and criminal offenses provided for by part 2 of Article 371, part 3 of Article 371, part 2 of Article 381, part 2 of Article 384, part 2 of Article 400-1 of the Criminal Code [1] were classified as crimes, that is why the criminal offenses provided for by Articles 371, 381, 400-1 of the Criminal Code [1], belong to the combined criminal offenses.

It follows from the above that during the reforming of the Criminal Code [1] in 2018–2020, legislators did not reconsider the degree of public danger of the above criminal offenses against justice.

In 2018, in accordance with the Law of Ukraine dated 22.11.2018 No. 2617-VIII «On making changes to some legislative acts of Ukraine on simplification of the pre-trial investigation of the certain categories of criminal offenses» [2], in the sanction of part 1 of Article 374 of the Criminal Code, the amount of the penalty from 300 to 500 non-taxable minimum incomes was increased by the amount of the fine from 1000 to 4000 non-taxable minimum incomes [1], which shows the desire of legislators to assess the violation of the right to protection as a criminal act of great danger. This corresponds to the status of the right to protection as one of the fundamental human rights, which is enshrined in the Constitution of Ukraine [5] and international legal instruments.

In 2018, in accordance with the Law of Ukraine dated 22.11.2018 No. 2617-VIII «On making changes to some legislative acts of Ukraine on simplification of the pre-trial investigation of the certain categories of criminal offenses» [2], in the sanction of part 1 of 376 of the Criminal Code, the amount of the penalty of 50 non-taxable minimum incomes was increased by the amount of the fine from 1000 to 4000 non-taxable minimum incomes of citizens [1], which shows the desire of legislators to assess interference in any form in the activities of a judge to prevent him/her from performing his duties or criminally illegal act of a significant degree of danger. This corresponds to the constitution guarantees of judge independence during delivery of justice provided for by Article 126 of the Constitution of Ukraine [5].

In 2018, in accordance with the Law of Ukraine dated 22.11.2018 No. 2617-VIII «On making changes to some legislative acts of Ukraine on simplification of the pre-trial investigation of the certain categories of criminal offenses» [2], in the sanction of part 1 of Art. 388 of the Criminal Code, the amount of the penalty from 200 to 500 non-taxable minimum incomes was increased by the amount of the fine from 1000 to 4000 non-taxable minimum incomes, and in the sanction of part 2 of Article 388 of the Criminal Code, the amount of the penalty from 300 to 600 non-taxable minimum incomes was increased by the amount of the fine from 4000 to

6000 non-taxable minimum incomes [1], which shows the desire of legislators to assess the illegal actions with respect to seized property, pledged property or property that is described or subject to confiscation as a criminal offense of a significant degree of danger. This corresponds to the importance of the compliance with the requirements established by Article 41 of the Constitution of Ukraine [5] to the procedure of property seizure.

All 3 revised strengthening of sanctions of Articles 374, 376, 388 of the Criminal Code were performed in order to leave the criminal offenses provided by Articles 374, 376, 388 of the Criminal Code in the category of crimes after the reform of the Criminal Code [1].

From the above it follows that the constitutional principles of the right to protection, independence and inviolability of judges, strictly defined by law procedure for confiscation of property are assessed by Ukrainian legislators as those elements of the justice system whose level of criminal protection should not be reduced by reforming the Criminal Code of Ukraine [1].

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