



Research Article

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Inaccuracy of Information about the Property of the Subject of the Declaration as a Qualifying Feature of a Corruption-Related Offence

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Abstract

The article investigates the composition of administrative offences and corruption-related crimes on the subject of "declaring inaccurate information about property and income", criminal and administrative liability for their commission. Based on the comparative and legal analysis, the main differences of the mentioned corruption offences' structures have been determined. It has been established that the basic differences in the composition of corruption administrative misconduct and corruption-related crime refer to the object (the value of the property concerning which inaccurate information has been submitted) and the subjective aspect. The distinctions in liability have been determined for submitting of deliberately inaccurate information in the declaration by the subject regarding the property or other objects of value. Judicial practice reveals that in case of an administrative offence, "the submission of deliberately inaccurate information" refers to the subjective aspect, whereas the qualification of a corruption-related crime takes place in the case of deliberate misrepresentations about property value by the declarant. Analysis of judicial practice in the Unified State Register of Judicial Decisions has revealed the following features: a fine is a common form of punishment; imprisonment is much less often used; evidence of fact that a person has committed an act in the form of non-filing, untimely submission of the declaration or submission of inaccurate information in the declaration is sufficient to make a conviction; lack of a thorough investigation of the subjective aspect of crimes with a predominance of judgments in favor of intent or submission of inaccurate information in a declaration; lack of a detailed investigation of the subjective aspect of crimes with a predominance of judgments in favor of criminal intent.

Keywords: qualifying feature, corruption misconduct, corruption-related offence (crime), misrepresentations about property, information subject to declaration

1. Introduction

Taking into consideration the public danger, offences are divided into crimes and misconducts, delicts which are divided into disciplinary, civil and administrative ones. As a result, the need arises to distinguish between misconducts, including administrative ones, and crimes. The distinction of corruption-related administrative misconducts and crimes concerning declaring of inaccurate information about the value of property is of particular relevance, due to the definition of forms and means of state influence on the subjects of such offences (Hladkyy, 2017; 2018). The complexity of the task of the correct determination of offences is due to their similar components, which should be determined in accordance with the legislation and without contradiction with international law.

In order to determine the components of corruption-related misconducts and offences (crimes), it is advisable to compare the relevant articles of criminal legislation and legislation on administrative offences. The submission of deliberately inaccurate information is a crime with formal components, that is, the fact of its commission means a complete crime that causes harm to public relations and is of intangible nature (Savchenko, 2016).

2. Literature Review

The issues of the components of the administrative and criminal offence (crime) concerning declaring inaccurate information about property value in Ukraine have not been sufficiently covered in scientific researches. "Corruption schemes: their criminal and legislative qualification and pre-trial investigation" is an important study of this subject matter (2019). The study has analyzed the court decisions of higher authorities regarding the qualification of inaccurate information about property; identification of the reasons for the depreciation of the declared property has been carried out and misrepresentation as a qualifying feature has been investigated; the arguments for declaring the information, provided in the declaration, as untrustworthy are given by law enforcement agencies and lawyers. At the same time, the analysis of the scientific literature made it possible to create a theoretical base that served as the basis for a practical comparative analysis of the composition of offences, related to corruption. The studies, relating to the concepts of "qualifying features", "components of administrative offence and "components of crime" constitute the theoretical basis of the study.

The term "qualifying features" is used in the scientific literature: 1) in a general sense, as any qualifying and especially qualifying attributes provided for by specific components of the offence; 2) in the narrow sense, as qualifying features provided for by parts of articles that take place after the basic components of the offence. Features, qualifying a crime, are systematically organized elements of a crime's components that are directly stipulated by the criminal law; they indicate a significant change in the public danger's level of the crime, cause a change in qualifications and an increase or mitigation of the typical punishment for applying the new sanction; they are of an imperative nature (Marmora, 2011).

The components of an administrative offence constitute a set of features prescribed by legislation, in the presence of which an unlawful act can be classified as an administrative misconduct, respectively, the components of the crime is a set of objective and subjective features that make it possible to qualify a public dangerous act as a crime (Mykhaylenko, 2017). Depending on the type of corruption offences, the content of guilt in these crimes is formulated differently. In offences with formally defined crime, the form of guilt covers the mental attitude of the person to the act and consequences, in particular a certain volitional attitude towards them (Veresha, 2015). Detection of an administrative offence should be understood as establishing the objective and subjective side of certain components of an administrative offence related to corruption in the actions of the perpetrator. Corruption-related crimes have two groups of features: a) the components of the crime provided by the Criminal Code; b) features of corruption-related crime. The subject of the offence is the obligatory element of the corruption offence (Zapototsky & Sharmar, 2016). Direct

intent characterizes the subjective aspect of a corruption-related crime. The subject may be aware of the inconsistency of the property information specified or may not be aware of this fact for whatever reason. Clarification of the motive is not a mandatory element of the subjective aspect of a corruption-related crime at the level of Article 366-1 of the Criminal Code of Ukraine (Legislation of Ukraine, 2020c). The lack of evidence of a specific motive indicates that there is no intent to conduct a corruption-related crime by a person.

The literature has also described the subject of a corruption-related crime, namely: information on property declarations, including real estate. The information is considered inaccurate in the case of: 1) providing incomplete information about all objects owned by the subject of declaration and members of his family on the basis of private property or in lease or according to other right of use; 2) indicating incorrect data on the date of entry into the ownership of securities or their nominal value or quantity; 3) absence of information on intangible assets belonging to the declarant or his family members, etc. Inaccuracy of information on property can be qualified precisely as an economic feature, determined by the amount of losses, which is equal to the undeclared amount of the total value of the property.

3. Methodology

The study has used a system of various methods of comparative analysis, namely: 1) the terms “qualifying features”, “components of administrative offence” and “components of crime” have been formed on the basis of synthesis of scientific researches; 2) identification and comparison, correlation of administrative offences and criminal crimes, connected to corruption concerning declaring inaccurate information about property values; 3) comparative and legal method for analyzing the rules of law on the application of Articles 38, 172-6 of the Code of Ukraine on Administrative Offences (COA) (Legislation of Ukraine, 2020a) and Articles 45, 49, 366-1 of the Criminal Code of Ukraine (CCU) (Legislation of Ukraine, 2020c) in case of holding a person liable for declaring inaccurate information; 4) analysis and synthesis of judicial practice for the period of 2010-2020 in the Unified State Register of Judgments (n./d.) under Article 366-1 of the Criminal Code of Ukraine (Legislation of Ukraine, 2020c).

4. Results and Discussion

At the beginning of the creation of legislation in the sphere of combating and preventing corruption (the Law of Ukraine “On Civil Service” as of 1993), the concept of “reliable” information about property and income was not opposed to “unreliable” information about property and income. There was also no such element of the subjective side of the offence as guilt in the form of direct intent. At the same time, to the contrary, the verification of information about property and income for “authenticity” was intended to reveal the facts of “unreliable” information that would be recognized as a qualifying feature of a corruption-related offence. The provisions regarding the reliability of information on property and income in the Law of Ukraine “On the Prevention of Corruption” (Legislation of Ukraine, 2020b), were more thoroughly identified and detailed, and the form of a declaration was determined, which created the conditions for preventing and combating corruption in public and private spheres of social relations.

Liability in the field of corruption offences or crimes related to corruption, in particular the indication of inaccurate information, may be disciplinary, administrative or criminal one. To assess the components of administrative misconduct and crime, the legal norms on the application of Articles 38, 172-6 of the Code of Administrative Offences (Legislation of Ukraine, 2020a) and Articles 45, 49, 366-1 of the Criminal Code (Legislation of Ukraine, 2020c) have been analyzed in the event that a person is held liable for declaring inaccurate information.

According to Article 1 of the Law of Ukraine “On the Prevention of Corruption”, a corruption offence is 1) an act that contains features of corruption committed by persons, who are the subjects,

and to whom the Law applies criminal, disciplinary and / or civil-legal liability; 2) corruption-related offence is an act that does not contain features of corruption, however it violates the requirements, restrictions, and prohibitions established by the Law, which have been committed by persons who are the subjects of the law, and to whom the Law applies criminal, disciplinary and / or civil-legal liability (Legislation of Ukraine, 2020b).

The subjects are: 1) persons authorized to perform the functions of state or local self-government; 2) persons who, for the purposes of this Law, are equated with persons authorized to perform functions of the state or local administration; 3) persons, permanently or temporarily holding positions, related to the performance of organizational and managerial, business and administrative duties, or specially authorized to perform duties in private legal entities, regardless of the organizational and legal form, as well as other persons who are not officials and provide services or who perform work in accordance with an agreement with an enterprise, institution, organization, – in cases provided for by this Law; 4) candidates for deputies of Ukraine. Therefore, persons authorized to perform the functions of local government or state, auditors, notaries, appraisers, experts, private contractors, etc., are the subjects of declaration.

The objects of the declaration include: real estate, objects of construction in progress, securities and other corporate rights, intangible assets. Valuable movable property is subject to declaration if its value exceeds 100 subsistence minimums, income received in case of exceeding 5 subsistence minimums.

In accordance with Chapter 13-A “Administrative Offences Related to Corruption” of the Code of Ukraine on Administrative Offences, administrative responsibility is provided for violation of financial control requirements (Article 172⁶) Legislation of Ukraine (2020a).

Table 1 provides a comparative legal analysis of the components of administrative offences and corruption-related crimes for declaring inaccurate information about property values.

Table 1. Comparative legal analysis of the components of administrative offences and corruption-related crimes for declaring inaccurate information about property values

Offences	Administrative Misconduct (Article 172-6, Part 4 of the Code of Administrative Offences “Violation of Financial Control Requirements” (Legislation of Ukraine, 2020a))	Corruption-related crime (Article 366-1 of the Criminal Code of Ukraine (Legislation of Ukraine, 2020c))
Qualifying features		
Object	Corruption-related public danger, public property; real estate and valuable movable property. Administrative liability shall be incurred if such information differs from reliable information in the amount of 100 to 250 subsistence minimums for able-bodied persons.	Criminal liability shall be incurred for the submission by the subject of the declaration of deliberately inaccurate information in the declaration concerning the property, if such information differs from the reliable amount of more than 250 subsistence minimums for able-bodied persons.
Subject	Officials “who hold a responsible and especially responsible position”; subjects of declaration who hold positions connected with a high level of corruption risks.	
Subjective aspect	COA “Submission of deliberately inaccurate information in the declaration of a person authorized to perform the functions of the state or local self-government”	CCU “Submitting willfully and intentionally information about property (declaring deliberately inaccurate information)”.
The time of committing	Submission of a declaration: the deadline for submitting a declaration for the reporting year 2019 is April 30, 2020. The subjects of the declaration submit an annual declaration for the period from 00 hours 00 minutes January, 01 to 00 hours 00 minutes April, 01 of the year, following the reporting year. Such a declaration shall cover the accounting year (January, 1 to December, 31, inclusive), preceding the year, when the declaration is filed; it shall contain information as of December 31 of the reporting year.	
Liability	A fine amounts from one thousand to two thousand five hundred tax-exempt minimum incomes of citizens.	A fine amounts from two thousand five hundred to three thousand tax-exempt minimum incomes or community service “from one hundred fifty hours to two hundred and forty hours, or imprisonment for up to two years with the deprivation of the right to hold certain positions or engage in certain activities for up to three years” (Legislation of Ukraine, 2020c).

It is meaningful to identify the main differences in the components of a corruption administrative misconduct and a corruption-related offence (crime):

1) the cost of property concerning which false information has been submitted in case of an administrative misconduct should be from 100 to 250 subsistence minimums for able-bodied people, while when committing a corruption-related offence (crime) – from 250 subsistence minimums for able-bodied people;

It should be noted that administrative and criminal liability are provided exclusively for the submission of “knowingly, deliberately inaccurate” information. That is, the corresponding act must be committed by the subject of the declaration with direct intent. Herewith, it is necessary to prove the presence of such intent in order to hold a person responsible for committing corruption-related offences, namely, it is necessary to prove that the subject of the declaration has been aware of the inaccuracy of the information, stated by him in the declaration. At the same time, the particular intent of the subject of the declaration to indicate such information is taken into consideration, but not the members of his family or other persons who have provided information to fill in the declaration. Therefore, the declarant cannot be held liable for the submission of inaccurate information provided to him or her by a family member, if the declarant was not aware of the unreliability of such information at the time the declaration was filed.

If, during the full verification of the declaration, the National Agency for Preventing Corruption (2019b) establishes that in the Declaration of a person, authorized to perform the functions of the state or local self-government the declarant has provided deliberately inaccurate information (in relation to property or other object of value), which differ from reliable one in the amount of 100 to 250 subsistence minimums for able-bodied persons (at the time of writing this article is $2102 \times 100 = 210\ 200$ UAH and $2102 \times 250 = 525\ 500$ UAH for the period of 01.01.2020 – 30.06.2020), – there are grounds for the application of administrative liability measures (administrative penalties).

Criminal liability for corruption-related offences is regulated by Article 366-1 on the declaration of inaccurate information. Article 361-1 of the Criminal Code of Ukraine establishes liability for such actions in the form of a fine of 2500-3000 (5 255 000 – 6 306 000 UAH for the period of 01.01.2020 - 30.06.2020) tax-exempt minimum incomes or community service for a period from 150-240 hours, or imprisonment for up to two years with the deprivation of the right to hold certain positions or engage in certain activities for up to three years (Legislation of Ukraine, 2020c).

In accordance with Article 50 “Complete verification of declarations” of the Law of Ukraine “On the Prevention of Corruption” (Legislation of Ukraine, 2020b), declarations of persons authorized to perform the functions of the state or local government are subject to full verification. Full verification of the declaration examines the accuracy of the declared information; accuracy of valuation of declared assets; conflicts of interest and signs of illicit enrichment. A full verification of the declaration is applied during the period when the subject of the declaration carries out activities related to the performance of the functions of the state or local government, and also within three years after the termination of such activities.

The mechanism of control and full verification of declarations is determined by the Procedure for carrying out control and full verification of the declaration of a person authorized to perform the functions of state or local self-government, approved by the decision of the National Agency for Preventing Corruption (NAPC) (2016). According to this Procedure, the following persons are subject to unconditional full verification: declarations of officials “who hold a responsible and especially responsible position, subjects of declaration who hold positions connected with a high level of corruption risks”; declarations of other subjects of declaration, in case of detection of “discrepancy in the results of logical and arithmetic control”. That is, not every declaration is subject to unconditional full verification. If the results of a full verification reveal the inaccuracy of the information specified in the declaration, the National Agency for Preventing Corruption (NAPC) informs the head of the institution (enterprise) where the declarant works (who has entered inaccurate data in the declaration), and also sends the relevant information to the special authorized entities in the field of combating corruption (including the prosecution authorities, the national police, the National Anti-

Corruption Bureau (NABU) and the National Agency for Preventing Corruption). However, it seems that for each declarant, the criteria for organizing the verification of declarations are less interesting than the degree of possible liability for the accuracy of such information.

The legislation does not regulate the terms for conducting full inspections, which are fairly unfair to those persons against whom such verification is carried out. Indeed, for some individuals, the verification has been ongoing for more than 1.5 years.

Thus, a comparative legal analysis made it possible to reach the following conclusions:

1. A discrepancy of 210 000 UAH (and over) implies administrative liability for reporting inaccurate information under Article 172-6 of the Code of Administrative Offences (imposing a fine from one thousand till two thousand five hundred tax-exempt minimum incomes of citizens).
2. If such a deliberate (intentional) discrepancy reaches (and exceeds) 250 subsistence minimums for able-bodied people, then the subject of the declaration will carry the punishment established by Article 366-1 of the Criminal Code of Ukraine (a fine from two thousand five hundred to three thousand tax-exempt minimum incomes or community service for a term of one hundred and fifty to two hundred and forty hours, or imprisonment for up to two years, with deprivation of the right to hold certain positions or engage in certain activities for a term up to three years) (Legislation of Ukraine, 2020a).

Herewith, it should be emphasized, that the intentionality of entering inaccurate information is proved in court. It is meaningful to note that only a timely full verification of the declaration makes sense, due to the fact that Article 38 of the Code of Ukraine on Administrative Offences establishes that an administrative penalty for committing an offense related to corruption may be imposed within three months from the date of its detection, but no later than two years from the day of its commission (Legislation of Ukraine, 2020a).

Article 49 of the Criminal Code of Ukraine establishes that a person shall be exempted from criminal liability if three years have passed from the day of committing the crime to the date the sentence enters into legal force – in the case of committing a minor offence for which a penalty of restraint or imprisonment is stipulated (Legislation of Ukraine, 2020c). The crime covered by Article 366-1 (Declaring of Inaccurate Information) of the Criminal Code of Ukraine belongs specifically to crimes of minor gravity, the statute of limitations of which is three years (Legislation of Ukraine, 2020c).

Summarizing the above, it is necessary to note that the National Agency for Preventing Corruption should clearly specify the goal: the effectiveness of work and the application of sanctions against violators of the law, or the enjoyment of the verification process and imitation of activities.

Unfortunately, the legislation does not place all subjects of declaration into equal conditions. For example, if a protocol is drawn up concerning the people's deputy for an administrative offence, then that person must pay a fine, whereas a state employee must be dismissed from the position within three days from the moment the court decision enters into force.

If, however, a person has committed a corruption or corruption-related offence but has not been punished or charged by the court in form of the deprivation form of the right to hold certain positions or engage in certain activities related to the performance of functions of the state or local self-government, or equivalent to this activity, then he or she shall be subject to disciplinary action in accordance with the procedure prescribed by legislation. In any case, disciplinary liability arises even if inaccurate information relates to property worth less than 100 subsistence minimums.

In turn, the declaration can only be corrected within 7 days. If earlier, after a seven-day period from the date of filing the electronic declaration, the declarant revealed incomplete or inaccurate information in the declaration (or in the amended declaration), then he could inform the National Agency for Preventing Corruption about it through a personal electronic office and, by decision of the National Agency for Preventing Corruption, submit the corrected declaration; nowadays this norm is excluded and the declarant has only seven days to correct errors.

In Ukraine, an automated system of logical and arithmetic control is implemented to carry out

internal verification of the declaration of the subject of declaration and external verification of information from the relevant registers and databases. As a result, an automated exchange of information within 13 state registries and information databases is carried out of 16 required ones. In 2017, 143 decisions were made based on the results of the verification of declarations by the National Agency, in 2018 – 472, in 2019 – 662. According to the results of complete and full inspections, 54 substantiated conclusions were approved. The total amount of false information revealed by the National Agency constituted to 397 million UAH in 2019 (National Agency for Preventing Corruption, 2019a; 2019c).

Based on 180 facts of intentional failure to submit declarations, criminal proceedings have been initiated on the grounds of a criminal offence under Article 366-1 of the Criminal Code. 291 Protocols on administrative offences related to corruption for violation of financial control have been compiled (National Agency for Preventing Corruption, 2019a; 2019c).

Table 2 presents the features of court cases regarding the information's inaccuracy about the property of the Ukrainian subject of declaration. It is advisable to consider certain aspects of the above administrative offences for the submission of inaccurate information about the property.

Motives for submitting inaccurate information about property in court cases under Articles 366-1 of the Criminal Code (Legislation of Ukraine, 2020c) and 172-6 of Part 4 of the Code of Ukraine on Administrative Offences (Legislation of Ukraine, 2020a) include: undue influence, obtaining improper advantage for oneself or a third party for influencing a person's decision making, offer or promise to influence for the provision of such benefits, deliberate concealment of information about property, ignorance of the need to provide information about the property.

Therefore, by court decision 82628084 dated 24.06.2019 (Unified State Register of Judgments, 2019) the qualification of the actions of the accused (PERSON_2) under Part 2 of Art. 369-2, Art. 366-1 of the Criminal Code of Ukraine in the appeal was as follows: "according to the charge filed, the accused person, after being dismissed from office, deliberately did not submit the annual declaration to the Unified State Register of declarations of persons authorized to perform the functions of the state or local government in 2016 within the time limits established by applicable law".

According to the court decision 83382843 as of 01.08.2019 (Unified State Register of Judgments, n./d.): PERSON_1 (seller) and PERSON_4 (buyer) concluded purchase and sale agreement on 07.06.2018 of SUBARU FORESTER vehicle, body NUMBER_2, engine factory number NUMBER_3, which was drawn up and signed by the Parties in the regional service center of Ministry of Internal Affairs. According to subparagraph 3.1 of clause 3 of the contract, by agreement of the parties, the vehicle price is 234 375 (two hundred thirty four thousand three hundred seventy five) UAH 00 kopecks. In section 14 of the declaration "Expenses and transactions of the subject of declaration" PERSON_4 did not provide information about the transaction made during the reporting period, on the basis of which the ownership of the movable property was terminated by the subject of the declaration, namely the SUBARU FORESTER vehicle priced at 234 375,00 UAH. At the same time, in section 11 of the declaration "Income, including gifts" PERSON_1 did not indicate information on the income received in the amount of 234 375, 00 UAH from the sale of the SUBARU FORESTER vehicle. PERSON_1 did not include this information in the declaration, because he was not aware of the need to indicate the specified information. He read and understood the warning about restrictions, aimed at preventing corruption, preventing and resolving a conflict of interest and receiving undue advantage or a gift and handling it, regarding holding more than one office and combining with other types of activities, compliance with financial control requirements; he signed the relevant document.

Table 2. Comparison of court cases regarding the inaccuracy of information about the property of the subject of declaration of Ukraine

Characteristics of the case	Article 366-1 of the CCU "Declaration of inaccurate information"	Article 172-6, Part 4 of the Code of Administrative Offences "Violation of Financial Control Requirements"		
Number, date of court decision	82628084 as of 24.06.2019	83382843 as of 01.08.2019	81517121 as of 03.05.2019	83077259 as of 16.07.2019
The name of the court which determined (ruled) the decision to hold a person liable for a corruption offence:	Dnipro Court of Appeal	Sosnivsky District Court of Cherkasy City	Kozelets District Court of Chernihiv region	Desnyansky District Court of Chernihiv City
Composition of corruption-related offence:	Undue influence. Acceptance of an offer, promise or receipt of undue benefit to yourself or a third party for influencing the decision making "by a person authorized to perform the functions of the state, or an offer or promise to conduct influence for providing such benefit" ¹	"Submission of knowingly inaccurate information in the declaration of a person authorized to perform the functions of state or local self-government" ² . Failure to provide information on the full amount of income from the sale / purchase of property	"Submission of knowingly inaccurate information in the declaration of a person authorized to perform the functions of state or local self-government" ³ . Failure to provide information on the full amount of income from the sale / purchase of property.	"Submission of knowingly inaccurate information in the declaration of a person authorized to perform the functions of state or local self-government" ⁴ . Failure to provide information about the vehicle owned by the person under the right of ownership. The National Agency for Preventing Corruption has not been informed of any significant changes in its financial position within ten days.
Punishment	In the form of a fine of 2500 tax-exempt minimum incomes of citizens, amounting to 42500 UAH, with deprivation of the right to hold positions related to organizational-administrative and administrative-economic functions, at enterprises, establishments and organizations of all forms of ownership for a period of 1 year	Brought to administrative liability under Article 172-6 Part 4 of the Code of Ukraine on Administrative Offences and imposed an administrative penalty in the form of a fine of 1000 tax-exempt minimum incomes of citizens, which amounts to 17 000, 00 UAH.	Administrative penalty under Part 4 of Art. 172-6 of the Code of Ukraine on Administrative Offences in the form of a fine in the amount of 1000 (one thousand) tax-exempt minimum incomes of citizens, which amounts to 17 000, 00 (seventeen thousand) UAH.	Brought to administrative liability under Part 2 of Article 172-6, Part 4, Article 172-6 of the Code of Administrative Offences and imposed an administrative penalty in the form of a fine of 1 000 tax-exempt minimum incomes of citizens, which amounts to 17 000, 00 UAH.
Reason for submitting inaccurate information	The convicted person, after being dismissed from his post, intentionally did not submit an annual declaration within the time period established by applicable law.	There is no awareness of the need to provide this information	The reason for committing an administrative offence was his lack of knowledge of the requirements of the Law of Ukraine "On Prevention of Corruption" and a mechanical error when filling in the electronic declaration.	Submission of knowingly inaccurate information in the person's declaration. Concealment of the fact of ownership of movable property.

Source: Compiled by the author on the basis of the Unified State Register of Persons Committed Corruption or Corruption-related Offences (n./d.)

¹Unified State Register of Persons Committed Corruption or Corruption-related Offences. (n./d).

²Unified State Register of Persons Committed Corruption or Corruption-related Offences. (n./d).

³Unified State Register of Persons Committed Corruption or Corruption-related Offences. (n./d).

⁴Unified State Register of Persons Committed Corruption or Corruption-related Offences. (n./d).

An analysis of judicial practice in the Unified State Register of Judgments. (n./d.) indicates, that the vast majority of sentences under Article 366-1 of the Criminal Code of Ukraine (submission by the subject of the declaration of knowingly inaccurate information in the declaration or intentional failure to submit by the subject of the declaration of this declaration) is accusatory.

Analysis of judicial practice in the Unified State Register of Persons Committed Corruption or Corruption-related Offences (n./d.), under Article 172-6, Part 4 of the Code of Administrative Offences "Violation of Financial Control Requirements" (Legislation of Ukraine, 2020a) indicates satisfaction of claims and convictions of those who filed and submitted knowingly inaccurate information in the declaration. A fine in the amount of 17 000, 00 UAH has been imposed on 6 people (per 1 person) for the period of 2018-2019.

The jurisprudence of the High Courts under Article 366-1 of the Criminal Code (Legislation of Ukraine, 2020c) contains two cases of corruption-related crimes: Judgment of the Supreme Anticorruption Court 87856730 dated 26.02.2020 (criminal proceedings № 991/1328/20); Resolution 86070651 as of 28.11.2019 (Cassation Criminal Court of the Supreme Court). Pursuant to Proceedings № 991/1328/20, a plea agreement was approved and the accused person was imposed penalty in a form of a fine of three thousand tax-exempt minimum incomes of citizens, amounting to 51 000, 00 (fifty-one thousand) UAH, and deprived of the right to hold positions "related to the performance of functions of the state or local self-government for one year" (Legislation of Ukraine, 2020c). Guilty of the accused person has been confirmed by the totality of evidence collected during the pre-trial investigation, in particular, receipts, and witnesses' statements, as well as testimonies of the accused, materials for fulfilling requests for international legal assistance from the competent authorities of the Swiss Confederation, as well as other kinds of evidence. At the same time, both the prosecutor, the lawyer and the accused expressed their intention to conclude an agreement and a request to the court for its approval. The advocate defended the accused during the pre-trial investigation and participated in the voluntary conclusion of the agreement.

The main problem in case of recognizing a person guilty under Article 366-1 of the Criminal Code of Ukraine centers around the obligation to impose additional punishment in the form of deprivation of the right to hold office, which means dismissal from office. Community service is the most common form of punishment; much less often the courts apply fines and imprisonment. In the case of conviction to imprisonment, release request (or so-called "summary probation") is usually applied.

As the judicial practice shows, it is sufficient to prove the fact of a person's action in the form of non-filing, untimely submission of the declaration or submission of inaccurate information in the declaration in order to render the court decision. Herewith, the courts do not investigate whether the person intentionally or negligently acted, while summarizing the presence of intent, although it is far from always the person intentionally commits the above actions.

However, evidence of the absence of intent should be one of the main areas of activity in order to protect the person, because it is the basis for entry of judgement of acquittal.

5. Conclusion

The conducted investigation makes it possible to draw the following conclusions:

- 1) the composition of administrative offences and corruption-related crimes differs by object and subjective aspect; the main differences in the composition of corruption administrative misconduct and corruption crime are related to the object;
- 2) "submission of knowingly intentionally inaccurate information" and "submission of deliberately inaccurate information" is a subjective aspect;
- 3) analysis of judicial practice in the Unified State Register of Judicial Decisions revealed the following features: the vast majority of judgments under Article 366 of the Criminal Code of Ukraine are indictment; a fine is the most common form of punishment, imprisonment is much less often applied; it is sufficient to prove the fact of a person's action in the form of

non-filing, untimely submission of the declaration or submission of inaccurate information in the declaration in order to render the court decision; lack of a detailed investigation of the subjective aspect of crimes with a predominance of judgments in favor of criminal intent.

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